

# JUDICIAL BRANCH OF GOVERNMENT

## CHAPTER 326

HOUSE BILL NO. 1517  
(Representative Kretschmar)  
(Senator Stenehjem)

### COUNTY COURT ELIMINATION

AN ACT to establish a single trial court of general jurisdiction through the abolition of county courts and the provision for additional district court judgeships; to create and enact two new sections to chapter 27-05 of the North Dakota Century Code, relating to vacancies in the office of district court judge and the appointment of magistrates; to amend and reenact section 4-33-06, subsection 5 of section 6-05.1-05, sections 11-03-08, 11-05-16, subsection 2 of section 11-07-04, sections 11-08-06, 11-08-07, 11-09-29, subsection 3 of section 11-09.1-05, sections 11-10-02, 11-10-06, subsections 1 and 4 of section 11-10-10, sections 11-10-11, 11-10-20, 11-11-10, 11-12-05, 11-15-24, 11-17-04, subsections 1 and 2 of section 11-17-08, sections 11-19-08, 11-19-13, 11-19-14, 11-19-15, 11-19-25, 11-20-01, 11-20-03, 11-21-01, subsections 2, 4, and 5 of section 11-21-02, sections 11-21-03, 11-21-04, 11-21-12, 11-21-13, 11-21-14, 11-30-16, 12-45-01, 12-46-13, 12-51-07, subsection 2 of section 12-60-16.1, section 12-62-01.1, subsection 5 of section 12.1-01-04, sections 12.1-20-16, 14-03-09, 14-03-10, 14-03-11, 14-03-17, 14-03-19, 14-03-20, 14-03-21, 14-03-22, 14-03-24, subsection 1 of section 14-07.1-02, sections 16.1-12-03, 16.1-15-08, 16.1-15-09, 16.1-15-11, 16.1-15-13, 16.1-16-07, 23-05-06, 23-07.1-08, 23-07.1-09, 23-07.1-10, subsection 4 of section 23-07.4-01, sections 23-07.4-02, 23-07.6-05, 23-07.6-12, 24-06-05, 24-07-22, 24-07-24, 24-07-28, subsections 2 and 7 of section 25-03.1-02, section 25-03.1-03, subsection 2 of section 25-03.1-21, sections 25-03.1-38, 25-03.1-46, subsection 3 of section 25-04-05.1, subsections 2 and 3 of section 25-04-15, sections 25-11-05, 27-01-01, 27-01-01.1, 27-01-09, subsections 1 and 3 of section 27-01-10, sections 27-05-01, 27-05-06, subsection 1 of section 27-05-08, sections 27-06-01, 27-07.1-02, 27-07.1-03, subsection 1 of section 27-08.1-01, sections 27-08.1-06, 27-08.1-08, 27-09.1-14, subsection 1 of section 27-15-01, sections 27-15-02, 27-19-08, subsection 2 of section 27-20-47, subsection 2 of section 27-23-01, sections 27-23-02, 27-24-04, 28-20-22, 28-26-19, 28-29-04, subsection 3 of section 29-01-01, subsection 4 of section 29-01-09, subsection 3 of section 29-01-14, sections 29-01-15, 29-02-13, 29-07-01.1, 29-07-06, 29-10.1-38, subsection 1 of section 29-15-21, section 29-22-02, subsection 6 of section 30.1-01-06, sections 30.1-02-02, 30.1-02-07, subdivision c of subsection 2 of section 30.1-10-01, sections 30.1-32-01, 30.1-32-03, 30.1-32-04, 30.1-33-01, 30.1-33-03, 30.1-33-04, 30.1-33-05, 30.1-33-06, subsection 1 of section 30.1-34-03, sections 30.1-34-04, 30.1-34-05, 31-01-16, 31-01-18, 32-19-23, 32-19-24, 32-19-30, 32-22-18, 32-24-01, 33-06-01, 33-06-03, 33-06-04, 36-01-18, 36-11-10, 36-11-11, 37-15-18, 37-16-04, subsection 1 of section 38-10-01, sections 38-10-03, 38-10-05, 38-10-06, 38-10-08, 39-06-16, subdivision a of subsection 5 and subsection 7 of section 39-06.1-03, sections 40-02-16, 40-09-16,

40-11-13, subsections 1 and 3 of section 40-18-01, sections 40-18-06.2, 40-18-15, 40-18-15.1, 40-18-19, 40-18-20, subsection 3 of section 42-01-07, subsection 2 of section 43-23-07, sections 44-02-04, 44-02-05, 44-03-02, subsection 2 of section 44-05-01, sections 44-08-09, 44-09-01, 44-11-12, 46-04-05, 47-03-06, 47-18-22, subsection 9 of section 47-19-02, section 47-19-06, subsection 5 of section 47-24.1-01, subsection 2 of section 50-01.1-04, sections 50-06.3-07, 50-06.3-09, 50-24.1-07, 54-12-01.3, 57-26-02, 57-37.1-06, 57-37.1-12, 58-02-23, subsection 3 of section 59-01-11, section 59-02-12, subsection 6 of section 59-02-20, sections 59-04-02, 59-04-03, subsection 12 of section 59-04-04, sections 59-04-08, 59-04-10, 59-04-15, 59-04-24, 59-04-25, 59-04-26, 59-04-27, 59-04-29, 59-04-31, 59-05-28, and 59-05-55, relating to references to county courts and county judges, judicial districts, the election, term of office, and chambers of district judges, multicounty agreements to share county judge services, vacancies in the office of county court judge, and abolition of the office of municipal judge if municipal cases are transferred to county or district court; to repeal sections 11-09-22, 11-09-23, 11-11-12, 11-15-10, 24-07-25, 27-01-04, 27-01-05, chapters 27-07.1, 27-08.2, sections 27-09.1-21, 27-20-04, chapter 27-26, and section 31-09-07 of the North Dakota Century Code, relating to references to county courts and county court judges; to provide an effective date; to provide an expiration date; and to provide a statement of legislative intent.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. County courts abolished - Election of additional district court judges - Case file transition - Budget and property considerations.

1. Following the completion on January 1, 1995, of the terms of the judges of all county courts, the county court and office of judge of the county court in each county are abolished.
2. District court judgeships are established on January 2, 1995, in number equal to the number of county judges serving the county courts on January 1, 1991, or the number of county judges serving the county courts on January 1, 1994, whichever is the lesser number. The district court judgeships established pursuant to this subsection must be filled by election at the general election in 1994. All statutes relating to the district court apply to the district court judgeships established pursuant to this subsection, except as otherwise provided by this section.
3. The supreme court shall designate by rule, prior to January 1, 1994, the judicial district for each additional district court judgeship established pursuant to subsection 2. The judicial district designated by the supreme court for each district court judgeship established pursuant to subsection 2 is the area of election for that office at the general election in 1994. The supreme court shall designate, prior to January 1, 1994, staggered terms for each district court judgeship established pursuant to subsection 2 in a manner that results in approximately one-third of those offices with initial terms of two years, one-third with initial terms of four years, and one-third with initial terms of six years. Any judge elected pursuant to subsection 2 shall take office on January 2, 1995, and shall hold office until completion

of the designated initial term or until a successor is elected and has qualified. Subsequent to these initial terms, a judge elected to a judgeship established by subsection 2 shall hold office for the term provided in section 27-05-02.

4. All case files, untried cases, or any other unfinished business of each county court abolished pursuant to subsection 1 must be considered case files, untried cases, and other unfinished business of the district court of the judicial district in which that county is located.
5. Beginning in 1992, the budget for the district courts submitted to the legislative assembly pursuant to section 27-01-01.1 and to the director of the budget for informational purposes pursuant to section 54-44.1-13 must include all salaries and expenses for the district court judgeships established pursuant to subsection 2. Any equipment, furnishings, and law libraries in the control and custody of the county courts on January 1, 1991, and any property acquired by county courts from that date until January 1, 1995, must be transferred on January 2, 1995, to the custody and control of the district court of the county in which each county court is located until the state court administrator determines that these items are no longer needed by the district court. Upon that determination, custody and control of the property must revert to the county.

SECTION 2. AMENDMENT. Section 4-33-06 of the North Dakota Century Code is amended and reenacted as follows:

4-33-06. Authority for inspections - Warrants. To effectuate the purposes of this chapter, the commissioner may with a warrant or the consent of the owner make reasonable inspection of any premises in this state and any property therein or thereon and may without a warrant with the assistance of any law enforcement agency provided for in this code stop and inspect, in a reasonable manner, any means of conveyance moving within this state upon probable cause to believe it contains or carries any pest, host, or other article subject to this chapter, and may make any other reasonable inspection of any premises or means of conveyance for which, under the Constitution of the United States and the Constitution of North Dakota, no warrant is required.

The appropriate county district courts in this state ~~have authority to~~ may issue warrants for such inspections upon a showing by the commissioner that there is probable cause to believe that there exists in or on the property to be inspected a pest, host, or other article subject to this chapter.

SECTION 3. AMENDMENT. Subsection 5 of section 6-05.1-05 of the North Dakota Century Code is amended and reenacted as follows:

5. On such date of hearing, upon finding that due notice has been given as required by this section and upon finding that the applicant subsidiary trust company has been duly authorized to commence the business for which it is organized by the state banking board, or by the comptroller of the currency if the applicant is a national banking association, and that the applicant has made such deposit of securities as may be required by law, the

district court shall enter an order substituting the applicant in every fiduciary capacity for each of its specified affiliated banks, excepting as may be otherwise specified in the application, and excepting fiduciary capacities in any account with respect to which a person entitled to receive mailed notice pursuant to this section has filed objection to substitution and has appeared and been heard in support thereof. Upon entry of such order, or at such later date as may be specified in such order, the applicant subsidiary trust company must, without further act, be substituted in every such fiduciary capacity. ~~Such~~ The substitution may be made a matter of record in any county of this state by filing a certified copy of the order of substitution in the office of the clerk of any district court in this state; ~~or in the office of the clerk of any county court in this state;~~ or by filing a certified copy of such order in the office of the register of deeds of any county of this state to be recorded and indexed in like manner and with like effect as other orders and decrees of court are recorded and indexed.

SECTION 4. AMENDMENT. Section 11-03-08 of the North Dakota Century Code is amended and reenacted as follows:

11-03-08. Board of county commissioners to appoint county officers - Exception. The board of county commissioners appointed by the governor, after the members thereof have qualified, shall appoint all the county officers of the newly organized county. Such officers, after having qualified, shall hold their offices until the first general election thereafter and until their successors are elected and qualified. ~~Any county judge in office within the boundaries of a county organized under this chapter shall continue to hold office in the new county during the remainder of the term and shall give bond to the new county as required by law.~~

SECTION 5. AMENDMENT. Section 11-05-16 of the North Dakota Century Code is amended and reenacted as follows:

11-05-16. Judicial actions and proceedings transferred to courts of adjoining county. All actions or suits of every nature which have been filed or which are pending in ~~any of the courts of a district court serving the petitioning county on the first day of January following the governor's proclamation shall be transferred to the courts of the adjoining county or counties in accordance with the provisions of this section:~~

- 1- All such actions or suits filed or pending in the district court of the petitioning county shall be transferred by the clerk of such court to the clerk of the district court of the adjoining county.
- 2- All actions pending in the county court of the petitioning county shall be transferred to the county court of the adjoining county and shall be heard, tried, and determined by that court as though originally filed therein.

~~If the petitioning county is joined to two or more adjoining counties, the judge of the court in which any action or proceeding is pending in the petitioning county may direct to which of the adjoining counties the action or proceeding shall be transferred.~~

SECTION 6. AMENDMENT. Subsection 2 of section 11-07-04 of the North Dakota Century Code is amended and reenacted as follows:

2. If the county previously elected county commissioners at large and the county has been divided into districts, those elected in districts designated by even numbers ~~shall~~ constitute one class and those elected in districts designated by odd numbers ~~shall~~ constitute the other class. If election of commissioners at large is necessary and the county previously was districted, classes of such commissioners ~~shall~~ must be determined by assigning a number to their respective offices according to the numerical total of the votes cast for them at the general election at which they were elected. The commissioners of one class elected in the first election held following a redistricting pursuant to this chapter ~~shall~~ hold office for two years and those of the other class ~~shall~~ hold office for four years. The determination of the two classes ~~shall~~ must be by lot so that one-half of the commissioners, as nearly as practicable, may be elected biennially. ~~The county A~~ district judge serving the county shall perform the lot in the presence of all of the newly elected commissioners affected by this subsection within thirty days after the date of the first general election following redistricting or election of commissioners at large, if required, and shall certify in writing the results of such lot to the county auditor within five days after its completion.

SECTION 7. AMENDMENT. Section 11-08-06 of the North Dakota Century Code is amended and reenacted as follows:

11-08-06. Officers in county adopting consolidated office form of government. In addition to the board of county commissioners provided for by this title, the officers in a county which has adopted the county consolidated office form of government are as follows:

1. One county auditor who shall be ex officio register of deeds and clerk of the district court.
2. One state's attorney.
3. One sheriff.
4. One county treasurer, unless the office with its attendant powers and duties is combined with and conferred upon the county auditor by the board of county commissioners but no added compensation may be paid the county auditor in said capacity.
5. One county superintendent of schools.
6. One coroner.
7. ~~One county judge, except that the board of county commissioners of any two or more counties may enter into an agreement to provide for election of a judge or judges to serve the county courts of the counties entering into the agreement.~~

SECTION 8. AMENDMENT. Section 11-08-07 of the North Dakota Century Code is amended and reenacted as follows:

11-08-07. Appointive officers - County commissioners elected - Terms of office - How vacancy filled. Each The board of county commissioners shall appoint each county officer mentioned in section 11-08-06, except the members of the board of county commissioners, who shall must be elected in the manner provided in section 11-11-02, and the county judge, who shall be elected in the manner and method prescribed by general statute; shall be appointed by the board of county commissioners and. Each county officer shall hold office for a term of four years, except as otherwise provided in this chapter, and until his the officer's successor is duly appointed and qualified. Any The board of county commissioners shall fill any vacancy resulting from any cause shall be filled by the board of county commissioners.

SECTION 9. AMENDMENT. Section 11-09-29 of the North Dakota Century Code is amended and reenacted as follows:

11-09-29. Public administrator - Office abolished - Who to perform duties. In counties adopting any form of county managership, the office of public administrator shall be is abolished. The county manager shall perform the functions of that office shall be performed by the county manager in counties adopting a short form of county managership, and in counties adopting a county manager form of government, by a suitable person appointed by the county presiding judge of the judicial district in which the county is located, after consultation with the judges of the judicial district. Any person so appointed shall is entitled to receive compensation at the rate allowed the administrator of an estate.

SECTION 10. AMENDMENT. Subsection 3 of section 11-09.1-05 of the North Dakota Century Code is amended and reenacted as follows:

3. Provide for county elected and appointed officers and employees, their selection, powers, duties, qualifications, and compensation, and the terms of county appointed officers and employees. However, after adoption of a home rule charter a county elected office may not be eliminated or combined with another office except upon approval of a majority of the electors of the county voting upon the question at a primary or general election. Notwithstanding the other provisions of this subsection, a charter or ordinance or act of a governing body of a home rule county may not supersede any state law concerning the office or jurisdiction of the county court or county judge.

SECTION 11. AMENDMENT. Section 11-10-02 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

1. One county auditor.
2. One register of deeds in counties having a population of more than six thousand.
3. One clerk of the district court.
4. One state's attorney.

5. One sheriff.
6. ~~One county judge, except that the board of county commissioners of any two or more counties may enter into an agreement to provide for election of a judge or judges to serve the county courts of the counties entering the agreement.~~
7. One county treasurer.
8. 7. One coroner.
9. 8. One county superintendent of schools.
10. 9. A board of county commissioners consisting of three or five members as provided in this title.

In counties having a population of six thousand or less, the clerk of the district court must be the register of deeds, unless the board of county commissioners adopts a resolution separating the offices no less than thirty days before petitions for nomination to county offices may first be filed for the primary election. For a county which has properly initiated the option and it is funded by the legislative assembly pursuant to section 11-17-11, the board of county commissioners may provide for the register of deeds services in any appropriate manner. Counties having a population of six thousand or less and exercising the option provided in section 11-17-11 may contract with the state court administrator for the provision of shared funding for register of deeds services. ~~In counties having a population of twenty five thousand or more, the county judge may appoint a clerk of county court. In counties with a population of less than twenty five thousand, the clerk of district court must be clerk of county court unless the county has properly initiated the option and it is funded by the legislative assembly pursuant to section 11-17-11, in which case the county judge may determine that the clerk of district court may provide clerk services to the county court or appoint a clerk of county court.~~ The required officers must be chosen by the qualified electors of the respective counties at the general election in each even-numbered year, except the register of deeds, county auditor, treasurer, sheriff, state's attorney, ~~county judge,~~ and clerk of the district court, who must be chosen in 1966 and every four years thereafter, the members of the board of county commissioners, who must be chosen in the manner prescribed in section 11-11-02, and the county coroner, who must be chosen in the manner prescribed in section 11-19.1-03. The clerk of district court elected pursuant to this section is not subject to election in any future general election which occurs after the start of the state biennium after the county has properly initiated the option and the legislative assembly has provided appropriations pursuant to section 11-17-11.

SECTION 12. AMENDMENT. Section 11-10-06 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

11-10-06. Bonds of county officers. Before entering upon the duties of their respective offices, the following county officers must be bonded for the faithful discharge of their respective duties in the same manner as other civil officers are bonded and in the following amounts:

1. The county auditor, clerk of the district court, register of deeds, and sheriff, fifteen thousand dollars, except in counties having a

population of less than ten thousand, where the amount must be ten thousand dollars.

2. A county commissioner, two thousand dollars.
3. The county coroner, five hundred dollars.
4. The state's attorney, three thousand dollars.
5. The county surveyor, an amount, not to exceed two thousand dollars, as may be determined by the board of county commissioners.
6. The public administrator, not less than ten thousand dollars.
7. The county treasurer, an amount fixed by the board of county commissioners of not less than seventy-five thousand dollars, except in counties having a population of less than ten thousand, an amount of not less than forty thousand dollars. When the total amount of taxes to be collected by the county treasurer in any one year is less than the minimum amount of bond specified in this subsection, the bond may be in a sum equal to the amount of taxes to be collected.
8. ~~A county judge, ten thousand dollars.~~
9. A county superintendent of schools, five hundred dollars.

When the amount of any bond required under this section is dependent upon the population of a county, the population must be determined as provided in section 11-10-10. The bond for the clerk of a district court which is state funded pursuant to section 11-17-11 must be set by the supreme court.

SECTION 13. AMENDMENT. Subsections 1 and 4 of section 11-10-10 of the 1989 Supplement to the North Dakota Century Code are amended and reenacted as follows:

1. The salary of the county auditor, county treasurer, county superintendent of schools, register of deeds, ~~county judge~~, clerk of district court, and sheriff must be regulated by the population in the respective counties according to the last preceding official federal census from and after the date when the official report of such census ~~shall have~~ ~~has~~ been published by the director of the census or such other official as may be charged with the duty of making such official publication. Notwithstanding any decreases in population, the salaries paid county officers as of July 1, 1981, reduced by any discretionary salary increase authorized by the county commissioners pursuant to this section, must be at least the minimum amount payable for that office when filled on a full-time basis in the future.
4. ~~The salaries of the judges of county courts must be as provided in section 27-07.1-04.~~ The county superintendent of schools ~~shall is~~ entitled to receive for any trips necessarily made within ~~his the~~ county in the performance of school district reorganization duties the same mileage ~~as he receives~~ received under the provisions of section 11-10-15. The board of county commissioners of any county may, by resolution, increase the salary of any full-time county

official provided in this section, if, in the judgment of such board, by reason of duties performed, the official merits the increase. The salary of a county official may not be reduced during the official's term of office. Any county official performing duties on less than a full-time basis may be paid a reduced salary set by the board of county commissioners. In the event the county has for its employees, a group insurance program for hospital benefits, medical benefits, or life insurance, or a group retirement program, financed in part or entirely by the county, such benefits may be in addition to the salaries payable to county officials.

**SECTION 14. AMENDMENT.** Section 11-10-11 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**11-10-11. Appointment and salary of deputies and clerks.** The salaries of deputies, clerks, and assistants for the county auditor, county treasurer, sheriff, register of deeds, ~~county judge~~, clerk of the district court, and state's attorney must be fixed by a resolution of the board of county commissioners. Each of the named officers may appoint such deputies, clerks, and assistants, in accordance with the budget, except none of the officers mentioned in this section may appoint as deputy any other officer mentioned in this section. The number and compensation of deputies, clerks, and assistants for a clerk of district court which is funded by the state pursuant to section 11-17-11 must be set by the supreme court.

**SECTION 15. AMENDMENT.** Section 11-10-20 of the North Dakota Century Code is amended and reenacted as follows:

**11-10-20. Board of county commissioners to provide offices, courtroom, jail - Where public records kept - Authorization for central filing of documents of register of deeds, and clerk of district court, and county judge.** The board of county commissioners shall provide a courtroom and jail, and shall provide offices in the courthouse of the county for the sheriff, county treasurer, register of deeds, auditor, clerk of the district court, state's attorney, ~~county judge~~, county superintendent of schools, and any other officer who has charge of public records. If there is no courthouse in the county or if the courthouse erected has not sufficient capacity, such offices ~~shall~~ must be furnished by the county in a suitable building at the county seat for all elected officials, and at any place within the county for appointive or administrative officials, at the lowest rent to be obtained, provided that this section ~~shall~~ does not apply where county officials may serve more than one county as may be otherwise authorized by law. The board of county commissioners may provide by resolution for the filing in a single location of documents maintained by the register of deeds, and the clerk of the district court, ~~and the county judge~~. The resolution ~~shall~~ must state in which office the filing is to be done, the persons who are to have custody of and access to the central files, and ~~shall~~ must list the documents which are to be centrally filed.

**SECTION 16. AMENDMENT.** Section 11-11-10 of the North Dakota Century Code is amended and reenacted as follows:

**11-11-10. Power of board to preserve order - Fines - Collection.** The board of county commissioners ~~shall~~ have power to preserve order when sitting as a board and may punish contempts by fines of not more than five dollars or by imprisonment in the county jail for not more than twenty-four

hours. The board may enforce obedience to its orders by attachment or other compulsory process, and when fines are assessed by it, they may be collected before any county district judge having jurisdiction, and, within ten days after they are collected, ~~shall~~ must be paid into the treasury of the county to be added to the state school fund.

SECTION 17. AMENDMENT. Section 11-12-05 of the North Dakota Century Code is amended and reenacted as follows:

11-12-05. Commissioners for new districts appointed. The members of the board of county commissioners, ~~the county~~ a district judge serving the county, and the county auditor shall meet immediately after the county has been redistricted and shall appoint one commissioner for each of the new districts. ~~Such~~ The commissioners ~~shall~~ hold office until their successors are elected and qualified.

SECTION 18. AMENDMENT. Section 11-15-24 of the North Dakota Century Code is amended and reenacted as follows:

11-15-24. Transportation of prisoner. The sheriff of each county shall conduct to the penitentiary all persons convicted in his county and sentenced to be confined in the penitentiary as soon as may be after conviction. The sheriff may conduct patients to the state hospital when directed to do so by the county district court.

SECTION 19. AMENDMENT. Section 11-17-04 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

11-17-04. Fees to be charged by the clerk of the district court ~~and county court~~. The clerk of the district court ~~and county court~~ shall charge and collect the following fees in civil cases:

1. For filing a case for decision in district court ~~or county court~~ which is not a small claims action, twenty dollars.
2. For filing a small claims action in county district court, ten dollars.
3. For filing any matter authorized to be filed in the office of the clerk of court other than a case for decision in subsections 1 and 2, five dollars.
4. For preparing, certifying, issuing, or transmitting any document, five dollars; or such lesser fee as may be set by a schedule to be promulgated by the state court administrator.

In addition to the fee required under subsection 1, the clerk of court shall charge and collect a fee of ten dollars. This fee must be deposited with the county treasurer as provided under ~~sections~~ section 11-17-05 ~~and 27-07-1-12~~ and thereafter must be deposited with the state treasurer and credited to an indigent civil legal services fund in the state treasury. Section 27-01-07 applies to fees charged under this section. The clerk of court may not charge or collect any fee, prescribed by this or any other section, from the county, or agencies thereof, in which the office of the clerk of court is located nor may the clerk of court charge or collect the additional ten dollar fee prescribed by this section from the state or an agency thereof or from a political subdivision or agency thereof.

SECTION 20. AMENDMENT. Subsections 1 and 2 of section 11-17-08 of the North Dakota Century Code are amended and reenacted as follows:

1. Unless otherwise directed by rules of the supreme court, clerks of the district ~~and county~~ courts may remove from the files in their offices and destroy:
  - a. All records in civil actions in which judgment has not been entered and nothing has been filed of record for more than thirty years.
  - b. All records, except the original pleadings, transcripts of testimony, and stipulations signed by the parties or their attorneys, in civil actions in which:
    - (1) Judgment has been entered and nothing has been filed of record for more than ten years if the judgment was not renewed or twenty years if the judgment was renewed.
    - (2) Judgment has been satisfied for more than twenty years.
    - (3) The action has been dismissed for more than twenty years.
2. Unless otherwise directed by the rules of the supreme court, clerks of district ~~and county courts~~ court may destroy:
  - a. Shorthand notes and recorded testimony that are on file in the clerk's office when those shorthand notes and recorded testimony have been transcribed into any public record that is on file in the office for more than ten years.
  - b. Shorthand notes and recorded testimony that have been retained for a period of at least twenty years and not transcribed into public record in any action in which:
    - (1) Judgment has been entered and the time for appeal has expired.
    - (2) Judgment has been satisfied.
    - (3) The action has been dismissed.
  - c. Exhibits twenty years after:
    - (1) Judgment has been entered and the time for appeal has expired.
    - (2) Judgment has been satisfied.
    - (3) The action has been dismissed.

SECTION 21. AMENDMENT. Section 11-19-08 of the North Dakota Century Code is amended and reenacted as follows:

11-19-08. Subpoenas for witnesses - Fees - Contempts. The coroner may issue subpoenas within ~~his~~ the coroner's county for witnesses, returnable forthwith or at such time and place as ~~he shall direct~~ the coroner directs.

Witnesses before a coroner's jury ~~shall be~~ are allowed the same fees as are allowed witnesses in county district court. The coroner has the same authority as a county district judge in a criminal case to enforce the attendance of witnesses and to punish them and jurors for contempt in disobeying ~~his~~ the coroner's process.

SECTION 22. AMENDMENT. Section 11-19-13 of the North Dakota Century Code is amended and reenacted as follows:

11-19-13. Coroner may order arrest. If the person charged by the jury with the commission of a crime is present, the coroner may order that person's arrest by an officer or by any other person present, and then must make a warrant requiring the officer or other person to take that person before a county district judge. If the person charged is not present and the coroner believes that person can be arrested, the coroner may issue a warrant to the sheriff of the county requiring the sheriff to arrest the person and take that person before a county district judge.

SECTION 23. AMENDMENT. Section 11-19-14 of the North Dakota Century Code is amended and reenacted as follows:

11-19-14. Warrant returnable to a county district judge. The warrant of the coroner ~~shall be~~ is of equal authority with that of a county district judge. When the person charged is brought before the county district judge, the same proceedings shall be had as in other criminal proceedings.

SECTION 24. AMENDMENT. Section 11-19-15 of the North Dakota Century Code is amended and reenacted as follows:

11-19-15. Warrant of coroner to recite verdict and is foundation for proceedings of judge. The warrant of the coroner ~~shall~~ must recite substantially the transactions before ~~him~~ the coroner and the verdict of the jury leading to the arrest. ~~Such~~ The warrant ~~shall be~~ is sufficient foundation for the proceedings of the county district judge.

SECTION 25. AMENDMENT. Section 11-19-25 of the North Dakota Century Code is amended and reenacted as follows:

11-19-25. Coroner's fees paid out of county treasury - Duty of county auditor. The fees and mileage allowed to the coroner ~~shall~~ must be paid out of the county treasury and the coroner's bill ~~shall~~ must be presented to the county auditor and filed by ~~him~~ the coroner with the county district judge.

SECTION 26. AMENDMENT. Section 11-20-01 of the North Dakota Century Code is amended and reenacted as follows:

11-20-01. Duties of county surveyor - Surveys presumptively correct. The county surveyor shall make all surveys of land within the county which ~~he~~ the county surveyor may be called upon to make by the owner of the land or ~~his~~ the owner's representative, or which ~~he~~ the county surveyor is directed to make by the district or county courts court, by the board of county commissioners, or by the board of township supervisors of any township within the county. ~~He~~ The county surveyor also shall make a survey of the public roads and of all lands, tracts, or lots owned by the county when directed to do so by the board of county commissioners. The surveys of the county surveyor or of ~~his~~ the county surveyor's deputies ~~shall be~~ are presumptively correct.

SECTION 27. AMENDMENT. Section 11-20-03 of the North Dakota Century Code is amended and reenacted as follows:

11-20-03. Assistants - Appointment - Qualifications. The county surveyor may appoint all chainmen, markers, and assistants required to make a survey. When the survey is of lines and monuments in dispute between parties or is made by order of the district ~~or county~~ court, the chainmen must be disinterested persons.

SECTION 28. AMENDMENT. Section 11-21-01 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

11-21-01. Public administrator - Appointment - Term of office. The county court of each presiding judge of the judicial district in which a county is located may, after consultation with the judges of the judicial district, appoint a public administrator for that county. A public administrator may be a corporation. The initial appointments under this section may be made upon completion of the terms of public administrators elected in 1984. The public administrator shall hold office for four years and until a successor is appointed and qualified. Two or more county courts The presiding judge may appoint a single public administrator to serve their respective counties more than one county within the district court's jurisdiction.

SECTION 29. AMENDMENT. Subsections 2, 4, and 5 of section 11-21-02 of the North Dakota Century Code are amended and reenacted as follows:

2. Account annually to the judge of the county district court for all estates and property under his the public administrator's official control and care, or whenever required so to do by the said judge.
4. Turn over all property and estates in his the public administrator's official care and control to any other administrator, executor, or guardian designated by the judge of the county district court, and truly account for the same.
5. Perform such other acts and duties properly relating to the office as may be ordered by the county district judge.

SECTION 30. AMENDMENT. Section 11-21-03 of the North Dakota Century Code is amended and reenacted as follows:

11-21-03. Bond of public administrator may be increased - Annual statement. The judge of the county district court shall require the public administrator to make a statement annually, under oath, of the amount of property in his the administrator's hands or under his the administrator's control as such administrator, for the purpose of ascertaining the amount of bond necessary to secure such property. The court, from time to time and as occasion may require, may demand additional security from such the administrator, and if the same is not furnished within twenty days after such demand, may remove the public administrator and appoint another.

SECTION 31. AMENDMENT. Section 11-21-04 of the North Dakota Century Code is amended and reenacted as follows:

11-21-04. Filing of bond and oath. The public administrator shall file his the administrator's oath and bond with the judge of the county

district court. The bond and oath ~~shall~~ must be recorded at length in the record books of the court.

SECTION 32. AMENDMENT. Section 11-21-12 of the North Dakota Century Code is amended and reenacted as follows:

11-21-12. Giving notice on taking charge of estate - Penalty for failure. The public administrator, immediately upon taking charge of any estate except one over which ~~he shall have~~ the administrator has taken charge under the order of the county district court for the purpose of administering the same, shall file in the office of the county district court a notice that ~~he the administrator~~ has taken charge of such the estate. If a public administrator fails to file such the notice, ~~he the administrator~~ shall forfeit and pay to the persons entitled to the estate a sum not exceeding two hundred dollars and the court may remove the public administrator from office. The forfeiture shall be recovered before the county district court on motion and after reasonable notice of such the motion has been given to the public administrator.

SECTION 33. AMENDMENT. Section 11-21-13 of the North Dakota Century Code is amended and reenacted as follows:

11-21-13. Court may order public administrator to account to successors. The county district court, at any time and for good cause shown, may order the public administrator to account for and deliver all money, property, or papers belonging to an estate in ~~his the administrator's~~ hands, to ~~his the administrator's~~ successor in office, to the heirs of the estate, or to any personal representative or conservator regularly appointed as provided by law.

SECTION 34. AMENDMENT. Section 11-21-14 of the North Dakota Century Code is amended and reenacted as follows:

11-21-14. Removal from office. The public administrator may be removed from office in the same manner and for the same reasons as other public officers may be removed except that for the reasons specified in sections 11-21-03 and 11-21-12 a public administrator may be removed summarily upon the motion of the judge of the county district court.

SECTION 35. AMENDMENT. Section 11-30-16 of the North Dakota Century Code is amended and reenacted as follows:

11-30-16. Actions transferred to courts of adjoining county. All actions or suits of every nature that have been filed or are pending in any of the courts of the unorganized county on January first following the governor's proclamation, or that thereafter may arise or be instituted, ~~shall~~ must be transferred, brought, and tried in the courts of the adjoining organized county to which the unorganized county is attached. ~~Actions pending in a county court in the unorganized county shall be transferred to and tried before the county judge in the adjoining organized county whose office is located nearest to the courthouse of said unorganized county.~~

SECTION 36. AMENDMENT. Section 12-45-01 of the North Dakota Century Code is amended and reenacted as follows:

12-45-01. Inquest required. If a person confined in the penitentiary or the North Dakota industrial school dies, the warden or superintendent

immediately shall notify the coroner of Burleigh County or Morton County, as the case may be, or when there is a vacancy in the office, or the coroner is absent or unable to act, ~~the county a district judge of serving~~ the county. ~~Such~~ The coroner or ~~county district judge~~ so notified immediately shall take possession of the body of ~~said~~ the deceased and remove the ~~same~~ body from the penitentiary or North Dakota industrial school and retain ~~said~~ the body for at least twenty-four hours, and shall hold an inquest thereon and inquire carefully into the cause of ~~said~~ the deceased's death, in the manner provided by law in cases of persons supposed to have died by unlawful means. No officer or employee of the penitentiary or North Dakota industrial school ~~shall~~ may be placed or permitted to serve on the jury at the inquest.

SECTION 37. AMENDMENT. Section 12-46-13 of the North Dakota Century Code is amended and reenacted as follows:

12-46-13. Who may be sent to state industrial school - Court procedure. Whenever a person under the age of eighteen years is found guilty in any district ~~or county~~ court of a crime or public offense, the court may in its discretion order the person be first committed to the state industrial school, however the court shall order that the person be first committed to the state industrial school if the person is under sixteen years of age. A person so committed attaining the age of eighteen years ~~shall~~ must be transferred to a penal institution or detention facility to serve the balance of ~~his~~ the person's sentence. A person so committed who attains the age of sixteen years may be transferred after the person has been given an administrative hearing to determine if the safety of other residents or the general public justifies the transfer. A person sentenced under this section ~~shall have~~ has all the rights to sentence reduction for good and meritorious conduct and all the pardon and parole rights of an adult sentenced to a penal institution.

SECTION 38. AMENDMENT. Section 12-51-07 of the North Dakota Century Code is amended and reenacted as follows:

12-51-07. Prisoners eligible for commitment to state farm. The judges of the district courts ~~and county courts~~ may commit to the state farm, so far as the capacity of the farm shall permit, all male persons who otherwise would be committed to the county jail or to the penitentiary for violation of any criminal law of this state, where the sentence is more than thirty days but not more than one year provided that no person ~~shall~~ may be committed to the state farm who:

1. Has at any time been convicted of a sexual offense;
2. Has served a sentence or portion thereof in a correctional facility upon conviction of a felony; or
3. Has a history of moral or sexual degeneration or of violent assaultive behavior which has resulted in physical injury or serious psychological harm to others.

SECTION 39. AMENDMENT. Subsection 2 of section 12-60-16.1 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. "Court" means the supreme court, district courts, ~~county courts,~~ and municipal courts of the North Dakota judicial system.

SECTION 40. AMENDMENT. Section 12-62-01.1 of the North Dakota Century Code is amended and reenacted as follows:

12-62-01.1. County and city officials to furnish crime statistics to director. In an effort to assist in controlling crime in the state through the use of reliable statistics relating to crimes and criminal activity, the director, with the approval of the attorney general, may call upon and obtain from the clerks of district courts, ~~county courts,~~ municipal courts, sheriffs, police departments, and state's attorneys all information that the director may deem necessary in ascertaining the condition of crimes and criminal activity in North Dakota. It is the duty of the ~~said~~ officials to furnish any such information so requested by the director on whatever forms or in whatever manner the director may prescribe.

SECTION 41. AMENDMENT. Subsection 5 of section 12.1-01-04 of the North Dakota Century Code is amended and reenacted as follows:

5. "Court" means any of the following courts: the supreme court, a district court, a ~~county court,~~ and where relevant, a municipal court.

SECTION 42. AMENDMENT. Section 12.1-20-16 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

12.1-20-16. Appointment of a guardian ad litem in prosecution for sex offenses. A minor who is a material or prosecuting witness in a criminal proceeding involving an act in violation of sections 12.1-20-01 through 12.1-20-08, or section 12.1-20-11 may, at the discretion of the district court, have the witness' interests represented by a guardian ad litem at all stages of the proceedings arising from the violation. The appointment may be made upon the order of the court on its own motion or at the request of a party to the action. The guardian ad litem may, but need not, be a licensed attorney and must be designated by the court after due consideration is given to the desires and needs of the child. A person who is also a material witness or prosecuting witness in the same proceeding may not be designated guardian ad litem. The guardian ad litem shall receive notice of and may attend all depositions, hearings, and trial proceedings to support the child and advocate for the protection of the child but may not separately introduce evidence or directly examine or cross-examine witnesses. The expenses of the guardian ad litem, when approved by the judge, must be paid by the ~~county wherein the alleged offense took place if the action is prosecuted in county court,~~ and by the state if the action is prosecuted in district court. The state shall also pay the expenses of the guardian ad litem in commitment proceedings held in ~~county~~ district court pursuant to ~~subsection 7 of section 27-07-1-17~~ chapter 25-03.1.

SECTION 43. AMENDMENT. Section 14-03-09 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

14-03-09. Who may solemnize marriages. Marriages may be solemnized by all judges of courts of record within their respective jurisdictions, by magistrates appointed ~~and assigned under section 27-07-1-07~~ by the presiding judge of the judicial district, by ordained ministers of the gospel and priests of every church, by ministers of the gospel licensed by regular church bodies or denominations and serving as pastors of churches, and by any person authorized by the forms and usages of any church or religious

denomination or organization organized or possessing a certificate of authority pursuant to chapters 10-24 through 10-28.

SECTION 44. AMENDMENT. Section 14-03-10 of the North Dakota Century Code is amended and reenacted as follows:

14-03-10. Marriage may not be solemnized without license - Residence required. ~~No~~ A person ~~shall~~ may not solemnize any marriage until the parties thereto ~~shall~~ produce a license regularly issued not more than sixty days prior to the date of ~~such~~ the marriage by ~~the county~~ a district judge of serving the county in which either of the contracting parties or the parents of either of the parties resides, or if such county is unorganized, or disorganized, of the county to which it is attached for judicial purposes, or if the contracting parties are residents of another state by the county a district judge of serving the county wherein the marriage is to be solemnized according to the terms of section 14-03-19. For the purpose of obtaining a marriage license, a member of the armed forces of the United States stationed within the state of North Dakota shall be deemed to reside in the county wherein he is stationed.

SECTION 45. AMENDMENT. Section 14-03-11 of the North Dakota Century Code is amended and reenacted as follows:

14-03-11. Who issues marriage license to county district judge. When a county district judge shall desire desires to have a license for ~~his~~ the judge's own marriage issued in the county of his the judge's residence, he the judge may request ~~the county~~ another district judge of another county to act in his the judge's stead upon the application therefor. Such for the license. The other county district judge shall have has the power and authority to issue the license in the county of the residence of the judge seeking the ~~same.~~ Such license. The request shall must be in writing and shall must be filed, with the application and other papers relative to it, and ~~shall~~ must be recorded in the marriage record. Upon the return of ~~such~~ the license, the county district judge of serving the county in which it was issued may record it and note the record thereon notwithstanding said the judge is one of the contracting parties named therein in the license.

SECTION 46. AMENDMENT. Section 14-03-17 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

14-03-17. Application for license. When application is made to any county district judge of this state for a marriage license, he the judge shall inquire of the applicant upon oath relative to the legality of the contemplated marriage. ~~He~~ The judge may examine other witnesses upon oath. The facts relative to the legality of the marriage may be submitted to the county district judge by affidavit. The county district judge also shall require each applicant to submit the following facts upon blanks provided by the county:

1. An affidavit of some disinterested, credible person showing that the female and male are over the age of eighteen years. If the female or the male is under the age of eighteen years, the county district judge shall require the consent of the parents or guardian, if any, to be given personally, or by a certificate of consent signed by parents or guardian under oath, and sworn to before a notary public or other officer qualified by law to administer oaths.

- 2. An affidavit showing whether or not either or both of the parties have been divorced. If a decree of divorce has been granted to either or both of the parties, a certified copy of the decree must be filed with the application, and if either or both parties are subject to a subsisting order to provide child support or alimony combined with child support pursuant to the provisions of a divorce decree or judgment, the county district judge shall cause a copy of the application for license to be filed in such prior divorce action and shall secure from the applicants a signed acknowledgment of any provision for child support or alimony combined with child support contained in such prior divorce decree or judgment. A license ~~shall~~ may not be issued if it contravenes any provisions of the decree of divorce.
- 3. An affidavit of a disinterested, credible person that the applicants are not habitual criminals.

All affidavits shall be subscribed and sworn to before a person authorized to administer oaths. The county district judge shall retain on file in ~~his~~ the judge's office all papers and records pertaining to all marriage licenses. Anyone knowingly swearing falsely to the statements contained in any affidavit mentioned in this section shall be punished as provided in section 14-03-28.

SECTION 47. AMENDMENT. Section 14-03-19 of the North Dakota Century Code is amended and reenacted as follows:

14-03-19. License issued to all who comply with law. If a county district judge is satisfied that there is no legal impediment to the marriage and that the applicants have complied with the provisions of this chapter, or in the case where both of the contracting parties are residents of another state, if ~~such~~ the parties present a valid marriage license regularly issued not more than sixty days prior thereto by the duly authorized officials of their state, then the county district judge shall issue and sign a marriage license in duplicate and affix ~~his~~ the judge's seal to both the original and the duplicate.

SECTION 48. AMENDMENT. Section 14-03-20 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

14-03-20. License and certificate. The marriage license and certificate of the person solemnizing the marriage shall be upon one blank form in duplicate consisting of two pages with a perforated seem to make it readily detachable. The form ~~shall~~ must be substantially as follows:

MARRIAGE LICENSE

State of North Dakota, )  
 ) ss.  
 County of ----- )

To any person authorized by law to perform the marriage ceremony, greeting:

You are hereby authorized to join in marriage ----- of -----, aged ----- who has ----- been divorced, and ----- of -----, aged ----- who has ----- been divorced, and of this

license and your certificate you will make due return to my office within five days.

Dated at ----- this ----- day of -----, 19--.  
(Seal)

-----  
County District Judge

CERTIFICATE OF MARRIAGE

I hereby certify that the persons named in the foregoing license were by me joined in marriage at ----- county of ----- State of North Dakota, on the ----- day of -----, 19-----.

In the presence of  
-----  
-----  
-----  
Witnesses

Every certificate of marriage ~~shall~~ must be signed by two witnesses to the marriage in addition to the signature of the person who solemnized the marriage.

SECTION 49. AMENDMENT. Section 14-03-21 of the North Dakota Century Code is amended and reenacted as follows:

14-03-21. License and certificate returned to county district judge - Duplicate delivered to persons married - Records kept. When a person authorized by law ~~shall solemnize~~ solemnizes a marriage, ~~he~~ that person shall fill out and sign the certificate following the license in duplicate, giving ~~his~~ the person's official title, or if a minister of the gospel or priest, the ecclesiastical body with which ~~he~~ the minister or priest is connected. The original copy of the certificate and license ~~shall~~ must be returned to the county district judge who issued the license within five days after the date of the solemnization of the marriage, and the duplicate copy ~~shall~~ must be immediately delivered to the persons married. The judge shall file the original copy in ~~his~~ the judge's office and retain it as part of ~~his~~ the judge's 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 50. AMENDMENT. Section 14-03-22 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

14-03-22. Marriage license fee - Supplemental fee - Duties of officers. For the issuance and filing of a marriage license the county district judge shall collect the sum of six dollars from the party applying for the license. The judge shall also collect from the applicant a supplemental fee of twenty-nine dollars for aid to victims of domestic violence through the domestic violence prevention fund, pursuant to chapter 14-07.1. 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 the registrar's office for that purpose. The registrar shall index the records and upon request shall issue certified copies of the recorded license and

certificate for a one dollar fee. The registrar 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 51. AMENDMENT. Section 14-03-24 of the North Dakota Century Code is amended and reenacted as follows:

14-03-24. Certified record is evidence. The books of record of marriage licenses issued and certificates returned which are kept by ~~the county~~ a district judge of serving any county, or copies of such entries certified by ~~such~~ the judge under the seal of the court, and certified copies of the records of the registrar of vital statistics, ~~shall~~ must be received as evidence in all courts, and ~~shall be~~ are prima facie evidence in all courts and places of the facts stated therein.

SECTION 52. AMENDMENT. Subsection 1 of section 14-07.1-02 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. An action for a protection order commenced by a verified application alleging the existence of domestic violence may be brought in district court ~~or county court~~ by any family or household member or by any other person if the court determines that the relationship between that person and the alleged abusing person is sufficient to warrant the issuance of a domestic violence protection order. An action may be brought under this section, regardless of whether a petition for legal separation, annulment, or divorce has been filed.

SECTION 53. AMENDMENT. Section 16.1-12-03 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

16.1-12-03. Certificate of nomination to contain only one name - Person to participate in only one nomination - Exception. No certificate of nomination provided for by this chapter, except in the case of presidential electors, may contain the name of more than one nominee for each office to be filled. Except for persons holding or seeking nominations to offices filled by electors of the entire state or of any district greater than a county ~~and except for persons holding or seeking nomination to the office of county judge~~, any person elected or appointed to an office appearing on the no-party ballot or seeking nomination and election to a no-party office may also seek nomination to legislative office and may serve in the legislative assembly. Except as may be permitted in this section, no person may participate directly or indirectly in the nomination of more than one person for each office to be filled on the general election ballot, except a person may sign a certificate of nomination by petition for more than one person for each office, and no person may accept a nomination to more than one office on the general election ballot. No political party is entitled to more than one set of nominees on the official general election ballot.

SECTION 54. AMENDMENT. Section 16.1-15-08 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

16.1-15-08. Wrapping and returning of ballots to ~~county~~ district judge or magistrate. After having prepared the reports and poll lists provided for in section 16.1-15-06 for delivery to the county auditor, the inspector and election judges shall cause the ballots of each kind cast at the election to

be smoothly spread upon a wrapper of strong durable paper of the same width as the ballots and of sufficient strength to permit its being folded to form a complete wrapper for the ballots. The ballots and wrappers must then be folded tightly together and the wrapper must be pasted or glued securely at the outer end to completely envelop and hold the ballots together. Ballots which are void must be wrapped in a separate wrapper and must be marked "void". Ballots which are spoiled must be separately wrapped and marked "spoiled". In folding and sealing ballots, the various classes of ballots must be kept separate. The judges shall fold all ballots counted by them, except those which are void, and shall place them in manila wrappers, not exceeding two hundred ballots to each wrapper. Each wrapper must be endorsed with the name or number of the precinct and the date on which the election was held. The wrappers must be sealed securely in a manner prescribed by the secretary of state so the wrappers cannot be opened without an obvious and permanent breaking of the seal. The ballots, together with those found void or spoiled, and together with the opened envelopes from voted absentee ballots and the unopened envelopes of absentee ballots rejected as defective, must be returned either in person or by mail to the county a district judge serving the county or to the a magistrate for the county appointed and assigned under section 27-07-1-07 by the presiding judge of the judicial district. Ballots used with any electronic voting system or counted by an electronic counting machine must be wrapped, sealed, and returned as provided in this section.

SECTION 55. AMENDMENT. Section 16.1-15-09 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

16.1-15-09. Voting machines - Electronic voting systems - Electronic counting machines - Returns. Election officers shall make returns of votes cast upon voting machines and on electronic voting systems and counted on electronic counting machines for all candidates and for any measures or questions in the same manner as now or hereafter provided by law insofar as such provisions of law are applicable. Within the ability of the electronic counting machine to accurately do so, all ballots not containing write-in votes may be counted by the machine prior to the counting and recording of the ballots containing write-in votes. The county auditor shall designate the public place or places where electronic voting system ballots and ballots to be counted on electronic counting machines must be delivered by the election inspector and the two election judges to be counted in the presence of the election inspector and the two election judges. All such counting centers used for counting electronic voting system ballots shall have tabulating equipment which has an element which generates a printed record at the beginning of its operation which verifies that the tabulating elements for each candidate position and each question and the public counter are all set at zero. The tabulating equipment must also be equipped with an element which generates a printed record at the end of its operation of the total number of voters whose ballots have been tabulated, the total number of votes cast for each candidate on the ballot, and the total number of votes cast for or against any measure appearing on the ballot. Both printed records must be certified by the election inspector and the two election judges.

If any electronic voting system ballot or a ballot counted by an electronic counting machine is damaged or defective so that it cannot be properly counted by the automatic tabulating or electronic counting equipment, a true duplicate copy must be made by election officials of opposed interests and substituted for the damaged or defective ballot. All duplicate ballots must be clearly labeled duplicate, must bear a serial

number which must be recorded on the damaged or defective ballot, and must be wrapped and delivered with other ballots to the county district judge or to the a magistrate for the county appointed and assigned under section 27-07.1-07 by the presiding judge of the judicial district.

SECTION 56. AMENDMENT. Section 16.1-15-11 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

16.1-15-11. Locking and examination of voting machines - Tally of voting machine votes - Certification to county district judge or magistrate. Voting machines must remain locked for ten days next following use at an election and as much longer thereafter as necessary or advisable because of any existing or probable contest over the results of the election. They may be opened and all data and figures therein examined upon the order of any court of competent jurisdiction. A complete record of the tally of votes from each voting machine must be made by the inspector and the election judges at the time votes are tallied. This record shall agree in every respect with the pollbooks and the original reports of the total votes cast for each candidate or measure. The record shall then be certified by the inspector and the election judges, and one copy shall be delivered to the county district judge or to the a magistrate of the county appointed and assigned under section 27-07.1-07 by the presiding judge of the judicial district at the same time as the ballots are delivered to him pursuant to section 16.1-15-08. The records may be opened and all data and figures therein examined upon the order of any court of competent jurisdiction in the event of any existing or probable contest over the results of the election.

SECTION 57. AMENDMENT. Section 16.1-15-13 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

16.1-15-13. County District judge or magistrate to keep ballots forty-five days - Exception - Use of ballots as evidence. Immediately upon receiving the ballots as provided in section 16.1-15-08, the county district judge or the magistrate shall give receipt therefor to the election judges and shall place the ballots properly arranged in the order of the precinct number in boxes which shall be securely locked. The boxes must be placed in a fireproof vault and must be kept securely for forty-five days. They may not be opened nor inspected, except upon court order in a contested election, when it is necessary to produce them at a trial for any offense committed at an election, or to permit election officials to complete their duties. Forty-five days after the election, upon determination by the county district judge or the magistrate that no contest is pending, the ballots must be destroyed. If any contest of the election of any officer voted for at the election or a prosecution under the provisions of this title is pending at the expiration of such time, the ballots may not be destroyed until the contest or prosecution is finally determined. The ballots returned to the county district judge or the a magistrate as provided in this section must be received in evidence without introducing further foundation.

SECTION 58. AMENDMENT. Section 16.1-16-07 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

16.1-16-07. Contest involving irregularity of ballots - Preservation of ballots. Either the contestant or the contestee, within the time provided by this title for the preservation of ballots, may give notice by certified mail to the county district judge or to the a magistrate for the county appointed and assigned under section 27-07.1-07 by the presiding judge of the

judicial district of any county where ~~he~~ the contestant or the contestee desires the ballots preserved, that an election contest is pending in a designated court. Thereupon, it is the duty of the county district judge or the magistrate to preserve all the paper ballots, electronic voting system ballots, and voting machine records until the contest has been finally determined.

SECTION 59. AMENDMENT. Section 23-05-06 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

23-05-06. Removal of nuisance - Complaint to county district judge - When warrant issued. Whenever a local board of health deems it necessary for the preservation of the public health to enter any building within its jurisdiction to examine, destroy, remove, or prevent any nuisance, source of filth, or cause of sickness and is refused entrance into such building, any member of the board may make complaint under oath to a county district judge within the jurisdiction of the board, stating the facts in the case so far as ~~he~~ the member of the board has knowledge thereof. The judge thereupon shall issue a warrant directed to the sheriff or other peace officer commanding ~~him~~ the sheriff or peace officer to destroy, remove, or prevent, between the hours of sunrise and sunset, the nuisance, source of filth, or cause of sickness, under the direction of such members of the local board of health as accompany ~~him~~ the sheriff or peace officer.

SECTION 60. AMENDMENT. Section 23-07.1-08 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

23-07.1-08. Hearing - Order. Unless waived by the alleged tubercular person, a hearing ~~shall~~ must be held by the county district judge of serving the county in which the alleged tubercular person resides within one hundred twenty hours, exclusive of weekends and holidays, after the date of the state health officer's temporary order. The court may consider all relevant evidence, including the results of a physical examination made pursuant to section 23-07.1-06, and the state health officer and the alleged tubercular person shall be afforded an opportunity to testify, to present and cross-examine witnesses, and to be represented by counsel. Upon the request of the state health officer, the state's attorney of the county wherein the hearing is held shall represent the state health officer without additional compensation.

If, upon completion of the hearing, the court finds that the allegation that the person has active, infectious tuberculosis in a communicable and contagious stage has not been sustained by clear and convincing evidence, the court shall dismiss the case and order that the alleged tubercular be discharged if he had been in custody prior to the hearing. If the court finds that the allegation has been sustained by clear and convincing evidence, the court shall issue an order which shall:

1. State its findings that the person does have active, infectious tuberculosis in a communicable and contagious stage and is dangerous to public health; and
2. Authorize the medical facility specified in the order to receive and keep such person in its facility for necessary and appropriate care, treatment, quarantine, and isolation for so long as the disease remains in a communicable and contagious stage and the danger to public health exists.

SECTION 61. AMENDMENT. Section 23-07.1-09 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

23-07.1-09. Appeal to ~~district supreme~~ court - Habeas corpus - Hearing. An appeal from an order of the judge of a ~~county~~ district court authorizing a specified medical facility to receive a person for care, treatment, quarantine, and isolation may be taken to the ~~district supreme~~ court ~~of the county~~. In such a proceeding, the state's attorney of the county wherein the appeal is taken, without additional compensation, shall represent the state health officer. The clerk of the ~~district~~ court of the county ~~in from~~ which the appeal is taken shall notify the state's attorney of the filing of such appeal. The ~~hearing~~ appeal shall be limited to a review of the procedures, findings, and conclusions of the lower court. All persons placed in the custody of the state health officer under the provisions of this chapter for care, treatment, quarantine, and isolation shall be entitled to the benefit of the writ of habeas corpus and a determination as to whether a person in such custody has active, infectious tuberculosis in a communicable and contagious stage and is dangerous to public health shall be made at the hearing. If the court shall decide that the person does have active, infectious tuberculosis and is dangerous to public health, such decision shall not preclude a subsequent application for a writ or the issuing of a writ upon a subsequent application, if it shall be alleged that such person shall have been restored to health.

SECTION 62. AMENDMENT. Section 23-07.1-10 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

23-07.1-10. Discharge - Release. All orders of the state health officer or of a judge of a ~~county~~ district court authorizing the reception and retention in custody for care, treatment, quarantine, and isolation of persons having active and infectious tuberculosis endangering public health ~~shall be~~ are effective only during the continuation of such condition and any person who is cured or who no longer has tuberculosis in a communicable and contagious stage ~~shall must~~ be discharged immediately from custody. ~~Such~~ The discharge shall be made by the state health officer or ~~his~~ designee, under the guidelines of the state health council. The person in charge of a medical facility may also release any person admitted to the medical facility under the provisions of this chapter at such times and under such conditions as deemed advisable after consultation with the state health officer or ~~his~~ designee.

SECTION 63. AMENDMENT. Subsection 4 of section 23-07.4-01 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4. Upon issuance of any order under subsection 2 or 3, the state health officer or a designee of the state health officer shall promptly, personally, and confidentially notify the person who is the subject of the order, stating the grounds and provisions of the order and the right to contest the order, the right to be present at a judicial hearing in the ~~county~~ district court ~~in~~ serving the county in which the person resides to review the order, and the right to be represented by counsel during the hearing. If the person who is the subject of the order refuses to comply with the order and refuses to cooperate voluntarily with the state health officer or a designee of the state health officer, the state health officer or designee may petition the ~~county~~ district court ~~in~~

serving the county in which the person resides for an order of compliance. The state health officer or designee shall request the state's attorney in the county in which the person resides to file the petition in the county district court. If an order of compliance is requested, the court shall hear the matter within ten days after the request. Notice of the place, date, and time of the court hearing must be made by personal service or, if the person is not available, must be mailed to the person who is the subject of the order by certified mail at the person's last known address. Proof of mailing by the state health officer or designee is sufficient notice under this section. The burden of proof is on the state health officer or designee to show by clear and convincing evidence that the specified grounds exist for the issuance of the order and for the need for compliance and that the terms and conditions imposed in the order are no more restrictive than necessary to protect the public health. Upon conclusion of the hearing, the court shall issue appropriate orders affirming, modifying, or dismissing the order. If the court dismisses the order, the fact that the order was issued must be expunged from the records of the state department of health and consolidated laboratories. If the court affirms or modifies the order and the person subject to the order is infected with the human immunodeficiency virus, the court shall require the person to disclose the names and addresses, if known, of persons with whom the person has had contact that poses an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus. Failure to comply with court-ordered disclosure constitutes contempt of court.

SECTION 64. AMENDMENT. Section 23-07.4-02 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

23-07.4-02. Emergency public health procedures.

1. When the procedures under section 23-07.4-01 have been exhausted or cannot be satisfied and the state health officer or designee knows or has reason to believe, because of medical or epidemiological information, that a person within that official's jurisdiction has human immunodeficiency virus infection and that the person continues to engage in behavior that presents an imminent danger to the public health, the state health officer or designee may bring an action in county district court in serving the county in which the person resides to enjoin the person from engaging in or continuing to engage in such behavior. The state health officer or designee shall request the state's attorney to file the action in county district court.
2. In addition to issuance of an injunction order requested under subsection 1, the court may issue other appropriate orders including an order to take the person into custody, for a period not to exceed ninety days and place the person in a facility designated or approved by the state health officer. A custody order issued for the purpose of counseling and testing to determine whether the person has human immunodeficiency virus infection must provide for the immediate release from custody and from the facility for any person whose confirmed test results are negative and may provide for counseling or other appropriate measures to be

imposed on any person whose confirmed test results are positive. The person who is the subject of the order must be given prompt, personal, and confidential notice of the order stating the grounds and provisions of the order and notifying the person of the right to contest the order, the right to be present at a judicial hearing in the county district court ~~in~~ in serving the county in which the person resides to review the order, and the right to be represented by counsel during the hearing. If the person contests testing or treatment, no invasive medical procedures may be carried out before a hearing is held under subsection 3.

3. Any order issued by the county district court under subsection 2 is subject to review in a court hearing. Prompt, personal, and confidential notice of the place, date, and time of the court hearing and of the person's right to be present at the hearing and the right to representation by counsel during the hearing must be given to the person who is the subject of the court order. The hearing must be conducted by the court within forty-eight hours after the order is issued. The burden of proof is on the state health officer or designee to show by clear and convincing evidence that grounds exist for the order issued by the court under subsection 2 and that the terms and conditions imposed in the order are no more restrictive than necessary to protect the public health. Upon conclusion of the hearing, the court shall issue appropriate orders affirming, modifying, or dismissing the order. If the court dismisses the order, the fact that the order was issued must be expunged from the records of the state department of health and consolidated laboratories. If the court affirms or modifies the order and the person subject to the order is infected with the human immunodeficiency virus, the court shall require the person to disclose the names and addresses, if known, of persons with whom the person subject to the order has had contact that poses an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus. Failure to comply with court-ordered disclosure constitutes contempt of court.
4. A person who is the subject of an order authorized under this section is entitled to representation by legal counsel during any hearing to review the issuance of the order.

SECTION 65. AMENDMENT. Section 23-07.6-05 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

23-07.6-05. Court hearing. A respondent has the right to a court hearing in the county district court ~~of~~ in serving the county in which the respondent resides. The respondent or the respondent's representative has a right to be present at the hearing. The respondent has a right to counsel and if the respondent is indigent or otherwise unable to pay for or obtain counsel, the respondent has the right to have counsel appointed. The respondent, respondent's representative, or respondent's counsel has the right to cross-examine witnesses testifying at the hearing. If the respondent, respondent's representative, or respondent's counsel requests, in writing, a hearing, the hearing must be held within seventy-two hours of receipt of the request, excluding Saturdays and holidays. A request for a hearing does not stay the order of confinement. The court shall determine if the respondent is infected with a communicable disease, is unable or unwilling to behave in a manner as not to expose other persons to danger of

infection, poses a substantial threat to the public health, and confinement is necessary and is the least restrictive alternative to protect or preserve the public health. If the order is issued by a local board, the state health officer has the right to be made a party to the proceedings.

SECTION 66. AMENDMENT. Section 23-07.6-12 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

23-07.6-12. Right of appeal. Any party aggrieved by an order of the county district court under this section may appeal to the supreme court.

SECTION 67. AMENDMENT. Section 24-06-05 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

24-06-05. Overseer responsible for machinery. Each overseer of highways ~~shall be~~ is responsible personally for the proper use and care of all implements while in ~~his~~ the overseer's charge, or in use in ~~his~~ the overseer's district, and any overseer of highways, or other person who, through negligence or willfully ~~shall injure~~ injures or ~~damage~~ damages such implements or ~~permit~~ permits them to be injured, ~~shall be~~ is liable for such damage to ~~such the~~ township, in an action to be brought in district court by the chairman of the board of township supervisors ~~before any county judge~~ in the township or any adjoining township.

SECTION 68. AMENDMENT. Section 24-07-22 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

24-07-22. Appeals - When and where taken. Any person who feels aggrieved by any determination or award of damages made by the board having jurisdiction, either in laying out, altering, or discontinuing, or in refusing to lay out, alter, or discontinue, any highway or cartway, within thirty days after the filing of such determination or award of damages, as provided in this chapter, may appeal therefrom to the district court in accordance with the procedure provided in section 28-34-01. ~~If the amount of damages claimed by appellant does not exceed one hundred dollars, the appeal must be taken to the county judge. If the damages claimed exceed one hundred dollars, the appeal must be taken to the district court.~~

SECTION 69. AMENDMENT. Section 24-07-24 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

24-07-24. Appeals - Filing - Approval of undertaking - Service. ~~If the appeal is taken to a county judge, the notice of appeal and undertaking shall be filed with him and the undertaking must be approved by him. If the appeal is taken to the district court, the~~ The notice of appeal and undertaking ~~shall to the district court must be~~ filed with the clerk of such the court and the undertaking must be approved by the judge thereof or by the county auditor. ~~In either case, the~~ The notice of appeal ~~shall must be~~ served upon some member of the board by which the determination was made.

SECTION 70. AMENDMENT. Section 24-07-28 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

24-07-28. Judgment - Copy filed - Payment of costs. When judgment has been entered upon an appeal taken as provided in this chapter, ~~the county judge or the clerk of the district court, as the case may be,~~ shall file with

the county auditor or clerk of the township a certified copy of ~~such~~ the judgment.

SECTION 71. AMENDMENT. Subsections 2 and 7 of section 25-03.1-02 of the North Dakota Century Code are amended and reenacted as follows:

2. "Court" means, except where otherwise indicated, the county district court of serving the county wherein the respondent resides.
7. "Magistrate" means the judge of the appropriate county district or juvenile court or a judge assigned by the presiding judge of the judicial district.

SECTION 72. AMENDMENT. Section 25-03.1-03 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-03. Jurisdiction. The county district courts have original jurisdiction over the proceedings governed by this chapter; ~~except as provided in this section: They have concurrent jurisdiction with the juvenile court for the commitment of juveniles for treatment or evaluation.~~

SECTION 73. AMENDMENT. Subsection 2 of section 25-03.1-21 of the North Dakota Century Code is amended and reenacted as follows:

2. If the respondent is not complying with the alternative treatment order or the alternative treatment has not been sufficient to prevent harm or injuries that the individual may be inflicting upon himself or others, the department, a representative of the treatment program involved in the alternative treatment order, the petitioner's retained attorney, or the state's attorney may apply to the court or to the county district court of the a different county judicial district in which the respondent is located to modify the alternative treatment order. The court shall hold a hearing within seven days after the application is filed. Based upon the evidence presented at hearing and other available information, the court may:
  - a. Continue the alternative treatment order;
  - b. Consider other alternatives to hospitalization, modify the court's original order, and direct the individual to undergo another program of alternative treatment for the remainder of the ninety-day period; or
  - c. Enter a new order directing that the individual be hospitalized until discharged from the hospital under section 25-03.1-30. If the individual refuses to comply with this hospitalization order, the court may direct a peace officer to take the individual into protective custody and transport the respondent to a treatment facility.

SECTION 74. AMENDMENT. Section 25-03.1-38 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-38. Expenses of district court serving Stutsman County ~~court~~. All expenses of the county district court of serving Stutsman County

involving patients in residence at the state hospital must be paid by the state hospital under the direction of the department.

SECTION 75. AMENDMENT. Section 25-03.1-46 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-46. Rules and regulations - Preparation of forms. The department shall, under chapter 28-32, adopt and enforce such rules as may be necessary for the implementation of this chapter. The supreme court, in consultation with the department, the associations of county district judges and state's attorneys, and other affected organizations, is responsible for the preparation and the department is responsible for distribution of the necessary and appropriate forms to enable compliance with this chapter.

SECTION 76. AMENDMENT. Subsection 3 of section 25-04-05.1 of the North Dakota Century Code is amended and reenacted as follows:

3. The superintendent may authorize the temporary release of any resident to the custody of the resident's parent or guardian of the person, or to another person designated by the parent or such guardian. In the absence of such authorization any parent or guardian of the person of any resident may formally request, in writing, the resident's temporary release. The release must be granted at the earliest reasonable opportunity, but not more than thirty days after receipt of a written application. If a release is, or would be, effected contrary to the advice of the superintendent based on a recent comprehensive evaluation of the individual, the superintendent shall so advise the parent or such guardian in writing. If in the opinion of the superintendent the health, safety, welfare, or morals of the resident or society are seriously endangered by release, the superintendent shall so advise the department of human services, which may thereupon apply to the proper county district court to have ~~such~~ the adult resident adjudged a defective delinquent in the manner provided in section 25-04-07, or in the case of a minor, the department of human services may apply to the proper juvenile court to have ~~such~~ the minor declared a ward of the court.

SECTION 77. AMENDMENT. Subsections 2 and 3 of section 25-04-15 of the North Dakota Century Code are amended and reenacted as follows:

2. No real property belonging to the estate may be sold during the lifetime of the patient except for the maintenance and support of the patient's dependents, unless it is shown that the sale of the property will not result in undue hardship to those dependents, and it may be sold only upon the order of the county district court having jurisdiction of the estate, with the consent of the department of human services.
3. No personal property belonging to the estate may be sold within five years from the date upon which the patient was sent to the developmental center unless the property is ordered sold by the county district court having jurisdiction of the estate for the reason that the property is likely to deteriorate in value during the time herein specified.

SECTION 78. AMENDMENT. Section 25-11-05 of the North Dakota Century Code is amended and reenacted as follows:

25-11-05. Transfer of patients - Approval of court. The compact administrator is hereby directed to consult with the immediate family of any proposed transferee and, in the case of a proposed transferee from an institution in this state to an institution in another party state, to take no final action without approval of the county district court which committed ~~such~~ the patient, or if ~~such~~ the patient was not committed, then without approval of the county district court of serving Stutsman County.

SECTION 79. AMENDMENT. Section 27-01-01 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-01-01. Courts composing judicial system of state - Those constituting courts of record. The following are the courts of justice of this state:

1. The supreme court;
2. The district courts; and
3. ~~The county courts; and~~
4. ~~Such other courts as are or may be created by law for cities.~~

Of these the supreme court and the district ~~and county~~ courts are courts of record.

SECTION 80. AMENDMENT. Section 27-01-01.1 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-01-01.1. Budgeting and financing of the supreme court and district courts. The state court administrator shall submit a comprehensive budget for the supreme court and the district courts to the legislative assembly. An informational copy of the budget must be delivered to the director of the budget pursuant to section 54-44.1-13. The budget for the district courts must include all salary and expenses for the district courts, including the juvenile courts, and their employees except the clerks of district courts and their deputies and employees, whose salaries and expenses must be paid by the counties unless the county has properly exercised its option pursuant to section 11-17-11. Each county shall provide the district court in that county with adequate chamber, court, and law library quarters, and lights and fuel and appropriate facilities for clerk of court services ~~which that~~ are state funded pursuant to section 11-17-11. Any equipment, furnishings, and law libraries in the control and custody of the district court on January 1, 1980, and any such property acquired from that date until July 1, 1981, must continue to be in district court's custody and control until the state court administrator determines such items are no longer needed by the court. Any equipment and furnishings in the control and custody of a clerk of district court on the date of the exercise of the county option pursuant to section 11-17-11, and any such property acquired from that date until the beginning of the next state biennium, must continue in the district court's custody and control until the state court administrator determines such items are no longer needed by the judicial system. Upon that determination custody and control of the property must revert back to the county. **Each district court**

law library maintained by the state must be available for use by the county court in that county-

SECTION 81. AMENDMENT. Section 27-01-09 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-01-09. Reciprocal recognition of certain state and tribal court judgments, decrees, and orders - Conditions. The district courts ~~and county courts~~ shall recognize and cause to be enforced any judgment, decree, or order of the tribal court of the Three Affiliated Tribes of the Fort Berthold Reservation in any case involving the dissolution of marriage, the distribution of property upon divorce, child custody, adoption, an adult abuse protection order, or an adjudication of the delinquency, dependency, or neglect of Indian children if the tribal court had jurisdiction over the subject matter of the judgment, decree, or order. The tribal court judgment, decree, or order must be rendered by a judge who is a graduate of an accredited law school and holds a current valid license to practice law in at least one state. A state court may inquire as to the facts of the case or tribal law only to the extent necessary to determine whether the tribal court had jurisdiction over the subject matter of the judgment, decree, or order and personal jurisdiction over the parties to the action. Recognition and enforcement of tribal court judgments, decrees, and orders under this section is conditioned upon recognition and enforcement of state court judgments, decrees, and orders by the tribal court of the Three Affiliated Tribes and tribal law enforcement agencies under the same limitations provided by this section for recognition and enforcement of tribal court judgments, decrees, and orders by state courts.

SECTION 82. AMENDMENT. Subsections 1 and 3 of section 27-01-10 of the 1989 Supplement to the North Dakota Century Code are amended and reenacted as follows:

1. The governing body of a county may, by resolution, authorize a ~~county district judge~~ the district judges serving that county to assess a fee under subsection 3 of not more than twenty-five dollars as part of a sentence imposed on a defendant who pleads guilty to or is convicted of a criminal offense or of violating a municipal ordinance for which the maximum penalty that may be imposed by law for the offense or violation includes imprisonment.
3. The governing body of the county or city may determine the amount of the fee to be assessed in all cases or it may authorize the ~~county district~~ or municipal judge to determine the amount of the fee to be assessed in each case. The fee assessed under this section is in addition to any fine, penalty, costs, or administrative fee prescribed by law. The county or municipal judge may assess the fee when sentence is imposed or when sentence is suspended or imposition of sentence is deferred, unless the defendant is indigent and unable to pay the fee. All fees paid to a county or municipal court under this section must be deposited monthly in the county or city treasury for allocation by the governing body of the county or city to one or more of the following programs as determined by the governing body:
  - a. A private, nonprofit domestic violence or sexual assault program.

- b. A victim and witness advocacy program of which the primary function is to provide direct services to victims of and witnesses to crime.

SECTION 83. AMENDMENT. Section 27-05-01 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-05-01. Judicial districts - Number of judges.

1. The judicial districts in this state are as designated by rule of the supreme court. The number of judges in each of the judicial districts is as follows:

- ~~1-~~ a. The northwest judicial district shall have five judges.
- ~~2-~~ b. The northeast judicial district shall have three judges.
- ~~3-~~ c. The northeast central judicial district shall have four judges.
- ~~4-~~ d. The east central judicial district shall have four judges.
- ~~5-~~ e. The southeast judicial district shall have three judges.
- ~~6-~~ f. The south central judicial district shall have five judges.
- ~~7-~~ g. The southwest judicial district shall have three judges.

2. Each judicial district has that number of additional judges as designated by rule of the supreme court pursuant to subsection 3 of section 1 of this Act. The supreme court shall reduce the number of district judges pursuant to section 86 to forty-two before January 2, 2001.

SECTION 84. AMENDMENT. Section 27-05-06 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-05-06. Jurisdiction of district courts. The district courts of this state have the general jurisdiction conferred upon them by the constitution, and in the exercise of such jurisdiction they have power to issue all writs, process, and commissions provided therein or by law or which may be necessary for the due execution of the powers with which they are vested. Such courts shall have:

1. Common-law jurisdiction and authority within their respective judicial districts for the redress of all wrongs committed against the laws of this state affecting persons or property.
2. Power to hear and determine all civil actions and proceedings.
3. All the powers, according to the usages of courts of law and equity, necessary to the full and complete jurisdiction of the causes and parties and the full and complete administration of justice, and to carrying into effect their judgments, orders, and other determinations, subject to a reexamination by the supreme court as provided by law.

4. Jurisdiction of appeals from all final judgments of municipal judges and from the determinations of inferior officers, boards, or tribunals, in such cases and pursuant to such regulations as may be prescribed by law.
- 5- ~~Jurisdiction over actions by game and fish officials involving the confiscation of materials determined to be in excess of one thousand dollars in value.~~

SECTION 85. AMENDMENT. Subsection 1 of section 27-05-08 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. The locations of the chambers of the district judges in each of the respective districts shall be as determined by rule of the supreme court. However, not more than seventy percent of the chambers of the district judges may be located in cities with a population of more than seven thousand five hundred.

SECTION 86. A new section to chapter 27-05 of the North Dakota Century Code is created and enacted as follows:

Vacancy in office of district judge - Abolition of offices - Hearing.

1. Notwithstanding section 44-02-03, when a vacancy occurs in the office of district court judge, the supreme court shall determine, within ninety days of receiving notice of the vacancy from the governor and in consultation with district court judges and attorneys in the affected judicial district, whether or not that office is necessary for effective judicial administration. The supreme court may, consistent with that determination, order that:
  - a. The vacancy be filled in the manner provided pursuant to chapter 27-25;
  - b. The vacant office be abolished; or
  - c. The vacant office be transferred to a judicial district in which an additional judge is necessary for effective judicial administration, and that the vacancy be filled in the manner provided pursuant to chapter 27-25 with respect to that judicial district.
2. Subject to subsection 3, the supreme court may, after consultation with district court judges and attorneys in the affected judicial district, abolish one or more offices of district court judge if the supreme court determines that the office is not necessary for effective judicial administration and abolition of the office is necessary to reduce the number of district court judges as required in subsection 2 of section 27-05-01. At least one year before the end of the term of office of a district court judge holding the judgeship, the supreme court shall notify the judges of the affected judicial district of a determination that the judgeship will be abolished. The abolition of an office of district court judge under this subsection is effective at the end of the term of office of the district court judge holding that judgeship. The district court judge holding the judgeship to be abolished may

petition the supreme court, within thirty days after receiving notice that the judgeship will be abolished, for a hearing on the determination. The supreme court shall hold the hearing within thirty days after receipt of the petition. Within thirty days after the hearing, the supreme court shall affirm, reverse, or modify its previous determination.

3. The authority conferred upon the supreme court in subsection 2 may be exercised:
  - a. From July 1, 1995, until June 30, 1997, if on July 1, 1995, the number of district court judges is more than forty-eight;
  - b. From July 1, 1997, until June 30, 1999, if on July 1, 1997, the number of district court judges is more than forty-six; and
  - c. From July 1, 1999, until December 31, 2000, if on July 1, 1999, the number of district court judges is more than forty-four.
4. The supreme court shall notify the governor of its determinations made pursuant to this section.

SECTION 87. A new section to chapter 27-05 of the North Dakota Century Code is created and enacted as follows:

Magistrates - Appointment - Salary - Authority. The presiding judge of a judicial district may appoint, subject to rules adopted by the supreme court, any qualified person, including a clerk of the district court, to serve as magistrate. A magistrate appointed pursuant to this section may be paid a salary as determined by the supreme court and has that authority performable by a district court judge as assigned by the presiding judge. The supreme court may adopt rules for the qualifications of magistrates, the extent and assignment of authority, and the conduct of the office, including rules relating to training sessions and continuing education.

SECTION 88. AMENDMENT. Section 27-06-01 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-06-01. District court reporter - Appointment, oath, substitutes, qualifications.

1. Each district judge shall appoint a qualified shorthand reporter to the office of court reporter. The provide for court reporter services, unless otherwise provided by rules of the supreme court, either by the appointment of a qualified shorthand reporter to the office of court reporter or by an electronic court reporting system.
2. If a reporter is appointed, the order of appointment must be filed in the office of the clerk and entered upon the records of the court in each county of the district. The person so appointed shall take and subscribe the oath required of other civil officers and shall file the same in the office of the secretary of state. The reporter shall hold office and discharge the duties thereof in person. If the reporter shall be incapacitated from acting, the judge may appoint some other qualified shorthand reporter to act, whose notes, transcripts, and certificates shall have the same

force and effect as though made by the official reporter, but the certificates made by the person must be under oath. A qualified shorthand reporter shall be a person who is the holder of a registered professional reporter certificate issued by the national shorthand reporters association or an official shorthand reporter appointed on or before July 1, 1979.

SECTION 89. AMENDMENT. Section 27-07.1-02 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-07.1-02. Multicounty agreements to share services of judges. The boards of county commissioners of any two or more counties may enter into an agreement to provide for the election of a single judge or any number of judges to serve the county courts of the several counties entering into the agreement. Any county entering into such an agreement shall retain its own county court which shall be located in the county seat and each action shall be venued in the county court of any county in which venue is proper under other provisions of law or rule of the supreme court. The agreement shall set forth the number of judges to be elected, the manner in which the salary and expenses of the judge or judges and any court reporters will be divided by the various counties, and the manner in which services will be provided to the various counties. Any such agreement must be entered into at least one hundred twenty days prior to the primary election in any year in which a general election is to be held, except a county in which no candidate is elected and qualified or in which a vacancy occurs may enter into an agreement with another county for the services of a judge at any time. Any agreement must remain effective for the duration of the term to which the county judge is to be elected, or, in the event of a vacancy which occurs after the agreement is entered into, until the vacancy is filled by election and the person elected takes office or the counties enter into an agreement for the provision of judicial services pursuant to subsection 4 of section 27-07.1-03. The candidates nominated or candidates elected as county judge shall be determined in both the primary and general elections by using the total combined votes in those counties which have entered into a multicounty agreement for judicial services. The candidate elected as judge of the county court in those counties which have agreed to share the services of a county judge is exempt from the requirement of section 11-10-04, but must be a resident of this state at the time of nomination. Any agreement or change to any agreement made under this section is subject to the prior approval of the supreme court.

SECTION 90. AMENDMENT. Section 27-07.1-03 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-07.1-03. Vacancies. ~~Any~~

1. Except as provided in subsection 2, any vacancy in the office of county judge shall be filled by the board of county commissioners pursuant to chapter 27-26, unless the board, by resolution, determines to fill the vacancy in accordance with section 44-02-04.
2. When a vacancy occurs in the office of county court judge, the supreme court shall determine, within ninety days of receiving notice of the vacancy from the board of county commissioners, whether or not that office is necessary for effective judicial administration. The supreme court's determination must be made in consultation with the board of county commissioners, judges, and

- attorneys of each affected county. The supreme court may, consistent with its determination, order that:
- a. The vacancy be filled, at the discretion of the county, in either the manner provided pursuant to chapter 27-26 or through an agreement described in subdivision a or b of subsection 4; or
  - b. The vacant office be abolished and that county court services be provided pursuant to subsection 4.
3. The supreme court shall notify the board of county commissioners of each affected county of its determination made pursuant to subsection 2.
4. If the supreme court orders that a vacant office be abolished pursuant to subsection 2, the board of county commissioners of each affected county shall:
- a. Enter into an agreement with the supreme court for the provision of judicial services by the state judicial system until such time as the county courts are abolished and additional district court judgeships are established pursuant to section 1 of this Act; or
  - b. Enter into an agreement with a county that has an office of county court judge for the provision of county court services, notwithstanding the limitations imposed by section 27-07.1-02. Any county entering into such an agreement shall have a county court which must be located in the county seat and each action must be venued in the county in which venue is proper under other provisions of law or rule of the supreme court. The agreement must set forth the manner in which the salary and expenses of the judges and any court reporters will be divided by the counties, and the manner in which services will be provided to each county. The agreement may remain effective until such time as the county courts are abolished and additional district court judgeships are established pursuant to section 1 of this Act.

SECTION 91. AMENDMENT. Subsection 1 of section 27-08.1-01 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. All judges of the county district courts shall may exercise the jurisdiction conferred by this chapter, and while sitting in the exercise of said that jurisdiction shall be known and referred to as the "small claims court". The jurisdiction of such court is confined to cases for recovery of money, or the cancellation of any agreement involving material fraud, deception, misrepresentation, or false promise, where the value of the agreement or the amount claimed by the plaintiff or the defendant does not exceed two thousand dollars.

SECTION 92. AMENDMENT. Section 27-08.1-06 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-08.1-06. Judgment unsatisfied - Docketing - Execution. If the defendant fails to pay the judgment rendered by the court within twenty days after notice of entry has been filed, the judge of the court may issue an execution to the county sheriff as if issued by the clerk of the county district court under chapter 28-21, and the execution invokes all the powers of the sheriff in the same manner as an execution of the judgment under chapter 28-21, or upon application of the prevailing party, the judge of the court shall certify an abstract of the judgment to the county district court, along with an affidavit of identity signed by the judgment creditor. The abstract may be filed with the clerk of the county district court of the county in which the judgment was rendered without payment of a filing fee, and the clerk shall enter the judgment upon the judgment docket. From the time of the docketing, it becomes a judgment of the county district court for the purpose of execution and a lien upon real property owned by the debtor in the same manner as an original judgment of the county district court. A certified transcript of the docket of the judgment may be filed and the judgment docketed accordingly in any other county with the same effect in every respect as if the judgment had been rendered in the county district court where the judgment is filed.

SECTION 93. AMENDMENT. Section 27-08.1-08 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-08.1-08. Referees of small claims court - Appointment - Term - Method of qualifying - Powers and duties - Compensation. The board of county commissioners presiding judge of the judicial district may authorize a judge of a county court to appoint a referee of the small claims court who shall hold office at the pleasure of the judge. The referee shall qualify in the same manner as other civil officers, except that the referee need not be a qualified elector of the county, and the duties and powers of the referee in the conduct of trials in the small claims court shall be ~~is~~ governed by the provisions of rule 53(c), North Dakota Rules of Civil Procedure, insofar as those provisions are not in conflict with the provisions of this chapter. The referee appointed must be a person versed in the law. The board of county commissioners presiding judge shall determine the salary or fee of the referee, within the limits of legislative appropriations.

SECTION 94. AMENDMENT. Section 27-09.1-14 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-09.1-14. Mileage and compensation of jurors. A juror shall ~~must~~ be paid mileage at the rate provided for state employees in section 54-06-09. A juror shall ~~must~~ be compensated at the rate of twenty-five dollars for each day of required attendance at sessions of the district or county court and ten dollars for each day of required attendance at sessions of a coroner's inquest. The mileage and compensation of jurors shall ~~must~~ be paid by the state for jurors at sessions of the district court and paid by the county for jurors at sessions of the county court. Jurors at coroner's inquests shall ~~must~~ be paid by the county.

SECTION 95. AMENDMENT. Subsection 1 of section 27-15-01 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. All judges of the supreme court, and district courts, and county courts of the state.

SECTION 96. AMENDMENT. Section 27-15-02 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-15-02. Term of office - Vacancy, how filled. The judges of the supreme court, ~~and~~ district courts, ~~and county courts~~, the attorney general, the dean of the university of North Dakota school of law, and the surrogate judges shall hold office as members of the judicial conference during the time they occupy their respective official positions. The term of office of the two municipal judges is two years, except that of the municipal judges first appointed after July 1, 1985, one must be appointed for a term of one year. The term of office of the five members of the bar is five years, except that of the members of the bar first appointed after July 1, 1985, one must be appointed for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years, and one for a term of one year. All terms of members serving on July 1, 1985, expire on December 31, 1985. Thereafter all terms commence on January first. A vacancy ~~shall~~ must be filled by the authority originally selecting the member.

SECTION 97. AMENDMENT. Section 27-19-08 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-19-08. Limitations upon jurisdiction. Nothing in this section ~~shall authorize~~ authorizes the alienation, encumbrance, or taxation of any real or personal property belonging to any Indian or Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or ~~shall authorize~~ authorizes regulation of the use of ~~such the~~ property in a manner inconsistent with any federal treaty, agreement, or statute, or with any regulation made pursuant thereto; or ~~shall confer~~ confers jurisdiction upon the state to adjudicate, in probate proceedings or otherwise, the ownership or right to possession of such property or any interest therein. The civil jurisdiction herein accepted and assumed ~~shall include but shall not be limited to~~ includes the determination of parentage of children, termination of parental rights, commitments by county district courts, guardianship, marriage contracts, and obligations for the support of spouse, children, or other dependents.

SECTION 98. AMENDMENT. Subsection 2 of section 27-20-47 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. If the child is not adopted within eighteen months after the date of the order and a guardian or conservator of the child has not been appointed by the county district court, the child ~~shall~~ must be returned to the court for entry of further orders for the care, custody, and control of the child.

SECTION 99. AMENDMENT. Subsection 2 of 27-23-01 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. "Judge" means a justice of the supreme court, a judge of the district court, ~~a judge of a county court~~, a judge of a municipal court, and, in the case provided in section 29-01-14, a small claims court referee.

SECTION 100. AMENDMENT. Section 27-23-02 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-23-02. Creation and composition of commission, terms of office, appointment, and powers. The commission on judicial conduct is hereby created to consist of ~~one judge~~ two judges of the district court, ~~one judge of the county court~~, ~~one lawyer who is licensed to practice law in this state~~, and four citizens who are not judges, retired judges, or lawyers. Members representing the district ~~and county courts court~~ shall be appointed by their ~~respective state associations association~~ and the lawyer member shall be appointed by the executive committee of the state bar association of North Dakota. The citizen members shall be appointed by the governor. The term of each member shall be three years. Initially, two members shall serve for three years, two members shall serve for two years, and three members shall serve for one year; as determined by lot. No member shall serve more than two full three-year terms. Membership terminates if a member ceases to hold the position that qualified him for appointment. A vacancy shall be filled by the appointing power for the remainder of the term. Any appointment to fill a vacancy not made within forty-five days after the vacancy occurs or the term of office ends shall be made by the supreme court. The commission shall select one of its members as chairman.

The commission has the power to investigate complaints against any judge in the state and to conduct hearings concerning the discipline, removal, or retirement of any judge.

SECTION 101. AMENDMENT. Section 27-24-04 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-24-04. Compensation and expenses of person appointed temporary judge — ~~Reimbursement to counties.~~

1. A temporary judge appointed as provided in section 27-24-01 must receive as compensation for each day of service in the performance of duties under the appointment an amount equal to five percent of the gross monthly salary of a regularly elected or appointed judge of the court in which the temporary judge is to serve, or one-half of that daily compensation for services of one-half day or less. The compensation must be paid upon the certificate of the temporary judge that the services were performed for the number of days shown in the certificate, and must be paid in the same manner as the salaries of the regularly elected or appointed judges are paid.
2. A temporary judge appointed as provided in section 27-24-01 or assigned as provided in section 27-24-02 to serve outside the county in which the judge resides or maintains an office must receive, in addition to daily compensation, reimbursement for travel expenses necessarily incurred in the performance of duties as temporary judge. The expenses must be reimbursed upon the certification by the temporary judge that the expenses were actually incurred, in the same manner as like expenses of regularly elected or appointed judges are paid.
- 3- ~~The state shall reimburse on a pro rata basis the county or counties for whom a county judge provides judicial services the salary paid to the judge by the county or counties during the~~

period the county judge serves as temporary judge in a district court following appointment under section 27-24-01-

SECTION 102. AMENDMENT. Section 28-20-22 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

28-20-22. Affidavit of renewal - Where filed - Entry. If the judgment was rendered in a district court of this state, ~~or was entered upon a transcript or abstract from a county court,~~ the affidavit for renewal must be filed with the clerk of the district court where the judgment was first docketed. If the judgment filed and docketed was a foreign judgment, the affidavit for renewal may be filed with the clerk of any district court where the same has been docketed. The clerk of the district court shall immediately enter in the judgment docket, after a statement of the original judgment, the fact of renewal, the date of renewal, and the amount for which the judgment is renewed. A copy of the affidavit of renewal and the docket entries thereon, certified by the clerk of the district court where the judgment is filed, ~~may~~ must be filed and docketed in any other county of the state in which a transcript of the original judgment was filed.

SECTION 103. AMENDMENT. Section 28-26-19 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

28-26-19. Taxing costs. In all actions, motions, and proceedings in the supreme, ~~and~~ district, ~~or~~ county courts, the costs of the parties ~~shall~~ must be taxed and entered on record separately.

SECTION 104. AMENDMENT. Section 28-29-04 of the North Dakota Century Code is amended and reenacted as follows:

28-29-04. Power of courts when prices are confiscatory. Until the price of farm products produced in this state ~~shall rise~~ rises to a point to equal at least the cost of production, in comparison with the price of other commodities in general, entering into the business of agriculture, the supreme court of this state and all district ~~and~~ county courts in this state ~~shall~~ have power, when it is deemed for the best interests of litigants, to extend the time for serving and filing all papers requisite and necessary for the final determination of any cause. Any such court, in like manner, may stay the entry of judgment or the issuance of execution thereon, or may defer the signing of any order for judgment, or may defer terms of court, whenever in the judgment of the court the strictly legal procedure in any cause will confiscate or tend to confiscate the property of any litigant by forcing the sale of agricultural products upon a ruinous market.

SECTION 105. AMENDMENT. Subsection 3 of section 29-01-01 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. Trial may be had in municipal ~~or~~ county court.

SECTION 106. AMENDMENT. Subsection 4 of section 29-01-09 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4. Upon a judgment of a municipal court, or such other court as is or may be created by law for cities, ~~or a county court,~~ in a case in

which such judgment may be lawfully given without the intervention of a jury; or

**SECTION 107. AMENDMENT.** Subsection 3 of section 29-01-14 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. As limited by law directing the place of exercising their jurisdiction and authority, ~~county judges, or any qualified person~~ magistrates appointed by the county presiding judge pursuant to section 27-07.1-07 of a judicial district, municipal judges, and small claims court referees who are licensed to practice law and authorized by the ~~county commissioners~~ presiding judge of the judicial district in case of an emergency, each with authority to act as magistrate throughout the county or the city for which ~~he~~ the magistrate is elected or appointed.

**SECTION 108. AMENDMENT.** Section 29-01-15 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**29-01-15. Jurisdiction of municipal judges, and small claims court referees, and county courts.** Any municipal judge or judge of the county court mentioned in subsection 3 of section 29-01-14 may:

1. Act as committing magistrate; provided, that this subsection shall not apply to municipal judges who are not attorneys currently licensed under chapter 27-11.
2. Hear, try, and determine misdemeanors and infractions when jurisdiction has been conferred by the Constitution of North Dakota and this and other laws.
3. Adjudge and impose the punishment prescribed by law, upon conviction, in all cases within his jurisdiction to hear, try, and determine.
4. Grant temporary protection orders under the particular circumstances and for the limited duration set forth in section 14-07.1-08.

A small claims court referee authorized pursuant to subsection 3 of section 29-01-14 may act as a committing magistrate. ~~Any person~~ A magistrate appointed by the county presiding judge pursuant to section 27-07.1-07 shall have of the judicial district has the authority to act to the extent allowed by rules promulgated by the supreme court.

**SECTION 109. AMENDMENT.** Section 29-02-13 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**29-02-13. Accused committed - How discharged - Undertaking transmitted to district court.** If a person complained of for threatening to commit an offense against the person or property of another is committed for not giving security, ~~he that person~~, upon giving the same, may be discharged by any municipal judge or judge of the county court of the county or political subdivision who is authorized to act as a committing magistrate, or by the judge of the district court of the county. Any undertaking so accepted must

be transmitted by the acting magistrate to the district court of the county for disposition at the next term.

SECTION 110. AMENDMENT. Section 29-07-01.1 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

29-07-01.1. Payment of expenses for defense of indigents. Lawyers appointed to represent needy persons shall be compensated at a reasonable rate to be determined by the court. Expenses necessary for the adequate defense of a needy person, when approved by the judge, shall be paid by the county wherein the alleged offense took place if the action is prosecuted in county court, by the state if the action is prosecuted in district court, and by the city wherein the alleged offense took place if the action is prosecuted in municipal court. ~~The state shall also pay the defense expenses in any felony action prosecuted in county court pursuant to subsection 9 of section 27-07-1-17.~~ The city shall also pay the expenses in any appeal taken to district court or county court from a judgment of conviction in municipal court pursuant to section 40-18-19. A defendant with appointed counsel shall reimburse the county, state, or city such sums as the county, state, or city expends on the defendant's behalf, unless otherwise ordered by the court. The state's attorney of the county or prosecuting attorney of the city wherein the alleged offense took place shall seek civil recovery of any such sums any time the state's attorney or city attorney determines the person for whom counsel was appointed may have funds to repay the county, state, or city within six years of the date such amount was paid on that person's behalf. The state's attorney may contract with a private sector collection agency for assistance in seeking recovery of such funds.

SECTION 111. AMENDMENT. Section 29-07-06 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

29-07-06. Change of place of hearing - Procedure. Whenever a person accused of a public offense is brought before a municipal judge for examination, and, at any time before such the examination is commenced, he the person files with such the municipal judge his an affidavit stating that by reason of the bias or prejudice of said the municipal judge he the person believes he cannot have a fair or impartial examination cannot be had before him the municipal judge, such the municipal judge must transfer said the action, and all the papers therein, including a certified copy of his the municipal judge's docket entries, to a county district judge for serving the same county. The state's attorney, or his assistant state's attorney, in the same manner and for the same reasons as the defendant, may obtain a transfer of such the action from the municipal judge before whom the action was commenced, or from the county district judge to whom it has been transferred on the application of the state, in which event it shall be transferred to the next nearest county another district judge designated by the presiding judge of the judicial district. The place of examination cannot be changed more than once by each party under this section.

SECTION 112. AMENDMENT. Section 29-10.1-38 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

29-10.1-38. Transcript demand - Waiver of transcript and preliminary examination, when. Within five days after his a first appearance before a magistrate, a the person against whom an indictment has been found and presented may make a written demand to the district judge for a copy of the transcript of the testimony given before the grand jury as it relates to him

that person and the charges against ~~him~~ that person. Upon receipt of such written demand, the judge shall issue an appropriate order. If the judge for any reason determines that a copy of a transcript of the testimony cannot be obtained, the person indicted shall be entitled, but not otherwise, to a preliminary examination, as provided by the statutes or rules of criminal procedure for persons otherwise charged with a crime. Under such conditions the preliminary examination shall be had before a judge of ~~a county the district court or a district judge, of~~ serving the county in which the crime was committed or is triable. Failure to make such demand within the time prescribed constitutes a waiver of the right to the transcript or to a preliminary examination.

SECTION 113. AMENDMENT. Subsection 1 of section 29-15-21 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. Subject to the provisions of this section, any party to a civil or criminal action or proceeding pending in the district court ~~or any county court in this state~~ may obtain a change of the judge before whom the trial or any proceeding with respect thereto is to be heard by filing with the clerk of the court in which the action or proceeding is pending a written demand for change of judge, executed in triplicate either:
  - a. By the personal signature of the party, if an individual, and by personal signature of an authorized officer, if a corporation or association; or
  - b. By the attorney for a party with the permission of the party, in which event the attorney shall file with the demand a certificate that the attorney has mailed a copy of the demand to such party.

SECTION 114. AMENDMENT. Section 29-22-02 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

29-22-02. Custody of jurors. The jurors shall retire in charge of one or more officers who must be sworn to keep them together in some private and convenient place until they have rendered their verdict. Such officer or officers shall furnish food and other necessities to the jurors, ~~at the expense of the county for county court and~~ at the expense of the state ~~for district court~~, as directed by the court, and shall not speak to nor communicate with such jurors or any of them nor permit any other person so to do except by order of the court. Men and women jurors may retire, when rest or sleep or propriety requires it, to separate rooms.

SECTION 115. AMENDMENT. Subsection 6 of section 30.1-01-06 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

6. "Court" means the ~~district court having jurisdiction in matters relating to the affairs of decedents. This court in this state is known as the county court.~~

SECTION 116. AMENDMENT. Section 30.1-02-02 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

## 30.1-02-02. (1-302) Subject matter jurisdiction.

- † The county district court has jurisdiction over all subject matter relating to guardianship, probate, and testamentary matters, including:
- a- 1. Estates of decedents, including construction of wills and determination of heirs and successors of decedents.
  - b- 2. Estates of protected persons.
  - c- 3. Protection of minors and incapacitated persons.
  - d- 4. Trusts, ~~to the extent necessary for the exercise of the court's jurisdiction over probate and testamentary matters.~~
- 2- The district and county courts have concurrent subject matter jurisdiction over trusts, except as provided in subdivision d of subsection 4. The district court has jurisdiction of all causes at law and equity not inconsistent with the exclusive original jurisdiction over probate and testamentary matters vested by subsection 4 in the county court.

SECTION 117. AMENDMENT. Section 30.1-02-07 of the North Dakota Century Code is amended and reenacted as follows:

30.1-02-07. (1-310) Oath or affirmation on filed documents. Except as otherwise specifically provided in this title or by rule, every document filed with the district ~~or county~~ court under this title, including applications, petitions, and demands for notice, ~~shall be~~ is deemed to include an oath, affirmation, or statement to the effect that its representations are true as far as the person executing or filing it knows or is informed, and penalties for perjury may follow deliberate falsification therein.

SECTION 118. AMENDMENT. Subdivision c of subsection 2 of section 30.1-10-01 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- c. The renunciation ~~shall~~ must be filed in the county district court of serving the county in which proceedings have been commenced for the administration of the estate of the deceased owner or deceased donee of the power or, if they have not been commenced, in which they could be commenced. A copy of the renunciation ~~shall~~ must be delivered in person or mailed by registered or certified mail to any personal representative, or other fiduciary of the decedent or donee of the power. If real property or an interest therein is renounced, a copy of the renunciation may be recorded in the office of the register of deeds of the county in which the real estate is situated.

SECTION 119. AMENDMENT. Section 30.1-32-01 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

30.1-32-01. (7-101) Duty to register trusts. The trustee of a trust having its principal place of administration in this state shall register the trust in a district ~~or county~~ court of this state in serving the county

encompassing the principal place of administration. Unless otherwise designated in the trust instrument, the principal place of administration of a trust is the trustee's usual place of business where the records pertaining to the trust are kept, or at the trustee's residence if he has no such place of business. In the case of cotrustees, the principal place of administration, if not otherwise designated in the trust instrument, is:

1. The usual place of business of the corporate trustee if there is but one corporate cotrustee; or
2. The usual place of business or residence of the individual trustee who is a professional fiduciary if there is but one such person and no corporate cotrustee; and otherwise
3. The usual place of business or residence of any of the cotrustees as agreed upon by them.

The duty to register under this chapter does not apply to the trustee of a trust if registration would be inconsistent with the retained jurisdiction of a foreign court from which the trustee cannot obtain release. The clerk of the district ~~or county~~ court shall keep a record of all trust registrations ~~in his county~~, and of any orders, or responses relating thereto, by the district ~~or county~~ court, and shall establish and maintain a system for indexing, filing, or recording which is sufficient to enable users of the records to obtain adequate information.

SECTION 120. AMENDMENT. Section 30.1-32-03 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

30.1-32-03. (7-103) Effect of registration.

1. By registering a trust, or accepting the trusteeship of a registered trust, the trustee submits personally to the jurisdiction of the district ~~or county~~ court in any proceeding under section 30.1-33-01 relating to the trust that may be initiated by any interested person while the trust remains registered. Notice of any proceeding ~~shall~~ must be delivered to the trustee, or mailed to ~~him~~ the trustee by ordinary first-class mail, at ~~his~~ the trustee's address as listed in the registration or as thereafter reported to the district ~~or county~~ court and to ~~his~~ the trustee's address as then known to the petitioner.
2. To the extent of their interests in the trust, all beneficiaries of a trust properly registered in this state are subject to the jurisdiction of the district ~~or county~~ court of registration for the purposes of proceedings under section 30.1-33-01, provided notice is given pursuant to section 30.1-03-01.

SECTION 121. AMENDMENT. Section 30.1-32-04 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

30.1-32-04. (7-104) Effect of failure to register. A trustee who fails to register a trust in a proper place as required by this chapter, for purposes of any proceedings initiated by a beneficiary of the trust prior to registration, is subject to the personal jurisdiction of any district ~~or county~~ court in which the trust could have been registered. In addition, any trustee who, within thirty days after receipt of a written demand by a

settlor or beneficiary of the trust, fails to register a trust as required by this chapter is subject to removal and denial of compensation or to surcharge as the district ~~or county~~ court may direct. A provision in the terms of the trust purporting to excuse the trustee from the duty to register, or directing that the trust or trustee ~~shall~~ is not ~~be~~ subject to the jurisdiction of the district ~~or county~~ court, is ineffective.

SECTION 122. AMENDMENT. Section 30.1-33-01 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

30.1-33-01. (7-201) District ~~and county courts concurrent court~~ jurisdiction of trusts.

1. The district ~~and county~~ courts have ~~concurrent~~ jurisdiction of proceedings initiated by interested parties concerning the internal affairs of trusts. Proceedings which may be maintained under this section are those concerning the administration and distribution of trusts, the declaration of rights, and the determination of other matters involving trustees and beneficiaries of trust, ~~except for the proceedings over which the county court has exclusive jurisdiction as provided in section 30.1-02-02. These include, but are not limited to,~~ proceedings to:
  - a. Appoint or remove a trustee.
  - b. Review trustees' fees and to review and settle interim or final accounts.
  - c. Ascertain beneficiaries, determine any question arising in the administration or distribution of any trust including questions of construction instruments, instruct trustees, and determine the existence or nonexistence of any immunity, power, privilege, duty, or right.
  - d. Release registration of a trust.
2. Neither registration of a trust nor a proceeding under this section result in continuing supervisory proceedings. The management and distribution of a trust estate, submission of accounts and reports to beneficiaries, payment of trustee's fees and other obligations of a trust, acceptance and change of trusteeship, and other aspects of the administration of a trust shall proceed expeditiously consistent with the terms of the trust, free of judicial intervention and without order, approval, or other action of any court, subject to the jurisdiction of the district ~~or county~~ court invoked by interested parties or as otherwise exercised as provided by law.

SECTION 123. AMENDMENT. Section 30.1-33-03 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

30.1-33-03. (7-203) Trust proceedings - Dismissal of matters relating to foreign trusts. The district ~~or county~~ court will not, over the objection of a party, entertain proceedings under section 30.1-33-01 involving a trust registered or having its principal place of administration in another state, unless:

1. All appropriate parties could not be bound by litigation in the courts of the state where the trust is registered or has its principal place of administration; or
2. The interests of justice otherwise would seriously be impaired.

The district ~~or county~~ court may condition a stay or dismissal of a proceeding under this section on the consent of any party to jurisdiction of the state in which the trust is registered or has its principal place of business, or the district ~~or county~~ court may grant a continuance or enter any other appropriate order.

SECTION 124. AMENDMENT. Section 30.1-33-04 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

30.1-33-04. (7-204) District ~~and county~~ court —~~Concurrent~~ jurisdiction of litigation involving trusts and third parties. The district ~~or county~~ court of the place in which the trust is registered has concurrent jurisdiction with other district ~~or county~~ courts of this state of actions and proceedings to determine the existence or nonexistence of trusts created other than by will, of actions by or against creditors or debtors of trusts, and of other actions and proceedings involving trustees and third parties. Venue is determined by the rules generally applicable to civil actions.

SECTION 125. AMENDMENT. Section 30.1-33-05 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

30.1-33-05. (7-205) Proceedings for review of employment of agents and review of compensation of trustee and employees of trust. On petition of an interested person, after notice to all interested persons, the district ~~or county~~ court may review the propriety of employment of any person by a trustee, including any attorney, auditor, investment adviser, or other specialized agent or assistant, and the reasonableness of the compensation of any person so employed, and the reasonableness of the compensation determined by the trustee for his own services. Any person who has received excessive compensation from a trust may be ordered to make appropriate refunds.

SECTION 126. AMENDMENT. Section 30.1-33-06 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

30.1-33-06. (7-206) Trust proceedings - Initiation by notice - Necessary parties. Proceedings under section 30.1-33-01 are initiated by filing a petition in the district ~~or county~~ court and giving notice pursuant to section 30.1-03-01 to interested parties. The district ~~or county~~ court may order notification of additional persons. A decree is valid as to all who are given notice of the proceeding though fewer than all interested parties are notified.

SECTION 127. AMENDMENT. Subsection 1 of section 30.1-34-03 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. Within thirty days after ~~his~~ the trustee's acceptance of the trust, the trustee shall inform, in writing, the current beneficiaries and if possible, one or more persons who under section 30.1-03-03 may represent beneficiaries with future interests, of the district ~~or~~

county court in which the trust is registered and of his the trustee's name and address.

SECTION 128. AMENDMENT. Section 30.1-34-04 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

30.1-34-04. (7-304) Duty to provide bond. A trustee shall provide bond to secure performance of his the trustee's duties unless the terms of the trust expressly excuse the trustee from furnishing bond. On petition of the trustee or other interested person, the district or county court may excuse a requirement of bond, reduce the amount of the bond, release the surety, or permit the substitution of another bond with the same or different sureties. If bond is required, it ~~shall~~ must be filed in the court of registration or other appropriate court in amounts and with the sureties and liabilities as provided in sections 30.1-17-04 and 30.1-17-06 relating to bonds of personal representatives.

SECTION 129. AMENDMENT. Section 30.1-34-05 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

30.1-34-05. (7-305) Trustee's duties - Appropriate place of administration - Deviation. A trustee is under a continuing duty to administer the trust at a place appropriate to the purposes of the trust and to its sound, efficient management. If the principal place of administration becomes inappropriate for any reason, the district or county court may enter any order furthering efficient administration and the interests of beneficiaries, including, if appropriate, release of registration, removal of the trustee, and appointment of a trustee in another state. Trust provisions relating to the place of administration and to changes in the place of administration or of trustee control unless compliance would be contrary to efficient administration or the purposes of the trust. Views of adult beneficiaries ~~shall~~ must be given weight in determining the suitability of the trustee and the place of administration.

SECTION 130. AMENDMENT. Section 31-01-16 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

31-01-16. Compensation and mileage and travel expense of witness - County to pay fees except for district court fees in criminal action. A witness in a civil or criminal case is entitled to receive:

1. A sum of twenty-five dollars for each day necessarily in attendance before the district or county court or before any other ~~court,~~ board, or tribunal, except municipal court.
2. A sum for mileage and travel expense reimbursement equal to the reimbursement rates provided for state employees in sections 44-08-04 and 54-06-09.

In all criminal cases such, witness fees and expenses on the part of the state must be paid out of the county treasury of the proper county except that in district court cases the attorney general shall pay prosecution witness fees and expenses, and the supreme court shall pay other witness fees for indigents and expenses. Prisoners may not be compensated as witnesses under this section.

SECTION 131. AMENDMENT. Section 31-01-18 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

31-01-18. Expenses of witness paid by city, ~~county,~~ or state upon court order in criminal or municipal court action. When a person, as a witness in a criminal or municipal court action, appears before a magistrate, grand jury, or court, upon a subpoena or in pursuance of an undertaking and it appears that the person:

1. Has come from a place outside the county; or
2. Is poor and unable to pay the expenses of such attendance,

the court, if the attendance of the witness is upon a trial, by order upon its minutes, or in any other case, the judge, by a written order, may direct the state in district court cases, ~~the county in county court cases,~~ or the city in municipal court cases to pay the witness a reasonable sum to be specified in the order for the necessary expenses of the witness's attendance. Upon the production of the order or a certified copy thereof, the state, ~~county,~~ or city, to whichever entity the order is directed, must pay the witness the sum specified. In district court cases, the attorney general shall pay prosecution witness expenses and the supreme court shall pay other witness expenses.

SECTION 132. AMENDMENT. Section 32-19-23 of the North Dakota Century Code is amended and reenacted as follows:

32-19-23. When notice not required. If the record title to real estate is in the name of a deceased person, no notice before foreclosure need be served unless an administrator or executor of the estate of ~~such the~~ deceased person has been appointed by the ~~county district court of serving~~ the county in which ~~such the~~ real estate is situated. The certificate of the judge or clerk of the ~~county district court of serving~~ the county in which the real estate is situated stating that no such administrator or executor has been appointed in that county may be recorded in the office of the register of deeds and ~~shall be~~ is sufficient evidence of that fact.

SECTION 133. AMENDMENT. Section 32-19-24 of the North Dakota Century Code is amended and reenacted as follows:

32-19-24. Service of notice on administrator or executor. If an administrator or executor of the estate of the deceased owner has been appointed in the county where the real estate is situated, the notice before foreclosure ~~shall~~ must be served upon ~~him~~ the administrator or executor. Service may be made by registered or certified mail addressed to ~~him at his~~ the administrator's or executor's post-office address as shown by the records of the ~~county district court~~ by which he the administrator or executor was appointed.

SECTION 134. AMENDMENT. Section 32-19-30 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

32-19-30. Service by publication - How made. Service of the summons may be made by publication if the plaintiff files a verified complaint in the office of the clerk of the district court of the county where the action is commenced, setting forth a claim for relief in favor of the plaintiff and against the defendants, for the foreclosure of a mortgage or other lien upon

real estate, and when the plaintiff files in said that office an affidavit signed by the plaintiff or ~~his~~ the plaintiff's attorney substantially in the following form:

STATE OF NORTH DAKOTA            )  
  ) ss.  
County of ----- )

----- being first duly sworn upon oath deposes and says that he is the (attorney for) ----- plaintiff in the above entitled action:

Affiant further says that the defendants (naming them) ----- appear to have an interest in or lien or encumbrance upon the real estate described in the complaint in this action, that such interest or lien is subject and inferior to the lien of the plaintiff being foreclosed; that plaintiff seeks no personal judgment against the defendants, if any, (naming them) ----- and seeks only to bar and exclude said the defendants from any interest in or lien or encumbrance upon the real estate described in the complaint, save and except the right of redemption as provided by law; that the residences of the defendants, if any, (naming them) ----- are not shown upon the records of the office of the register of deeds, county auditor, or clerk of the district court of ----- County, that being the county in which the real estate involved in this action is situated; that the residences of the defendants, if any, (naming them) ----- are as follows: -----; that affiant does not know the residences of the defendants, if any, (naming them) -----; that the defendants, if any, (naming them) ----- are deceased, and it does not appear by the records in the office of the judge of the county district court in and for serving ----- County, that being the county in which the real estate described in the complaint in the action is situated, that any administration upon the estate of said defendant is now pending; and that the defendants, if any, (naming them) ----- are deceased, and that ----- of ----- is the duly appointed, qualified, and acting administrator or executor, as the case may be, of the estate of said the deceased.

SECTION 135. AMENDMENT. Section 32-22-18 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

32-22-18. Informal commitment from county district judge. If the person is committed to prison, or is in custody of an officer on a criminal charge, by virtue of a warrant of commitment of a county district judge, such the person must not be discharged on the ground of any mere defect of form in the warrant of commitment.

SECTION 136. AMENDMENT. Section 32-24-01 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

32-24-01. When question may be certified. Where any cause is at issue, civil or criminal, in any district court or county court in this state and the issue of the same will depend principally or wholly on the construction of the law applicable thereto, and such construction or interpretation is in doubt and vital, or of great moment in the cause, the

judge of any such court, on the application of the attorney for the plaintiff or defendant in a civil cause, and upon the application of the attorneys for the plaintiff and defendant in a criminal cause, may halt all proceedings until such the question shall have been certified to and determined by the supreme court and by it determined.

SECTION 137. AMENDMENT. Section 33-06-01 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

33-06-01. When eviction maintainable. An action of eviction to recover the possession of real estate is maintainable in the proper county district court when:

1. A party, by force, intimidation, fraud, or stealth, has entered upon the prior actual possession of real property of another and detains the same.
2. A party, after entering peaceably upon real property, turns out by force, threats, or menacing conduct the party in possession.
3. A party, by force or by menaces and threats of violence, unlawfully holds and keeps the possession of any real property, whether the same was acquired peaceably or otherwise.
4. A lessee, in person or by subtenant, holds over after the termination of his the lease or expiration of his the lessee's term, or fails to pay his rent for three days after the same shall be rent is due.
5. A party continues in possession after a sale of the real property under mortgage, execution, order, or any judicial process and after the expiration of the time fixed by law for redemption, or after the execution and delivery of a deed, or after the cancellation and termination of any contract for deed, bond for deed, or other instrument for the future conveyance of real estate or equity therein.
6. A party continues wrongfully in possession after a judgment in partition or after a sale under an order or decree of a county district court.

SECTION 138. AMENDMENT. Section 33-06-03 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

33-06-03. Legal representatives may bring eviction actions. Executors and administrators may bring actions of eviction in the county district courts in the same manner as their testators and intestates, as the case may be.

SECTION 139. AMENDMENT. Section 33-06-04 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

33-06-04. Eviction actions not joinable with other actions - Exception - When counterclaims only interposable. An action of eviction cannot be brought in a county district court in connection with any other action, except for rents and profits accrued or for damages arising by reason of the

defendant's possession. No counterclaim can be interposed in such action, except as a setoff to a demand made for damages or for rents and profits.

**SECTION 140. AMENDMENT.** Section 36-01-18 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**36-01-18. Inspection of livestock in transit - Penalty.** The state veterinarian and authorized agents and representatives of the state board of animal health, for purposes of inspecting livestock in transit for health or ownership identification, may stop vehicles transporting livestock on public highways of this state. When signaled by the state veterinarian or an authorized agent or representative of the board to stop, the operator of any vehicle shall stop the vehicle, show any health or identification forms which are required to be carried in transportation of livestock, and permit the inspector to make an inspection of the livestock being transported if deemed by the inspector to be necessary. Failure to stop when so directed is a class A misdemeanor. The inspector is authorized to use a stop signal.

The state board of animal health, the state veterinarian, or any authorized agent or representative of the board, may call any sheriff or deputy sheriff, police officer, or highway patrol officer, to execute its orders, and those officers must obey. Any law enforcement officer may arrest and take before any county district judge of serving the county any person found violating any of the provisions of this chapter. The law enforcement officer shall immediately notify the state's attorney of the county of the arrest, and the state's attorney shall prosecute the person found violating any provision of this chapter.

**SECTION 141. AMENDMENT.** Section 36-11-10 of the North Dakota Century Code is amended and reenacted as follows:

**36-11-10. Trespassing animals may be distrained - Notice to owner - Security for release.** The person suffering damages by reason of the trespass of any livestock may take up the offending animal or animals. He The person suffering damages shall notify the owner, or the person in possession of the livestock at the time of the trespass, of the seizure of such animal or animals without unnecessary delay, if the owner or person in possession is known to him the person suffering damages and is a resident of, and present within, the county in which the trespass occurred. He The person suffering damages may retain such animal or animals in his that person's custody until:

1. The damages sustained by reason of such trespass and the costs in the action to recover such damages have been paid; or
2. Good and sufficient security for the payment of such the damages and costs is given, such security to be approved by a county district judge of serving the county in which the livestock is taken up.

If the owner of the offending animal or animals elects to give security, he the owner shall give to the person holding the livestock notice that security will be given and the date and hour when such security will be submitted to the county district judge for approval. Such The notice must be given at least one day prior to the date set for the submission of the security to the judge. The cost of serving notices required under this section may be taxed as costs in the action. Where applicable, the provisions of section 36-11-07 may be raised as an affirmative defense in any proceedings under this

section, and the owner or person entitled to possession of such livestock may apply to a court of competent jurisdiction for the return of the livestock. If the court finds that such the livestock have been wrongfully distrained, the person who causes such the livestock to be wrongfully distrained is liable for all damages suffered by the owner or person entitled to possession of such the livestock, together with the costs of the action and reasonable attorney's fees.

SECTION 142. AMENDMENT. Section 36-11-11 of the North Dakota Century Code is amended and reenacted as follows:

36-11-11. Procedure when security given. When security for the payment of damages and costs is approved by the county district judge, the judge shall issue an order directed to the person holding the livestock to deliver such the stock to the person entitled thereto, and the officer receiving such the order shall take such the livestock and deliver the same it to such the person. The cost of the proceedings may be charged as a part of the costs in the action to determine the rights of the parties regarding the livestock distrained for the trespass.

SECTION 143. AMENDMENT. Section 37-15-18 of the North Dakota Century Code is amended and reenacted as follows:

37-15-18. Commandant as administrator - Bond not required - Fees - Allowance of fees by county district court. Upon becoming administrator of any estate as provided in section 37-15-17, the commandant is not required to give bond, and ~~he~~ is not entitled to charge or receive any compensation for ~~his~~ the commandant's services as administrator. The county district court of servng the county where the administration proceedings are had shall not make nor allow any charge or fee in connection with the administration proceedings other than the actual disbursements of the administrator.

SECTION 144. AMENDMENT. Section 37-16-04 of the North Dakota Century Code is amended and reenacted as follows:

37-16-04. Officers of political subdivisions to furnish data to adjutant general upon request. Upon the request of the adjutant general, the executive officer of each city, the supervisors of each township, and ~~the~~ county a district judge of servng each county in this state shall furnish data to the adjutant general relative to unmarked graves of soldiers, sailors, and marines by giving a list of the sites of such unmarked graves in their respective subdivisions.

SECTION 145. AMENDMENT. Subsection 1 of section 38-10-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "County District court" means the county district court having jurisdiction of the estate of which the personal representative involved is administrator, executor, or guardian, as the case may be.

SECTION 146. AMENDMENT. Section 38-10-03 of the North Dakota Century Code is amended and reenacted as follows:

38-10-03. Term of lease for production - Conditions and limitations in lease. A lease for production made by a personal representative may be made subject to the confirmation of the county district court, for a period of not

more than ten years, and it may be extended thereafter as long as oil or gas is produced from such land by the lessee or ~~his~~ the lessee's assigns or the lessee or ~~his~~ the lessee's assigns is engaged in continuous drilling or reworking operations. Such a lease must be made upon such terms and in consideration of such bonuses, royalties, rentals, and payments as may be agreed upon except that in no case may the royalty be:

1. Less than equal to a one-eighth part of all oil produced and saved from the leased premises;
2. Less than equal to a one-eighth part of the gross proceeds at the prevailing market rate at the well for all gas used off the premises, when gas only is found on the leased premises; nor
3. Less than one-eighth of the gross proceeds at the prevailing market rate at the well for gas, during all times that such gas is used, when gas is produced from any oil well and used off the premises or for the manufacture of casinghead gasoline or dry commercial gas.

No lease for production is effective for a period of more than two years from its date unless mining or a well is commenced on such land within such time, except that the lease may provide that the lessee may pay a delay rental in an amount that may be specified in the lease. Such payment operates as a rental and covers the privilege of deferring the commencement of mining or of a well for one year. A lease may provide for the payment of successive delay rentals which defers the commencement of mining or of a well for like successive periods. Any lease made by a personal representative under the authority of this section may provide for the pooling or unitization of the lease land, or any part or parts thereof, and of any mineral or royalty interest therein, with land adjoining or in the vicinity of the leased land, or any mineral or royalty interest therein, so as to form a unit for development and purpose of operation. Operations or production on any such unitized area shall have the same effect as operations or production on the leased land. The lease may provide for payment of a proportionate part of the royalties on production from any such unitized area to the personal representative in lieu of the royalties provided in the lease as to the area so unitized. A personal representative, upon compliance with the provisions of this chapter, may also enter into agreements pooling or unitizing existing leases. Upon the execution, approval, and delivery of a production lease, all persons interested in the estate are bound thereby during the entire period thereof.

SECTION 147. AMENDMENT. Section 38-10-05 of the North Dakota Century Code is amended and reenacted as follows:

38-10-05. Personal representative may sell mineral, oil, and gas rights separately from surface rights. Whenever it appears to the satisfaction of the county district court that it is necessary for the payment of the family allowance or of claims, expenses of administration, or legacies, or that it is for the advantage, benefit, or best interests of the estate of a decedent, minor, or incompetent, and of the persons interested therein, that the whole or some undivided fractional part of the oil, gas, or other minerals in or under, or that may be produced from, land belonging to the estate should be sold separately from the surface rights, the personal representative may sell the same, upon order of the county district court.

SECTION 148. AMENDMENT. Section 38-10-06 of the North Dakota Century Code is amended and reenacted as follows:

38-10-06. Petition required to obtain order of license - Contents of petition - Citation issued on petition. To obtain an order of the county district court for the sale of oil, gas, or other mineral rights, a verified petition must be presented to and filed with the court setting forth the matters required by law to be contained in a petition for the sale of real estate and in addition thereto setting forth the quantity of the interest in the oil, gas, or other minerals desired to be sold and the probable amount to be realized on the sale thereof. A citation must be issued on the petition and served in the manner provided by this code law for the service of citations in county district court. If all persons interested in the estate join in the petition or signify in writing their assent thereto or waive service of notice thereof, the hearing may be had at any time.

SECTION 149. AMENDMENT. Section 38-10-08 of the North Dakota Century Code is amended and reenacted as follows:

38-10-08. Order of license to sell oil, gas, or mineral rights and procedure thereafter. If it appears to the county district court, after the hearing provided for in this chapter, that it is necessary, or for the advantage, benefit, and best interests of the estate and of the persons interested therein, to sell the whole or some fractional part of the oil, gas, or minerals in and under, and that may be produced from, land belonging to the estate, the court may enter its order of license authorizing the sale of the whole or any fractional part thereof separately from the surface rights. Thereafter, further proceedings must be had and conducted in compliance with the provisions of sections 30.1-13-04, 30.1-18-03, 30.1-18-04, 30.1-18-11, 30.1-18-15, and 30.1-19-08.

SECTION 150. AMENDMENT. Section 39-06-16 of the North Dakota Century Code is amended and reenacted as follows:

39-06-16. License to be carried and exhibited on demand. Every licensee shall have his the licensee's operator's license or permit in his the licensee's immediate possession at all times when operating a motor vehicle and shall display the same, upon demand of any district court, municipal court, county court, a patrolman, peace officer, or a field deputy or inspector of the highway department. However, no person charged with violating this section may be convicted or assessed any court costs if he the person produces in court, to the chief of police or in the office of the arresting officer an operator's license or permit theretofore issued to him that person and valid and not under suspension, revocation, or cancellation at the time of his the person's arrest.

SECTION 151. AMENDMENT. Subdivision a of subsection 5 and subsection 7 of section 39-06.1-03 of the 1989 Supplement to the North Dakota Century Code are amended and reenacted as follows:

5. a. If a person is aggrieved by a finding that he the person committed the violation, he the person may, without payment of a filing fee, appeal that finding to the district court or county court for trial anew. If, after trial in the appellate court, the person is again found to have committed the violation, there may be no further appeal. Notice of appeal under this subsection must be given within thirty days after a

finding of commission of a violation is entered by the official. Oral notice of appeal may be given to the official at the time that the official adjudges that a violation has been committed. Otherwise, notice of appeal must be in writing and filed with the official, and a copy of the notice must be served upon the prosecuting attorney. An appeal taken under this subsection may not operate to stay the reporting requirement of subsection 4, nor to stay appropriate action by the licensing authority upon receipt of that report.

7. As used in sections 39-06.1-02, 39-06.1-03, and 39-06.1-04, the word "official" means a district judge, a ~~judge of a county court~~, a municipal judge, or, when provided by statute, a person appointed by a district judge to serve as such official for all or a specified part of a judicial district.

SECTION 152. AMENDMENT. Section 40-02-16 of the North Dakota Century Code is amended and reenacted as follows:

40-02-16. Arbitration of differences between township and newly organized municipality upon division of property and indebtedness. If the officers of a township and of a municipality which has been organized from territory situated therein cannot agree upon the valuation of any real estate, or of any indivisible property which is held jointly, or upon the just apportionment of the joint indebtedness, the officers of the township or municipality, upon five days' notice of the time and place, may apply to the ~~county judge~~ district court serving the county in which the township or municipality is located for arbitration of such differences. Thereupon, the ~~county district~~ district judge shall appoint three freeholders of the county, not residents or taxpayers of the municipality or township involved, to act as arbitrators. After being duly sworn to perform the duties imposed upon them, the arbitrators shall view and appraise the property and fix the valuation thereof for the purpose of making the division. If the property to be divided is personal property and no satisfactory arrangement can be made otherwise, it ~~shall~~ must be sold at public auction to the highest bidder, and the municipality and township may bid at ~~such~~ the sale.

SECTION 153. AMENDMENT. Section 40-09-16 of the North Dakota Century Code is amended and reenacted as follows:

40-09-16. Board may summon and compel attendance of witnesses and books - Punish for contempt - Process. Whenever it is necessary for the more effective discharge of its duties, the board of city commissioners may summon and compel the attendance of witnesses and the production of books and papers before it. The board may punish for contempt of the board with the same fines and penalties as ~~the county~~ a district judge may inflict for contempt of the ~~county~~ district court. All process necessary to enforce the powers conferred by this section ~~shall~~ must be signed by the president of the board, attested by the city auditor, and served by any member of the police force of the city.

SECTION 154. AMENDMENT. Section 40-11-13 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-11-13. Fines and forfeitures for violation of ordinances paid into treasury. All fines, penalties, and forfeitures collected for offenses against the ordinances of a city, including those fines, penalties, and

forfeitures collected as a result of a judgment of a county district court rendered pursuant to section 40-18-19, ~~shall~~ must be paid into the city's treasury at such time and in such manner as may be prescribed by ordinance.

SECTION 155. AMENDMENT. Subsections 1 and 3 of section 40-18-01 of the 1989 Supplement to the North Dakota Century Code are amended and reenacted as follows:

1. The municipal judge within a city having a population of five thousand or more must be licensed to practice law in this state, unless no person so licensed is available in the city. In a city with a population of less than five thousand, the municipal judge need not be licensed to practice law in this state, nor may the judge be required to be a resident of the city. ~~The offices of municipal judge and county judge may not be held by the same person, except pursuant to assignment of the presiding judge of the judicial district.~~ The municipal judge has jurisdiction to hear, try, and determine offenses against the ordinances of the city.
3. Notwithstanding any other provision of law, the municipal court has no jurisdiction to hear, try, and determine an offense which would be a violation of section 39-08-01 or equivalent ordinance, if the person charged with the offense has twice previously been convicted of violation of section 39-08-01 or equivalent ordinance within the five years preceding the commission of the offense charged or if the person charged with the offense has three times previously been convicted of violation of section 39-08-01 or equivalent ordinance within the seven years preceding the commission of the offense charged. If such an offense is charged in the municipal court and the municipal judge has notice of violation of section 39-08-01 or equivalent ordinance twice within the five years, or three times within the seven years, preceding the commission of the offense charged, the municipal judge shall dismiss the charge, without prejudice, and direct that the charge be filed against the person in the county district court.

SECTION 156. AMENDMENT. Section 40-18-06.2 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-18-06.2. Transfer of municipal ordinance cases to county court - Abolition of office of municipal judge. With the agreement of the governing body of the county, or the counties of the multicounty agreement area pursuant to section 27-07.1-02, the governing body of a city may, by ordinance, transfer some or all of the cases of the municipal court to the county court of the county in which the city is located. These cases are deemed county court cases for purposes of appeal. The governing body of a city with a population of less than five thousand, upon transferring all municipal court cases to the county, may abolish, by resolution, the office of municipal judge. The term of office of the municipal judge elected to serve that city terminates upon the date the governing body of the city abolishes the office of municipal judge.

SECTION 157. AMENDMENT. Section 40-18-06.2 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-18-06.2. Transfer of municipal ordinance cases to county district court - Abolition of office of municipal judge. With the agreement of the

governing body of the county, or the counties of the multicounty agreement area pursuant to section 27-07.1-02 the presiding judge of the judicial district in which the city is located, and the state court administrator, the governing body of a city may, by ordinance, transfer some or all of the cases of the municipal court to the county district court of serving the county in which the city is located. These cases are deemed county district court cases for purposes of appeal. The governing body of a city with a population of less than five thousand, upon transferring all municipal court cases to the district court, may abolish, by resolution, the office of municipal judge. The term of office of the municipal judge elected to serve that city terminates upon the date the governing body of the city abolishes the office of municipal judge.

SECTION 158. AMENDMENT. Section 40-18-15 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-18-15. Trials in nonjury cases arising under the ordinances of a city. An action for the violation of a city ordinance for which the right to a jury trial does not otherwise exist or in which the defendant has timely and appropriately waived a right to a jury trial in writing pursuant to rules of the supreme court, may be tried and determined by the municipal judge without the intervention of a jury. In the event of an adverse verdict in a municipal court trial, a defendant may appeal as provided in section 40-18-19, but a waiver of jury trial in the municipal court proceeding also constitutes a waiver of jury trial in the county district court.

SECTION 159. AMENDMENT. Section 40-18-15.1 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-18-15.1. Transfer to county district court if jury trial not waived - Expenses of prosecution - Division of funds between city and, county, and state. If within twenty-eight days after arraignment a defendant has not waived in writing the defendant's right to a jury trial in a case where it otherwise exists, the matter must be transferred to the county district court for trial. The city shall provide a prosecuting attorney and, in the case of any indigent defendant, a defense attorney. The city may contract with the county, state, or any individual or entity for prosecution or defense services. In the contract, the city and the, county, and state may agree by resolutions of the respective governing bodies, to a division of all fees, fines, costs, forfeitures, and any other monetary consideration collected from cases transferred under this section. ~~The share of fees, fines, costs, forfeitures, and any other monetary consideration due to the city, which must be paid to the city and county treasury at least once each quarter, while the share due to the county must be paid to the county general fund at least once each quarter.~~ At the time of payment, the county district court shall account under oath to the city auditor and county for all money collected.

SECTION 160. AMENDMENT. Section 40-18-19 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-18-19. Appeals from determinations of municipal judge. An appeal may be taken to the county district court from a judgment of conviction or order deferring imposition of sentence in a municipal court in accordance with the North Dakota Rules of Criminal Procedure. An appeal is perfected by notice of appeal. A perfected appeal to the county district court transfers the action to such county district court for trial anew. On all appeals from a determination in a municipal court, the appellate district court shall take

judicial notice of all of the ordinances of the city. No filing fee may be required in ~~county~~ district court for the filing of an appeal from a judgment of conviction for the violation of a municipal ordinance. Expenses necessary for the adequate defense of a needy person in an appeal to district ~~or county~~ court from a judgment of conviction for the violation of a municipal ordinance, as approved by the presiding district ~~or county~~ judge, must be paid by the city wherein the alleged offense took place.

SECTION 161. AMENDMENT. Section 40-18-20 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-18-20. Demand for change of judge. Any party to a proceeding pending in any municipal court may obtain a change of judge pursuant to section 29-15-21, except that either a district judge, ~~a county judge pursuant to section 40-18-01,~~ or a municipal judge may be appointed to act in place of the disqualified judge. The alternate municipal judge, if any, is automatically appointed to preside in the case.

SECTION 162. AMENDMENT. Subsection 3 of section 42-01-07 of the North Dakota Century Code is amended and reenacted as follows:

3. Bringing a criminal action before a ~~county~~ district judge, ~~who shall have authority to bind the defendant over to the district court;~~

SECTION 163. AMENDMENT. Subsection 2 of section 43-23-07 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. An attorney at law, admitted to practice in this state, handling sales of real estate in the course of estate or guardianship administration in ~~county~~ district court, or trust administration, bankruptcy proceedings, receiverships, or like actions subject to approval by a court of competent jurisdiction, or sales of real estate arising in the usual course of the practice of law.

SECTION 164. AMENDMENT. Section 44-02-04 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

44-02-04. Vacancy in county office - Appointment. A vacancy in any county office, other than that of county commissioner, must be filled by the board of county commissioners, with the exception that if a vacancy has occurred in the office of state's attorney by reason of ~~his~~ removal under section 44-11-01, the appointment must be made by the board of county commissioners by and with the advice and consent of the governor. ~~A vacancy in the office of county judge must be filled as provided in chapter 27-26.~~ The board of county commissioners may declare a county office to be vacant whenever the officeholder is unable to perform the duties of the office for six months or more. However, if within one year the officeholder should become able to perform ~~his the officeholder's~~ duties the county commissioners may, for good cause shown, reinstate ~~such the~~ officeholder.

SECTION 165. AMENDMENT. Section 44-02-05 of the North Dakota Century Code is amended and reenacted as follows:

44-02-05. Vacancy in board of county commissioners - How filled. When a vacancy occurs in the board of county commissioners, the remaining members

of the board, with the county district judge serving the county and auditor, immediately shall appoint some suitable person to fill such the vacancy from the district in which such the vacancy occurred. If a majority of such the officers fails to agree upon a person to fill such the vacancy, the county treasurer shall be called in and shall act as an additional member of such the board to fill the vacancy. The appointee ~~shall hold~~ holds office until his the appointee's successor is elected at the next general election and qualified.

SECTION 166. AMENDMENT. Section 44-03-02 of the North Dakota Century Code is amended and reenacted as follows:

44-03-02. Persons ineligible as deputy. No state officer can appoint as ~~his~~ deputy any other state or district officer. A state treasurer may not appoint as ~~his~~ deputy any county treasurer, ~~county judge~~, register of deeds, sheriff, or county commissioner.

SECTION 167. AMENDMENT. Subsection 2 of section 44-05-01 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. ~~Judge of the county court~~, The clerk of the district court, clerk of the county court, county auditor, register of deeds, and the deputy of each such officer within that officer's county.

SECTION 168. AMENDMENT. Section 44-08-09 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

44-08-09. Fees paid in advance or security given. The clerk of the supreme court, the clerk of each district court, ~~the county judge~~, sheriff, or register of deeds, in all cases, may require the party for whom any service is to be rendered to pay the fees in advance of service, or to give security for the costs of service, to be approved by the officer.

SECTION 169. AMENDMENT. Section 44-09-01 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

44-09-01. Impeachments - Reasons - Officers subject. The governor and other state and judicial officers of the state, except ~~county judges and municipal judges~~, ~~shall be~~ are subject to impeachment, and may be impeached for habitual drunkenness, crimes, corrupt conduct, malfeasance, or misdemeanor in office. The articles of impeachment may contain charges and specifications, or either, predicated upon or on account of any crime, corrupt conduct, malfeasance, or misdemeanor in office committed by the accused during any previous term of the same office.

SECTION 170. AMENDMENT. Section 44-11-12 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

44-11-12. Powers of commissioner - Subpoenas - Service - Fees. After taking and filing the oath of office, the commissioner has authority to issue subpoenas for persons and subpoenas duces tecum and to administer oaths to witnesses the same as is conferred upon county district judges. The subpoenas may be directed to any sheriff, or chief of police, who immediately shall serve the subpoenas. The officer is entitled to such fees as are allowed to sheriffs for serving subpoenas in county district court. The fees must be paid in the same manner as is provided in this chapter for witness

fees and commissioner's fees. The commissioner has the same powers as are conferred upon district judges to take testimony and ~~shall~~ may rule on, admit, or exclude testimony accordingly. The commissioner may punish for contempt in the same manner as the district court.

SECTION 171. AMENDMENT. Section 46-04-05 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

46-04-05. Distribution of session laws, compilations, and codifications to county officers. The board of county commissioners of each county, immediately after the publication of any session laws, codes, or compilations, shall cause a copy thereof to be furnished to the following county officers:

1. Auditor.
2. State's attorney.
3. Clerk of court.
4. Sheriff.
5. ~~County judge.~~

If any of ~~such the~~ such the offices legally have been combined in ~~such the~~ such the county, only one copy of the session laws, codes, or compilations need be furnished for the offices so combined.

Provided, however, that such codifications and copies of the session laws ~~shall~~ remain the permanent property of the county.

SECTION 172. AMENDMENT. Section 47-03-06 of the North Dakota Century Code is amended and reenacted as follows:

47-03-06. Allowance to minor from accumulations. When a minor for whose benefit an accumulation has been directed is destitute of other sufficient means of support and education, the county district court, upon application, may direct a suitable sum to be applied thereto out of the fund.

SECTION 173. AMENDMENT. Section 47-18-22 of the North Dakota Century Code is amended and reenacted as follows:

47-18-22. Conveyance in case of mental illness. If either the husband or wife of the owner of a homestead ~~shall become~~ becomes mentally ill, the county district court of serving the county in which the homestead is situated may make an order, upon application of ~~such the~~ such the owner, or if ~~said the~~ said the owner is deceased, the administrator or executor or legal representative of ~~said the~~ said the owner, and upon due proof of such mental illness, permitting the owner, or if ~~said the~~ said the owner is deceased, the administrator or executor or legal representative of ~~said the~~ said the owner, to sell and convey or mortgage the homestead.

SECTION 174. AMENDMENT. Subsection 9 of section 47-19-02 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

9. A certified copy of an order of a county district court relating to estate tax determinations.

SECTION 175. AMENDMENT. Section 47-19-06 of the North Dakota Century Code is amended and reenacted as follows:

47-19-06. Death certificates - Joint tenant - Estate tax determination - Prima facie evidence of termination of estate held. In all cases of joint tenancy in lands, and in all cases where an estate, title, or interest in, or lien upon, lands has been or may be created, which estate, title, interest, or lien was or is to continue only during the life of any person named or described in the instrument by which such estate, title, interest, or lien was created, a copy of the record of the death of any such joint tenant or of the person upon whose life such estate, title, interest, or lien was or is limited, duly certified by any officer who is required by the laws of the state or country in which such record is made, to keep a record of the death of persons occurring within the jurisdiction of such officer, may be recorded in the office of the register of deeds of the county in which such the lands are situated if, in cases where said the decedent had an estate, title, or interest in, or lien upon, said the lands, there has been recorded a certified copy of an order of a county district court or a statement of the state tax commissioner relating to estate tax determination of said the decedent's estate. Such The certified copy of death certificate, or such a record thereof in said the office, or a duly certified copy of such the last mentioned record, shall be is prima facie evidence of the death of such person and the termination of such the joint tenancy and of all such estate, title, interest, and lien as was or is limited upon the life of such the person.

SECTION 176. AMENDMENT. Subsection 5 of section 47-24.1-01 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

5. "Court" means the county district court.

SECTION 177. AMENDMENT. Subsection 2 of section 50-01.1-04 of the North Dakota Century Code is amended and reenacted as follows:

2. The governing board of a multicounty welfare district shall consist consists of seven, nine, or eleven members, as determined by the plan. The plan must provide that there must be appointed as members to such the board from each respective county, the number of members in the ratio that each county's population bears to the total population of the multicounty welfare district; provided, that each county to be included in such the district must be represented by at least one board member. Appointments must be made by committees created in each county included in the district, and composed of the chairman of the board of county commissioners, the county a district judge serving the county, and the state's attorney of each such county acting with the advice and consent of the state department. Members must be appointed for a term of three years, or until a successor has been appointed and qualifies. Each member of the governing board shall qualify by taking the oath prescribed for civil officers and filing the same with the county auditor in his county of residence. No person may serve as a board member for more than two consecutive three-year terms. No person may be appointed to the board who has served within three years

prior to appointment, unless ~~he~~ the person is being reappointed to a second consecutive term. Vacancies occurring on the board must be filled in the same manner as regular appointments; provided, however, that a person appointed to fill the unexpired term of a member is eligible for appointment to another term only if ~~his~~ the person's consecutive service on the board after completion of ~~such~~ the term will not exceed six years. ~~No~~ A person is ~~not~~ eligible for appointment if ~~he~~ the person would become seventy-one years of age or older before the end of ~~such~~ the term.

SECTION 178. AMENDMENT. Section 50-06.3-07 of the North Dakota Century Code is amended and reenacted as follows:

50-06.3-07. Claims against the estate of recipients or patients. Claims for fees and expenses charged by the state under this chapter may be filed by the department against the estate of a person liable for the fees and expenses at any time prior to the final distribution of the estate with the same priority as claims of general creditors which are filed against the estates of decedents. Any claim denied or rejected by a personal representative must clearly state, in a written notice to the department, the reason for denial or rejection. Every personal representative, upon the granting of letters of administration or testamentary, shall, at the time that publication of notice to creditors is made, forward to the department a copy of the petition or application commencing probate, heirship proceedings, or joint tenancy tax clearance proceedings in the respective ~~county~~ district court, together with a list of the names of the legatees, devisees, surviving joint tenants, and heirs at law of the estate. If no notice is required by the proceedings, the personal representative shall forward to the department a copy of the petition or application commencing the proceedings, together with a list of the names of the legatees, devisees, surviving joint tenants, and heirs at law of the estate. Unless a properly filed claim of the department is paid in full, the personal representative shall provide to the department a statement of assets and disbursements.

SECTION 179. AMENDMENT. Section 50-06.3-09 of the North Dakota Century Code is amended and reenacted as follows:

50-06.3-09. Expenses chargeable against guardianship estate of patient - Restrictions. The expenses chargeable by the state for the care and treatment of any patient at the state hospital must be charged against the guardianship estate of the patient, if the patient has an estate, subject to the following restrictions:

1. No part of the estate may be taken if the patient has dependents within the United States dependent upon the estate for support and the taking of all or a portion of the estate would result in undue hardship to those dependents.
2. No real property belonging to the estate may be sold during the lifetime of the patient except for the maintenance and support of the patient's dependents, unless it is shown that the sale of the property will not result in undue hardship to those dependents, and it may be sold only upon the order of the ~~county~~ district court having jurisdiction of the estate, with the consent of the department.

3. No personal property belonging to the estate may be sold within five years from the date upon which the patient was sent to the institution unless the property is ordered sold by the **county district court** having jurisdiction of the estate for the reason that the property is likely to deteriorate in value during the time herein specified.

If any real or personal property is sold pursuant to this section, the **county district court** shall order the proceeds of the sale to be invested safely for the benefit of the patient or to be used for the support and maintenance of the patient's dependents, or used to pay the costs of care and treatment of the patient.

SECTION 180. AMENDMENT. Section 50-24.1-07 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-07. Recovery from estate of medical assistance recipient. On the death of any recipient of medical assistance who was sixty-five years of age or older when ~~he~~ the recipient received ~~such~~ the assistance, the total amount of medical assistance paid on behalf of the decedent following ~~his~~ the decedent's sixty-fifth birthday must be allowed as a preferred claim against the decedent's estate after funeral expenses not in excess of fourteen hundred dollars, expenses of last illness, and expenses of administering the estate, including attorney's fees approved by the court, and claims on behalf of the state hospital have been paid. No claim must be paid during the lifetime of the decedent's surviving spouse, if any, nor while there is a surviving child who is under the age of twenty-one years or is blind or permanently and totally disabled, but no timely filed claim may be disallowed because of the provisions of this section. Every personal representative, upon the granting of letters of administration or testamentary shall, at the time that publication of notice to creditors is required, forward to the department of human services a copy of the petition or application commencing probate, heirship proceedings, or joint tenancy tax clearance proceedings in the respective **county district court**, together with a list of the names of the legatees, devisees, surviving joint tenants, and heirs at law of such estate. If no notice is required by the proceedings, the personal representative shall forward to the department of human services a copy of the petition or application commencing the proceedings, together with a list of the names of the legatees, devisees, surviving joint tenants, and heirs at law of the estate. Unless a properly filed claim of the department of human services is paid in full, the personal representative shall provide to the department a statement of assets and disbursements in the estate.

SECTION 181. AMENDMENT. Section 54-12-01.3 of the North Dakota Century Code is amended and reenacted as follows:

54-12-01.3. Judicial officers - Legal defense - Indemnification. The attorney general shall appear and defend any supreme court justice, supreme court surrogate justice, district court judge, district court surrogate judge, ~~county court judge~~, judicial referee, or juvenile supervisor of this state in any action founded upon an act or omission arising out of performance of an official duty. If the attorney general determines that the attorney general or an assistant attorney general is unable to defend the judicial officer, the attorney general shall employ a special assistant attorney general to represent the judicial officer. The state shall indemnify the supreme court justice, supreme court surrogate justice, district court judge, district court surrogate judge, ~~county court judge~~.

judicial referee, or juvenile supervisor of this state for all reasonable costs, including attorney fees, incurred by or awarded against the judicial officer in the action.

SECTION 182. AMENDMENT. Section 57-26-02 of the North Dakota Century Code is amended and reenacted as follows:

57-26-02. Who may redeem. Redemption from tax sale may be made by:

1. Any person or corporation having an interest in the real estate sold, whether such interest existed at the time of sale or was acquired thereafter; or
2. Any heir, devisee, or creditor of an owner who dies after such sale, or the executor or administrator of the estate of such deceased owner.

In cases where the interest or right of the person making redemption is not of record in the office of the register of deeds, or of the county auditor, or of the clerk of the district court, ~~or of the county court of the county;~~ such the redemptioner shall file with the county auditor at the time of making redemption an affidavit stating under what right or claim such redemption is made, and the tax receipt issued shall show under what claim or right redemption was made.

SECTION 183. AMENDMENT. Section 57-37.1-06 of the North Dakota Century Code is amended and reenacted as follows:

57-37.1-06. Estate tax return required - Tax commissioner to assess tax - ~~County District court~~ to apportion federal and state estate taxes. The personal representative of an estate shall file with the tax commissioner the estate tax return required by this chapter. The tax commissioner shall assess the tax payable pursuant to the provisions of this chapter and furnish the personal representative with a statement thereof; if all or any part of the property included in the federal gross estate is being administered by the ~~county district court of serving~~ any county in this state, the tax commissioner shall also furnish a copy of the statement to that ~~county district court~~. The federal and North Dakota estate taxes ~~shall~~ must be apportioned as provided in section 30.1-20-16.

SECTION 184. AMENDMENT. Section 57-37.1-12 of the North Dakota Century Code is amended and reenacted as follows:

57-37.1-12. Duties of depositories - Inventory of contents of safe deposit box required. No safe deposit company, trust company, corporation, bank, or other institution or person engaged in the business of renting safe deposit boxes or other receptacles of similar character ~~shall~~ may rent any such box or receptacle without first procuring from each person given access thereto an agreement in writing to the effect that upon the death of any person having the right of access to ~~such~~ the box or receptacle, notice of ~~such~~ the person's death will be given to ~~such~~ the safe depository, bailee, or lessor before seeking access to ~~such~~ the box or receptacle. A safe deposit company, trust company, corporation, bank, or other institution or person having the possession, control, custody, or partial custody of any safe deposit box or similar receptacle ~~shall~~ may not permit access to ~~such~~ the box or receptacle after the death of any person who at the time of ~~his~~ the person's death had the right or privilege of access thereto, by any other

person until a complete inventory of the entire contents of the safe deposit box or receptacle has been prepared by the personal representative of the deceased person, a cotenant of the safe deposit box or receptacle, or any other person granted access by county district court order in the presence of an officer or other agent of the lessor of the box. The inventory so prepared ~~shall~~ must be filed with the state tax commissioner by the lessor of the box within thirty days from the date of its preparation. After the lessor of the box has complied with the provisions of this section, it ~~shall~~ may not limit access to the safe deposit box or similar receptacle by the personal representative of the deceased person or cotenant of the safe deposit box or receptacle or to any other person granted access by county district court order, and it ~~shall be~~ is released of all liability to the state of North Dakota, and for any assets, documents, or things taken from the safe deposit box or similar receptacle.

SECTION 185. AMENDMENT. Section 58-02-23 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

58-02-23. Division of assets and liabilities of the original township. Within thirty days after the first election is held in a civil township established upon a petition described in section 58-02-21, the board of county commissioners, the county auditor, and the county a district judge designated by the presiding judge of the judicial district in which the new township is located shall meet as a board of arbitrators and shall determine a just and fair distribution of the property and apportionment of the debts of the original township between it and the township separated therefrom and established as a civil township. The new township shall succeed to a proportional share of the moneys and other property of the original township and shall assume a proportional share of the debts and liabilities thereof existing at the time of the division, such proportion to be determined by the relative valuation of the property of the respective parts as shown by the last preceding assessment. The board of arbitrators, upon subpoena issued by the clerk of the district court on the request of such board, may bring before it all necessary witnesses, books, and papers. The determination of the board of arbitrators may be reviewed by the district court on appeal in accordance with the procedure provided in section 28-34-01, and shall be enforced by the courts.

SECTION 186. AMENDMENT. Subsection 3 of section 59-01-11 of the North Dakota Century Code is amended and reenacted as follows:

3. When some of the beneficiaries having capacity to contract and some not having it, the former grant permission for themselves and the district or county court for the latter in the manner above prescribed.

SECTION 187. AMENDMENT. Section 59-02-12 of the North Dakota Century Code is amended and reenacted as follows:

59-02-12. Discretionary power of trustee - How exercised. A discretionary power conferred upon a trustee is not presumed to be left to his the trustee's arbitrary discretion, but ~~shall be~~ is controlled by the district or county court if not reasonably exercised, unless an absolute discretion clearly is conferred by the declaration of trust.

SECTION 188. AMENDMENT. Subsection 6 of section 59-02-20 of the North Dakota Century Code is amended and reenacted as follows:

6. By the district ~~or county~~ court.

SECTION 189. AMENDMENT. Section 59-04-02 of the North Dakota Century Code is amended and reenacted as follows:

59-04-02. Commencement of trust proceedings. Any trustee, beneficiary, or person interested in a trust may file a petition with the clerk of the district ~~or county~~ court praying that the administration of the trust be supervised. The form of ~~said~~ the petition in substance ~~shall~~ must be as is provided in sections 59-04-03 and 59-04-04 and notice of hearing thereon ~~shall~~ must be given to interested parties as provided by sections 30.1-03-01 and 30.1-33-06, and ~~such any~~ further notice ~~shall~~ must be given as may be prescribed by court rules. The court, upon hearing, may enter its order that all further proceedings in the supervision of the administration of ~~such the trust shall~~ must be had in ~~said that~~ court. The district ~~or county~~ court ~~of serving~~ the county where any portion of the trust property is located, upon petition of any interested person and upon like notice and hearing, may adopt and confirm as the act of ~~such that~~ district ~~or county~~ court any order or decree of a foreign court with respect to the sale, mortgaging, leasing, or other disposition of the real property of a trust within this state. In all cases of public or charitable trusts, the attorney general and the state's attorney of the county where the trust is established ~~shall be~~ are deemed persons interested in the trust estate.

SECTION 190. AMENDMENT. Section 59-04-03 of the North Dakota Century Code is amended and reenacted as follows:

59-04-03. Form of title in trust administration proceeding. The caption or title of the petition and of all orders, notices, or other proceedings relating to the supervision of the administration of a trust in district ~~or county~~ court ~~shall~~ must be substantially as follows:

In the Matter of the administration by -----, trustee, of the trust created by -----.

SECTION 191. AMENDMENT. Subsection 12 of section 59-04-04 of the North Dakota Century Code is amended and reenacted as follows:

12. A prayer for the supervision of the administration of the trust by the district ~~or county~~ court and for the direction or order of the district ~~or county~~ court in respect to such other and specific matters as the petition may disclose.

SECTION 192. AMENDMENT. Section 59-04-08 of the North Dakota Century Code is amended and reenacted as follows:

59-04-08. Appearance - Waiver of notice - Admission of service. The general appearance of any interested person at any hearing in person, by attorney, or by the guardian of a minor or incompetent person ~~shall render~~ renders prior notice to ~~him that person~~ unnecessary. Any such person, attorney, or guardian may waive notice of any hearing in the proceeding by written waiver filed with the clerk of the district ~~or county~~ court. Any such person, guardian, or attorney in the proceedings may admit in writing the due service of any notice in the proceeding. Where jurisdiction is made to depend upon the appearance, waiver, or admission of an attorney, ~~his~~ the attorney's authority in writing must be filed with the clerk.

SECTION 193. AMENDMENT. Section 59-04-10 of the North Dakota Century Code is amended and reenacted as follows:

59-04-10. ~~Orders of district or county court~~— Effect of court orders. Every order entered in trust proceedings, upon the notice prescribed in section 30.1-03-01, ~~shall have~~ has the force and effect of a judgment. It ~~shall be is~~ subject to appeal as provided by the terms of section 59-04-25 and ~~shall be is~~ binding upon all interested persons resident within or without the state, known or unknown, ascertained and in being, or otherwise.

SECTION 194. AMENDMENT. Section 59-04-15 of the North Dakota Century Code is amended and reenacted as follows:

59-04-15. Powers and duties of trustee. Every act of the trustee in contravention of the terms of the trust and statute ~~shall be~~ is absolutely void except where the district ~~or county~~ court having jurisdiction and supervision of the administration of ~~such the~~ trust, by order, on notice and hearing as provided in this chapter, ~~shall authorize any such~~ authorizes the trustee to sell, mortgage, pledge, lease, or otherwise dispose of or invest trust property in such manner as best may accomplish the object and purpose of the trust, where it is made to appear to the satisfaction of the court that ~~such the~~ order is necessary and for the best interests or benefit of the trust estate or person or persons beneficially interested therein, or who thereafter may acquire an interest therein, and where it is further established to the satisfaction of the court that the trust instrument is lacking in specific and adequate directions as to the disposition or investment of trust property, or that strict compliance with the terms of ~~such the~~ instrument will tend to destroy the trust estate or create losses of principal or income.

SECTION 195. AMENDMENT. Section 59-04-24 of the North Dakota Century Code is amended and reenacted as follows:

59-04-24. Correction of mistakes - Relief from default - Copy of record furnished. Any person interested in the trust estate may file written objections to any account, report, or petition of the trustee before or at the time of the hearing and may present proof and evidence in support thereof. Any order made by the court in ~~such the~~ proceeding may be modified or vacated to correct clerical errors or mistakes of calculation apparent on the face of the records, either by the court on its own motion or with or without notice. Within six months after the entry of any order, the district ~~or county~~ court may relieve any interested person from the order where it has been taken against ~~him the person~~ through ~~his that person's~~ mistake, inadvertence, surprise, excusable neglect, or default therein, upon fifteen days' notice to the opposite party as prescribed by the terms of section 59-04-22. Whenever any person interested in the trust estate has been served with any notice of any proceeding based upon any petition, report, accounting, or other record required to be filed under the terms of this chapter, ~~he that person~~ may demand a copy thereof and it ~~shall must be~~ furnished forthwith and mailed or served on the interested party demanding it, free of charge, by the trustee or any other party commencing the proceeding.

SECTION 196. AMENDMENT. Section 59-04-25 of the North Dakota Century Code is amended and reenacted as follows:

59-04-25. Appeals. Any trustee, beneficiary, or person interested in such the trust feeling aggrieved by any order of the district or county court made in such the proceedings may appeal from the same or any part thereof to the supreme court within six months after the filing of such the order with the clerk of the district or county court. Such The appeal shall must be taken in the manner, and upon the record and notice, provided by the terms of this chapter, and a single appeal may include any number of orders made appealable by this section.

SECTION 197. AMENDMENT. Section 59-04-26 of the North Dakota Century Code is amended and reenacted as follows:

59-04-26. Appeal - How taken. Within the time prescribed by this chapter, any interested person may take an appeal to the supreme court from any order or orders entered by the district or county court, by the service of a notice of appeal and by filing the same with a return or affidavit of service or admission thereof, together with a bond for costs in the sum of two hundred fifty dollars, with the clerk of the district or county court. The bond for costs shall must be executed by the appellant, with the sureties to be approved by the clerk of the district or county court, and shall must be conditioned to the effect that the appellant will pay to the parties entitled thereto all costs that may be awarded against the appellant upon such appeal.

SECTION 198. AMENDMENT. Section 59-04-27 of the North Dakota Century Code is amended and reenacted as follows:

59-04-27. Stay of proceedings. Upon the perfecting of an appeal in the manner prescribed in section 59-04-26, no further proceedings under the order or orders appealed from may be taken pending the appeal, unless the district court, county court, or supreme court may direct otherwise upon hearing, and upon such notice thereof as the court by order may prescribe. The court may prescribe the terms and conditions of a supersedeas bond, deposit, or other act in lieu thereof. Otherwise no bond shall may be required, except the cost bond in the sum of two hundred fifty dollars, to stay all proceedings from the date of the filing of the notice of appeal together with the undertaking on appeal and the service thereof.

SECTION 199. AMENDMENT. Section 59-04-29 of the North Dakota Century Code is amended and reenacted as follows:

59-04-29. Procedure on appeal. The procedure on appeal to the supreme court and for certification of the record and the form of assignment of errors shall be is, insofar as applicable, and except as herein otherwise provided, as now provided by the statute for appeals in cases properly triable by the court without a jury in which an issue of fact has been joined. Where no testimony was taken by the court reporter at the hearing on which the order or orders appealed from was entered, the original records and files of the district or county court used upon the hearing, with the original notice of appeal and undertaking, shall must be attached together and certified by the clerk of court and shall constitute the record for the purposes of appeal. The time for procuring a transcript of evidence for appeal commences to run from the date of the entry of the order from which the appeal is taken.

SECTION 200. AMENDMENT. Section 59-04-31 of the North Dakota Century Code is amended and reenacted as follows:

59-04-31. Demand for change of judge - Disqualification of judge. Any judge of the district ~~or county~~ court before whom a proceeding for the supervision of the administration of a trust has been commenced as is provided by this chapter may be disqualified to act as such judge at any time thereafter by the filing of a demand for change of judge with the clerk of ~~such the~~ court, as is provided in title 29, by any person interested in the trust estate who owns or controls a beneficial interest therein amounting to twenty-five percent or more in value of the estate. The procedure upon the filing of ~~such the~~ demand in other respects ~~shall~~ must conform to the procedure upon the filing of a demand for change of judge prescribed in title 29.

SECTION 201. AMENDMENT. Section 59-05-28 of the North Dakota Century Code is amended and reenacted as follows:

59-05-28. Binding conditions - Court may supply defective execution. With the exceptions contained in this chapter, the intentions of the author of a power as to the mode, time, and conditions of its execution must be observed, subject to the power of a district ~~or county~~ court to supply a defective execution in the cases provided in sections 59-05-37 and 59-05-57.

SECTION 202. AMENDMENT. Section 59-05-55 of the North Dakota Century Code is amended and reenacted as follows:

59-05-55. District ~~or county~~ court acts if testator omits to designate trustee. When a power in trust is created by will and the testator has omitted to designate, expressly or by necessary implication, by whom the power is to be executed, its execution devolves on the district ~~or county~~ court.

SECTION 203. REPEAL. Sections 11-09-22, 11-09-23, 11-11-12, and 11-15-10 of the North Dakota Century Code, and sections 24-07-25, 27-01-04, 27-01-05, chapters 27-07.1 and 27-08.2, sections 27-09.1-21 and 27-20-04, chapter 27-26, and section 31-09-07 of the 1989 Supplement to the North Dakota Century Code are repealed.

SECTION 204. EFFECTIVE DATE. Sections 2 through 82, 84, 85, 87, 88, 91 through 155, and 157 through 203 of this Act become effective on January 2, 1995.

SECTION 205. EXPIRATION DATE. Section 156 of this Act is effective through January 1, 1995, and after that date is ineffective.

SECTION 206. LEGISLATIVE INTENT. The legislative assembly recognizes that this Act to implement article VI, section 1, of the Constitution of North Dakota, while it makes no present statutory change in the current distribution of court revenue, will result in the transfer of responsibility for certain court expenditures beginning January 2, 1995, from the counties to the state, including judicial compensation expenditures associated with the transition from county court judgeships to district court judgeships. The counties will remain responsible for all county court services until January 1, 1995, and thereafter will remain responsible for all other substantial court expenditures, including costs associated with the provision of courthouse facilities and the office and staff of clerk of district court in each county.

The legislative assembly also recognizes that the present allocation of court revenue will change substantially, without the need for statutory revision, due to anticipated changes in judicial practices associated with the imposition of fines and the assessment of court costs, thereby subjecting counties to diminished court revenues and the state to increased fine revenues to the common schools trust fund. Although it is difficult to assess the precise fiscal impact of the transition from county court judgeships to district court judgeships, the legislative assembly recognizes that the required reduction in the present number of judges under this Act will result in a substantial cost savings to all taxpayers of North Dakota through the judicial reductions that will occur, regardless of whether the court expenditures are borne by the counties or the state.

Therefore, it is the intent of the legislative assembly that the interim legislative council committee assigned to review and monitor the implementation of this Act pursuant to Senate Concurrent Resolution No. 4043, as approved by the fifty-second legislative assembly, in conjunction with the office of the state court administrator, perform a detailed analysis of the fiscal implications of this Act prior to the convening of the fifty-third legislative assembly and the fifty-fourth legislative assembly. It is the intent of the legislative assembly that the transition to a single trial court of general jurisdiction include revision of the distribution of court revenues and legislative appropriations from the state general fund to provide a fair and equitable allocation of expenditures between the counties and the state.

Approved April 11, 1991  
Filed April 12, 1991

## CHAPTER 327

SENATE BILL NO. 2028  
(Legislative Council)  
(Interim Budget Committee on Government Administration)

### PRESIDING DISTRICT JUDGES

AN ACT to amend and reenact section 27-05-05 of the North Dakota Century Code, relating to the election of presiding district judges; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 27-05-05 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-05-05. Presiding judge of district - How determined - Term of office. ~~In~~ The district and county judges in judicial districts of this state having more than one district judge, the supreme court shall name the presiding judge thereof, who shall serve in such position until the supreme court shall appoint his successor shall elect from among the district judges a presiding judge who shall serve for a period of three years beginning January 1, 1992. A presiding judge in districts having more than one district judge must be elected every three years. In the event of a vacancy, a presiding judge must be elected in the manner provided in this section to serve the remainder of the term.

SECTION 2. EFFECTIVE DATE. This Act becomes effective on January 1, 1992.

Approved April 5, 1991  
Filed April 8, 1991

## CHAPTER 328

SENATE BILL NO. 2268

(Senator Stenehjem)

(Representatives Clayburgh, Kretschmar, Wentz)

### FAMILY COURTS ELIMINATED

AN ACT to amend and reenact sections 14-05-23, 14-06-02, subsection 1 of section 14-14-15, sections 14-14-16, 14-14-17, subsections 4 and 5 of section 50-01-09, and sections 50-03-07 and 50-06-05.1 of the North Dakota Century Code, relating to references to family courts; and to repeal chapter 27-05.1 of the North Dakota Century Code, relating to the establishment of family courts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-05-23 of the North Dakota Century Code is amended and reenacted as follows:

14-05-23. Temporary support, attorney fees, and custody. During any time in which an action for divorce is pending ~~or a family court has jurisdiction~~, the court, upon application of a party, may issue, ex parte, an order 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 attorney fees and awarding custody of any minor children to any party. Such orders may be issued and served in accordance with such rules as are promulgated and filed with the clerks of the district courts within the judicial district from time to time by the district judges of the judicial district. The party to whom the order is directed ~~shall have~~ has the right, upon motion, to have a hearing upon the necessity for the issuance of such an order or the amounts to be paid, and unless such a motion is served and filed in the office of the clerk of the district court within five days after service of an order issued under the provisions of this section, the order ~~shall be~~ is final and nonappealable pending a final determination of the issues raised by the pleadings or until further order of the court.

SECTION 2. AMENDMENT. Section 14-06-02 of the North Dakota Century Code is amended and reenacted as follows:

14-06-02. Temporary support, attorney fees, and custody. During any time in which an action for separation is pending ~~or a family court has jurisdiction~~, the court, upon application of a party, may issue, ex parte, an order 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 attorney fees and awarding custody of any minor children to any party. Such orders may be issued and served in accordance with such rules as are promulgated and filed with the clerks of the district courts within the judicial district from time to time by the district judges of the judicial district. The party to whom the order is directed ~~shall have~~ has the right, upon motion, to have a hearing upon the necessity for the issuance of such an order or the amounts to be paid, and unless such a motion is served and filed in the office of the

clerk of the district court within five days after service of an order issued under the provisions of this section, the order ~~shall be~~ is final and nonappealable pending a final determination of the issues raised by the pleadings or until further order of the court.

SECTION 3. AMENDMENT. Subsection 1 of section 14-14-15 of the North Dakota Century Code is amended and reenacted as follows:

1. A certified copy of a custody decree of another state may be filed in the office of the clerk of any district court ~~or family court~~ of this state. The clerk shall treat the decree in the same manner as a custody decree of the district court ~~or family court~~ of this state. A custody decree so filed has the same effect and shall be enforced in like manner as a custody decree rendered by a court of this state.

SECTION 4. AMENDMENT. Section 14-14-16 of the North Dakota Century Code is amended and reenacted as follows:

14-14-16. Registry of out-of-state custody decrees and proceedings. The clerk of each district court ~~or family court~~ shall maintain a registry in which ~~he~~ the clerk shall enter the following:

1. Certified copies of custody decrees of other states received for filing.
2. Communications as to the pendency of custody proceedings in other states.
3. Communications concerning a finding of inconvenient forum by a court of another state.
4. Other communications or documents concerning custody proceedings in another state which may affect the jurisdiction of a court of this state or the disposition to be made by it in a custody proceeding.

SECTION 5. AMENDMENT. Section 14-14-17 of the North Dakota Century Code is amended and reenacted as follows:

14-14-17. Certified copies of custody decrees. The clerk of the district court ~~or family court~~ of this state, at the request of the court of another state or at the request of any person who is affected by or has a legitimate interest in a custody decree, shall certify and forward a copy of the decree to that court or person.

SECTION 6. AMENDMENT. Subsections 4 and 5 of section 50-01-09 of the North Dakota Century Code are amended and reenacted as follows:

4. Subject to subsection ~~4~~ 17 of section 50-06-05.1, to administer the food stamp program in the county under the direction and supervision of the department of human services in conformity with the Food Stamp Act of 1964, as amended, and to enter into an agreement for such purpose with the department of human services.
5. Subject to subsection ~~5~~ 19 of section 50-06-05.1, to administer the energy assistance program in the county under the direction and supervision of the department of human services and to enter into

an agreement for such purpose with the department of human services.

\* SECTION 7. AMENDMENT. Section 50-03-07 of the North Dakota Century Code is amended and reenacted as follows:

50-03-07. Appropriation for food stamp program administration - Financial agreement. Subject to subsection ~~16~~ 17 of section 50-06-05.1, the board of county commissioners of each county annually shall appropriate and make available to the poor relief fund an amount sufficient to pay the local expenses of administration of the food stamp program and shall enter into a food stamp financial agreement with the department of human services.

SECTION 8. AMENDMENT. Section 50-06-05.1 of the North Dakota Century Code is amended and reenacted as follows:

50-06-05.1. Powers and duties of the department. The department has the following powers and duties to be administered, with the advice of the board, by the department through its state office or through regional human service centers or otherwise as directed by it:

1. To act as the official agency of the state in any social welfare or human service activity initiated by the federal government not otherwise by law made the responsibility of another state agency.
2. To administer, allocate, and distribute any state and federal funds that may be made available for the purpose of providing financial assistance, care, and services to eligible persons and families who do not have sufficient income or other resources to provide a reasonable subsistence compatible with decency and health.
3. To provide preventive, rehabilitative, and other human services to help families and individuals to retain or attain capability for independence or self-care.
4. To do needed research and study in the causes of social problems and to define appropriate and effective techniques in providing preventive and rehabilitative services.
5. To provide for the study, and to promote the well-being, of deprived, unruly, and delinquent children.
6. To provide for the placing and supervision of children in need of substitute parental care, subject to the control of any court having jurisdiction and control of any such child.
7. To recommend appropriate social legislation to the legislative assembly.
8. To direct and supervise county social service board activities as may be financed in whole or in part by or with funds allocated or distributed by the department.
9. To inform the public as to social conditions and ways of meeting social needs.

\* NOTE: Section 50-03-07 was also amended by section 9 of House Bill No. 1553, chapter 504.

10. To secure, hold, and administer for the purpose for which it is established, any property and any funds donated to it either by will or deed, or otherwise, or through court order or otherwise available to the board or department, and to administer those funds or property in accordance with the instructions in the instrument creating them or in accordance with the instructions in the court order or otherwise.
11. To formulate standards and make appropriate inspections and investigations in accordance with such standards in connection with all licensing activities delegated by law to the department including child-care facilities, nonmedical adult-care facilities and maternity homes, and persons or organizations receiving and placing children, and to require those facilities, persons, and organizations to submit reports and information as the department may determine necessary.
12. To permit the making of any surveys of human service needs and activities if determined to be necessary.
13. To issue subpoenas, administer oaths, and compel attendance of witnesses and production of documents or papers whenever necessary in making the investigations provided for herein or in the discharge of its other duties. A subpoena may not be issued to compel the production of documents or papers relating to any private child-caring or child-placing agency or maternity hospital or to compel the attendance as a witness of any officer or employee of those facilities except upon the order of a judge of the district court of the judicial district in which the facilities are located.
14. To provide insofar as staff resources permit appropriate human services, including social histories, social or social-psychological evaluations, individual, group, family, and marital counseling, and related consultation, when referred by self, parent, guardian, county social service board, court, physician, or other individual or agency, and when application is made by self (if an adult or emancipated youth), parent, guardian, or agency having custody; also, on the same basis, to provide human services to children and adults in relation to their placement in or return from the developmental center at Grafton, state hospital, or North Dakota industrial school.
15. ~~To provide marital counseling to individuals ordered to participate in such treatment by the family court.~~
- ~~16.~~ To provide insofar as staff resources permit social services, including social-psychological evaluations, predisposition reports, treatment, probation, and aftercare services when requested by the judge of a juvenile court, all reports to be kept confidential for the use of the judge except as may be disclosed by the judge.
- ~~17.~~ 16. To provide insofar as staff resources permit social services, including social-psychological evaluations, predisposition reports, treatment, and probation and parole services, when requested by the judge in a criminal case, all reports to be kept confidential for use by the judge except as may be disclosed by the judge.

- ~~16-~~ 17. To act as the official agency of the state in the administration of the food stamp program and to direct and supervise county administration of that program. Provided, however, that the department with the consent of the budget section of the legislative council may terminate the program if the rate of federal financial participation in administrative costs provided under Public Law 93-347 is decreased or limited, or if the state or counties become financially responsible for all or a portion of the coupon bonus payments under the Food Stamp Act.
- ~~19-~~ 18. To administer, allocate, and distribute any funds made available for the making of direct cash assistance payments, housing assistance payments, and rental subsidies under any rental assistance programs initiated by the federal government not otherwise by law made the responsibility of another state agency possessing statewide jurisdiction.
- ~~20-~~ 19. To act as the official agency of the state in the administration of the energy assistance program; to direct and supervise county administration of that program; and to take such actions, give such directions, and adopt such rules, subject to review in the courts of this state, as may be necessary or desirable to carry out this subsection. Provided, however, that the department with the consent of the budget section of the legislative council may terminate the program if the rate of federal financial participation in administrative costs is decreased or limited to less than fifty percent of total administrative costs, or if the state or counties become financially responsible for all or a portion of the cost of energy assistance program benefits.
- ~~21-~~ 20. To administer, allocate, and distribute any funds made available for the payment of the cost of the special needs of any child under the age of twenty-one years, who is living in an adoptive home and would probably go without adoption except for acceptance by the adopted family, and whose adopted family does not have the economic ability and resources, as established by the department, to take care of the special needs of the child, including legal fees, maintenance costs, medical and dental expenses, travel costs, and other costs incidental to the care of the child.
- ~~22-~~ 21. To exercise and carry out any other powers and duties granted the department under state law.

\* SECTION 9. REPEAL. Chapter 27-05.1 of the North Dakota Century Code is repealed.

Approved March 11, 1991  
Filed March 11, 1991

\* NOTE: Section 27-05.1-06 was amended by section 15 of Senate Bill No. 2068, chapter 54.

## CHAPTER 329

SENATE BILL NO. 2352  
(Senators Stenehjem, Holmberg)  
(Representative Kretschmar)

### COUNTY JUDGE SALARIES

AN ACT to amend and reenact section 27-07.1-04 of the North Dakota Century Code, relating to the salary of county court judges.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 27-07.1-04 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-07.1-04. Salaries of judges of county courts - Amount and payment. A county judge is entitled to an annual salary of ~~eighty-five percent of the salary paid to a district court judge as of January 1, 1989, commencing January 1, 1992, of fifty-six thousand dollars and commencing January 1, 1993, an annual salary of fifty-seven thousand five hundred dollars~~, but the county or counties may increase that amount ~~up~~ to the same salary as a district court judge. Such salary shall be payable by the county or counties in equal monthly installments and shall be full remuneration for all official duties, including all fees collected for official acts as judge of the county court, except fees charged for performing marriage ceremonies. All fees collected for official acts as judge of the county court, except fees charged for performing marriage ceremonies, shall be deposited by the court into the county treasury of the county in which the court is located.

Approved April 5, 1991  
Filed April 8, 1991

## CHAPTER 330

SENATE BILL NO. 2351  
(Senators Stenehjem, Holmberg)  
(Representative Kretschmar)

### COUNTY JUDGE COMPENSATION COMMISSION

AN ACT to create and enact a new section to chapter 27-07.1 of the North Dakota Century Code, relating to the creation of a county court judge compensation commission; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 27-07.1 of the 1989 Supplement to the North Dakota Century Code is created and enacted as follows:

County court judge compensation commission - Creation - Duties. There is hereby created a county court judge compensation commission. The commission must be composed of two county court judges, two county commissioners, one county auditor, and an attorney in private practice. None of the six members of the commission may reside in the same county. The commission members serve from July first of odd-numbered years until June 30 of the following odd-numbered year and may succeed themselves upon reappointment by their respective appointing authorities. At the initial meeting of the commission, it shall select one of the county judge members as its presiding official.

The county judge members must be appointed by the judicial conference, the county commission members and the county auditor member must be appointed by the association of counties and the attorney must be appointed by the state bar association. Each member must currently hold the office qualifying the member for appointment to the commission. One county court judge member must currently serve as a county court judge of a multi-county district and one must currently serve a single county.

Commission members shall serve without compensation. The expenses of commission members are the responsibility of the appointing authorities.

The commission shall meet no later than December of each even-numbered year for the purpose of studying and recommending county judges' compensation to the legislative assembly. The commission shall submit its written report with supporting documentation to the legislative assembly, through the director of the legislative council and to the respective appointing authorities no later than the day upon which the legislative assembly convenes. The report of the commission is not binding upon the legislative assembly.

The commission or its designee shall, if requested by any committee of the legislative assembly, appear before such committee and give testimony regarding the commission's recommendations.

SECTION 2. EXPIRATION DATE. This Act is effective through June 30, 1995, and after that date is ineffective.

Approved April 5, 1991  
Filed April 8, 1991

## CHAPTER 331

SENATE BILL NO. 2335  
(Senators Nalewaja, Jerome, Traynor)  
(Representatives Mahoney, Schmidt, Trautman)

### SMALL CLAIMS COURT JURISDICTION

AN ACT to create and enact a new section to chapter 27-08.1 of the North Dakota Century Code, relating to dismissal of a case without prejudice; and to amend and reenact subsection 1 of section 27-08.1-01 and section 27-08.1-03 of the North Dakota Century Code, relating to the jurisdictional limit and amount of counterclaims in small claims courts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 27-08.1-01 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. All judges of the county courts shall exercise the jurisdiction conferred by this chapter, and while sitting in the exercise of said jurisdiction shall be known and referred to as the "small claims court". The jurisdiction of such court is confined to cases for recovery of money, or the cancellation of any agreement involving material fraud, deception, misrepresentation, or false promise, where the value of the agreement or the amount claimed by the plaintiff or the defendant does not exceed ~~two~~ three thousand dollars.

SECTION 2. AMENDMENT. Section 27-08.1-03 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-08.1-03. Informal hearing - Answer and counterclaim - Filing and service fees - Examination of debtor. No formal pleadings other than the claim affidavit and order for appearance shall be required, and the hearing and disposition of actions shall be informal. No court reporter shall be required to be present to take the testimony unless arranged for and paid for by one of the parties to the action. The defendant may file an answer, and file a claim affidavit setting forth any new matter constituting a counterclaim, not to exceed ~~two~~ three thousand dollars, which must be served upon the plaintiff by a person of legal age not a party to or interested in the action, or mailed to him by certified mail, not later than forty-eight hours before the hearing set for the appearance of the defendant. The compulsory counterclaim rule does not apply to counterclaims in excess of ~~two~~ three thousand dollars. At the hearing, the plaintiff and the defendant may appear without counsel. The court will conduct the proceedings and may make its own inquiry before, during, or after the hearing. After the court has found that money is owing by any party to the proceeding, the court may, in the presence of the prevailing party, inquire of the debtor as to plans for payment of the debt. The court may examine the debtor concerning the

property owned by the debtor, at the hearing, as would be made under chapter 28-25. The examination may be made without first having issued an execution against the property of the debtor and without further notice as otherwise provided in chapter 28-25. A trial by jury shall not be allowed in small claims court. A fee as prescribed in subsection 2 of section 11-17-04 must be charged for filing the claim affidavit.

SECTION 3. A new section to chapter 27-08.1 of the North Dakota Century Code is created and enacted as follows:

Dismissal without prejudice. If the judge determines at any stage of the proceedings that the case may not be fairly disposed of in small claims court, the judge may dismiss the case without prejudice. A determination that a case may not be fairly disposed of in small claims court must be based on complexity of factual or legal issues or a determination that relief other than money damages or cancellation of an agreement is necessary to dispose of the case. If a case is dismissed under this section, the filing fee must be refunded to the plaintiff.

Approved April 16, 1991  
Filed April 18, 1991

## CHAPTER 332

SENATE BILL NO. 2385  
(Stenehjem)

### JURY SELECTION AND SERVICE

AN ACT to amend and reenact sections 27-09.1-03, 27-09.1-05, 27-09.1-07, subsection 1 of section 27-09.1-08, sections 27-09.1-09, 27-09.1-12, 27-09.1-13, and subsection 1 of section 27-09.1-17 of the North Dakota Century Code, relating to juries; and to repeal sections 27-09.1-04 and 27-09.1-06 of the North Dakota Century Code, relating to uniform jury selection and service.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 27-09.1-03 of the North Dakota Century Code is amended and reenacted as follows:

27-09.1-03. Definitions. As used in this chapter, unless the context otherwise requires:

1. "Court" means the district court of this state, and includes, when the context requires, any judge of the court;
2. "Clerk" and "clerk of court" include any deputy clerk;
3. "Master list" means the list of actual voters for the county which shall be supplemented with names from other sources prescribed pursuant to this chapter (section 27-09.1-05) in order to foster the policy and protect the rights secured by this chapter (sections 27-09.1-01 and 27-09.1-02);
4. "Lists of actual voters" means the official records of persons actually voting in the most recent general election;
5. "Jury wheel" means any physical device or electronic system for the storage of the names or identifying numbers of prospective jurors;
6. "Master jury wheel" means the jury wheel in which are placed names or identifying numbers of prospective jurors taken from the master list (section 27-09.1-06);
7. "Qualified jury wheel" means the jury wheel in which are placed the names or identifying numbers of prospective jurors whose names are drawn at random from the master jury wheel (section 27-09.1-07) and who are not disqualified (section 27-09.1-08).

\* SECTION 2. AMENDMENT. Section 27-09.1-05 of the North Dakota Century Code is amended and reenacted as follows:

27-09.1-05. Master list.

\* NOTE: Section 27-09.1-05 was also amended by section 17 of Senate Bill No. 2068, chapter 54.

1. The jury commission clerk for each county shall compile and maintain a master list consisting of all lists of actual voters for the county supplemented with names from other lists of persons resident therein, such as lists of utility customers, property taxpayers, motor vehicle registrations, and driver's licenses, which the supreme court of this state from time to time designates. ~~The supreme court shall initially designate the other lists within ninety days following the effective date of this chapter and exercise the authority to designate from time to time in order to foster the policy of and protect the rights secured by this chapter (sections 27-09.1-01 and 27-09.1-02).~~ In compiling the master list the jury commission clerk shall avoid duplication of names.
2. Whoever has custody, possession, or control of any of the lists making up or used in compiling the master list, including those designated under subsection 1 by the supreme court as supplementary sources of names, shall make the list available to the jury commission clerk for inspection, reproduction, and copying at all reasonable times.
3. The master list shall be open to the public for examination.

SECTION 3. AMENDMENT. Section 27-09.1-07 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-09.1-07. ~~Drawings from master jury wheel~~— Juror qualification form.

1. From time to time and in a manner prescribed by the court, the jury commission publicly shall draw at random from the master jury wheel ~~the names or identifying numbers of as many prospective jurors as the court by order requires.~~ The clerk shall prepare an alphabetical list of the names drawn. ~~Neither the names drawn nor the list shall be disclosed to any person other than pursuant to this chapter or specific order of the court.~~ The clerk shall mail to every the prospective juror whose name is drawn from the master jury wheel a juror a qualification form accompanied by instructions to fill out and return the form by mail to the clerk within ten days after its receipt. The juror qualification form shall be subject to approval by the state court administrator as to matters of form and shall elicit the name, address of residence, and age of the prospective juror and whether the prospective juror:
  - a. Is a citizen of the United States and a resident of the county;
  - b. Is able with reasonable accommodation to communicate and understand the English language;
  - c. Has any physical or mental disability impairing ~~his~~ the prospective juror's capacity to render satisfactory jury service; and
  - d. Has lost the right to vote because of imprisonment resulting from conviction of a felony (section 27-09.1-08).

The juror qualification form shall contain the prospective juror's declaration that ~~his~~ the responses are true to the best of ~~his~~ the

prospective juror's knowledge and his the prospective juror's acknowledgment that a willful misrepresentation of a material fact may be punished by a fine of not more than five hundred dollars or imprisonment in the county jail for not more than thirty days, or both. Notarization of the juror qualification form shall not be required. If the prospective juror is unable to fill out the form, another person may do it for him the prospective juror and shall indicate that he has done so fact and the reason therefor. If it appears there is an omission, ambiguity, or error in a returned form, the clerk shall again send the form with instructions to the prospective juror to make the necessary addition, clarification, or correction and to return the form to the jury commission clerk within ten days after its second receipt.

2. Any prospective juror who fails to return a completed juror qualification form as instructed shall be directed by the jury commission clerk to appear forthwith before the clerk to fill out the juror qualification form. At the time of his the prospective juror's appearance for jury service, or at the time of any interview before the court or clerk, any the prospective juror may be required to fill out another juror qualification form in the presence of the court or clerk, at which time the prospective juror may be questioned, but only with regard to his responses to questions contained on the form and grounds for his excuse or disqualification. Any information thus acquired by the court or clerk shall be noted on the juror qualification form.
3. A prospective juror who fails to appear as directed by the commission clerk pursuant to subsection 1 shall be ordered by the court to appear and show cause for his failure to appear as directed. If the prospective juror fails to appear pursuant to the court's order or fails to show good cause for his failure to appear as directed by the jury commission clerk, he the prospective juror is guilty of criminal contempt and upon conviction may be fined not more than one hundred dollars or imprisoned in the county jail for not more than three days, or both.
4. Any person who willfully misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror is guilty of a class B misdemeanor and upon conviction may be fined not more than five hundred dollars or imprisoned in the county jail for not more than thirty days, or both.

SECTION 4. AMENDMENT. Subsection 1 of section 27-09.1-08 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. The court, upon request of the jury commission clerk of court or a prospective juror or on its own initiative, shall determine on the basis of information provided on the juror qualification form or interview with the prospective juror or other competent evidence whether the prospective juror is disqualified for jury service. The clerk shall enter this determination in the space provided on the juror qualification form and on the alphabetical list of names drawn from the master jury wheel as otherwise directed by the state court administrator.

SECTION 5. AMENDMENT. Section 27-09.1-09 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-09.1-09. Qualified jury wheel - Selection and summoning Summoning of jury panels.

1. ~~The jury commission shall maintain a qualified jury wheel and shall place therein the names or identifying numbers of all prospective jurors drawn from the master jury wheel who are not disqualified (section 27-09.1-08).~~
2. A judge of any court or any other state or county official having authority to conduct a trial or hearing with a jury within the county may direct the jury commission to draw and assign to that court or official the number of qualified jurors he deems necessary for one or more jury panels or as required by law for a grand jury. Upon receipt of the direction and in a manner prescribed by the court, the jury commission shall publicly draw at random from the qualified jury wheel the number of qualified jurors specified. The qualified jurors drawn for jury service shall be assigned at random by the clerk to each jury panel in a manner prescribed by the court.
3. If a grand, petit, or other jury is ordered to be drawn, the clerk thereafter shall cause each person drawn for jury service to be served with a summons either personally or by first-class mail, addressed to the person at his or her that person's usual residence, business, or post-office address, requiring the person to report for jury service at a specified time and place.
4. ~~2.~~ If there is an unanticipated shortage of available petit jurors ~~drawn from a qualified jury wheel~~, the court may require the sheriff to summon a sufficient number of petit jurors selected at random by the clerk ~~from the qualified jury wheel~~ in a manner prescribed by the court.
5. ~~3.~~ A written procedure by which persons' names are drawn for jury service must be available for public review. The names of qualified jurors ~~drawn from the qualified jury wheel~~ and the contents of jury qualification forms completed by those jurors shall be made available to the public unless the court determines in any instance that this information in the interest of justice should be kept confidential or its use limited in whole or in part.

SECTION 6. AMENDMENT. Section 27-09.1-12 of the North Dakota Century Code is amended and reenacted as follows:

27-09.1-12. Challenging compliance with selection procedures.

1. Within seven days after the moving party discovered or by the exercise of diligence could have discovered the grounds therefor, and in any event before the petit jury is sworn to try the case, a party may move to stay the proceedings, and in a criminal case to quash the indictment or information, or for other appropriate relief, on the ground of a substantial failure to comply with this chapter in selecting the grand or petit jury.

2. Upon motion filed under subsection 1 containing a sworn statement of facts which, if true, would constitute a substantial failure to comply with this chapter, the moving party is entitled to present in support of the motion the testimony of the ~~jury commissioner or the clerk~~, any relevant records and papers not public or otherwise available used by the ~~jury commissioner or the clerk~~, and any other relevant evidence. If the court determines that in selecting either a grand jury or a petit jury there has been a substantial failure to comply with this chapter, the court shall stay the proceedings pending the selection of the jury in conformity with this chapter, quash an indictment or information, or grant other appropriate relief.
3. The procedures prescribed by this section are the exclusive means by which a person accused of a crime, the state, or a party in a civil case may challenge a jury on the ground that the jury was not selected in conformity with this chapter.
4. The contents of any records or papers used by ~~the jury commissioner or the clerk~~ in connection with the selection process and not made public under this chapter shall not be disclosed, except in connection with the preparation or presentation of a motion under subsection 1, until after ~~the master jury wheel has been emptied and refilled~~ and all persons selected to serve as jurors ~~before the master jury wheel was emptied~~ have been discharged. The parties in a case may inspect, reproduce, and copy the records or papers at all reasonable times during the preparation and pendency of a motion under subsection 1.

SECTION 7. AMENDMENT. Section 27-09.1-13 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-09.1-13. Preservation of records. All records and papers compiled and maintained by the ~~jury commissioner or the clerk~~ in connection with selection and service of jurors shall be preserved by the clerk ~~after the master jury wheel used in their selection is emptied and refilled~~ ~~(section 27-09.1-06)~~ as ordered by the ~~supreme court~~ state court administrator.

SECTION 8. AMENDMENT. Subsection 1 of section 27-09.1-17 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. An employer may not deprive an employee of employment, ~~or lay off,~~ penalize, threaten or otherwise coerce an employee with respect thereto, because the employee receives a summons or subpoena, responds thereto, serves as a juror or witness, or attends court for jury service or to give testimony pursuant to a subpoena.

SECTION 9. REPEAL. Section 27-09.1-04 of the North Dakota Century Code and section 27-09.1-06 of the 1989 Supplement to the North Dakota Century Code are repealed.

Approved April 16, 1991  
Filed April 18, 1991

## CHAPTER 333

HOUSE BILL NO. 1561  
(Mahoney, Kretschmar)

### BAR ASSOCIATION FEES

AN ACT to amend and reenact section 27-11-22 of the North Dakota Century Code, relating to annual license fees to practice law.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 27-11-22 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-11-22. Annual licenses to practice law and to serve on certain courts - Requirement - Issuance - Fees. Every person who has an unrevoked certificate of admission to the bar of this state and who desires to engage in the practice of law, or who is to serve as a judge of a court of record, shall secure an annual license from the state bar board on or before January first of each year. The secretary-treasurer of the board shall issue the license upon compliance with the rules adopted or approved by the supreme court to assure the professional competence of attorneys, and upon payment of a fee established by the state bar association at its annual meeting, by a majority vote of its members in attendance at the meeting, not to exceed two hundred fifty dollars. The license is valid for the calendar year for which it is issued. Issuance of an annual license to practice law may not be conditioned upon payment of any surcharge, assessment, or fee in excess of the maximum fee established by this section. This section does not prohibit imposition of a reasonable fee for filing and processing reports of compliance with continuing education requirements.

Approved April 8, 1991  
Filed April 8, 1991

## CHAPTER 334

HOUSE BILL NO. 1145  
(Committee on Judiciary)  
(At the request of the Supreme Court)

### DUTIES OF ATTORNEYS

AN ACT to amend and reenact section 27-13-01 of the North Dakota Century Code, relating to duties of attorneys.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 27-13-01 of the North Dakota Century Code is amended and reenacted as follows:

27-13-01. Duties of attorneys. Every attorney and counselor at law shall:

1. Maintain ~~the~~ respect ~~due to the~~ for courts of justice and to judicial officers;
2. Counsel ~~and or~~ maintain no ~~actions, proceedings, or defenses other than those which appear claim that appears to him legal and just, except the defense of a person charged with a public offense the~~ attorney to be unjust, nor any defense except one the attorney believes to be honestly debatable under the law;
3. Perform faithfully the attorney's responsibilities as an officer of the court and protector of individual rights;
4. Support the provision of legal services for indigent persons, public service, and public education about the law;
5. Work to make the legal system more accessible, responsive, and just;
- 3- 6. Employ, for the purpose purposes of maintaining the causes confided to him the attorney, such those means only as are consistent with truth and honor, and never seek to mislead the judges judge or jury by any artifice or false statement of fact or law;
- 4- ~~Maintain inviolate the confidence, and at any peril to himself, preserve the secret, of his client;~~
- 5- ~~Abstain from all offensive personalities and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which he is charged;~~
- 6- ~~Refrain from encouraging either the commencement or continuance of an action or proceeding from any motive of passion or interest; and~~
7. Never reject for, from any consideration personal to himself the attorney, the cause of the defenseless or the oppressed, or delay anyone's cause for profit or malice.

Approved April 16, 1991  
Filed April 18, 1991

## CHAPTER 335

SENATE BILL NO. 2380  
(Stenehjem)

### JUVENILE COURT RECORDS

AN ACT to amend and reenact sections 27-20-51 and 27-20-54 of the North Dakota Century Code, relating to juvenile court records.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 27-20-51 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-20-51. Inspection of court files and records.

1. Except as provided in subsection 2, all files and records of the juvenile court, whether in the office of the clerk of district court or juvenile court, of a proceeding under this chapter are confidential and may not be disclosed to the public and. Such files and records are open to inspection only by:
  - a. The judge, ~~officers, and professional~~ and staff of the juvenile court.
  - b. The parties to the proceeding ~~and or~~ their counsel ~~and representatives or guardian ad litem of any party.~~
  - c. A public or private agency or institution providing supervision or having custody of the child under order of the juvenile court, which shall be given a copy of the findings and order of disposition when it receives custody of the child.
  - d. ~~A~~ Any court and its probation and other officials or professional staff and the attorney for the defendant for use in preparing a presentence report in a criminal case in which the defendant is convicted and who prior thereto had been a party to the proceeding in juvenile court.
  - e. ~~With leave of court any other person or agency or institution having a legitimate interest in the proceeding or in the work of the court.~~
  - f. ~~Upon leave of the court, the principal of any public or private school which is a member of the North Dakota high school activities association, or the superintendent of any school district which has one or more schools involved in the association, but only to the extent necessary to enforce the rules and regulations of the North Dakota high school activities association.~~

2. Such files and records are also open to inspection with written leave of a juvenile court judge or judicial referee to whom juvenile court matters have been referred:
  - a. Upon a showing in writing of a legitimate interest in a proceeding or in the work of the juvenile court, but only to the extent necessary to respond to the legitimate interest; and
  - b. By the principal of any public or private school that is a member of the North Dakota high school activities association, or the superintendent of any school district that has one or more schools involved in the association, but only to the extent necessary to enforce the rules and regulations of the North Dakota high school activities association.
3. In a proceeding under this chapter, if the juvenile court finds that a child committed a delinquent or unruly act which constitutes a violation of a law or local ordinance governing the operation of a motor vehicle or a delinquent act of manslaughter or negligent homicide caused by the child's operation of a motor vehicle, the juvenile court shall, within ten days, report the finding to the director of the department of transportation.

SECTION 2. AMENDMENT. Section 27-20-54 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-20-54. Sealing and disposal of juvenile records and files - With and without hearings - Findings necessary - Notice - Reopening records Destruction of juvenile court records.

1. The court, upon its own motion, shall order the sealing of its files and records of every child who was the subject of a proceeding as a delinquent child or an unruly child under section 27-20-10, 27-20-31, or 27-20-32, or under juvenile court proceedings commenced before July 1, 1969, including records kept pursuant to sections 27-20-52, 27-20-53, and 12-46-15, if the court finds:
  - a. That two years have elapsed since the expiration of any informal adjustment or final order of disposition and the final discharge of the child; or
  - b. That the petition against the child has been dismissed for lack of jurisdiction or failure of proof.
2. When two years have elapsed since the expiration of any informal adjustment or final order of disposition and final discharge of a child whose files and records are subject to an order of sealing under subsection 1, the court, on application of the child, or his parent or guardian, by order may direct the destruction of all orders, records, and papers, and the disposal of all exhibits, relating to the child and contained in the files of the juvenile supervisor and the court, if the court finds, after a hearing, that since the expiration of any informal adjustment or final order of disposition and the final discharge of the child, the person who was the subject of the informal adjustment or final order of disposition has not been convicted of a felony, or of a misdemeanor

- involving moral turpitude; or adjudicated a delinquent child or unruly child; and no proceeding is pending seeking his conviction or adjudication:
- 3- Reasonable notice of the hearing under subsection 2 shall be given to:
    - a- The state's attorney of the county.
    - b- The authority granting the discharge if the final discharge was from an institution or from parole.
    - c- The law enforcement agencies or any representative of the state or state agency having custody of the files and records specified in sections 27-20-52, 27-20-53, and 12-46-15, and which are included in the application or motion.
  - 4- When ten years have elapsed since the expiration of any informal adjustment or final order of disposition and the final discharge of a child whose files and records are subject to an order of sealing under subsection 1, the court on its own motion, unless earlier ordered by the court under subsection 2, shall order the destruction of all orders, records, and papers, and the disposal of all exhibits, relating to the child and contained in the files of the juvenile supervisor and the court. All juvenile court records must be maintained pursuant to rules and procedures established by the North Dakota supreme court.
  - 5- 2. Upon entry of an order under subsection 2 or 4 the final destruction of a file or record, the proceeding shall be treated as if it never occurred. All index references, except those which may be made by the director of the department of transportation, shall be deleted, and upon inquiry in any matter the child, the court, law enforcement officers, and representatives of agencies, except the director of the department of transportation, shall properly reply that no record exists with respect to the child. Copies of the order shall be sent to The juvenile court shall notify each agency or official therein named. Each law enforcement agency and law enforcement officer except the director of the department of transportation, upon receipt of a copy of the order, shall destroy all files, records, and references to the child pertaining to his apprehension, detention, and referral to the juvenile court and any record of disposition made by the juvenile court.
  - 6- The juvenile court may retain documents and records for the purpose of administration, planning, research, and statistical information provided all names have been expunged from documents and records subject to an order under subsection 2 or 4.

Approved March 11, 1991  
Filed March 11, 1991

## CHAPTER 336

HOUSE BILL NO. 1164  
(Committee on Judiciary)

(At the request of the Department of Corrections and Rehabilitation)

### INDUSTRIAL SCHOOL STUDENT TRANSFER

AN ACT to create and enact section 27-21-11 of the North Dakota Century Code, relating to the transfer of students from the state industrial school to other institutions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 27-21-11 of the North Dakota Century Code is created and enacted as follows:

27-21-11. Transfer of students from the industrial school to other institutions. The director of the division of juvenile services may transfer students of the state industrial school to the state hospital whenever the director is satisfied, upon investigation and following appropriate standards of due process, that such transfer is advisable. If any student, so transferred, is maintained at the expense of the county from which the student was committed, the cost of the student's maintenance in the institution to which the student is transferred must be charged to such county and must be collected therefrom upon notice to the county auditor of said county by the director.

Approved March 27, 1991  
Filed March 28, 1991