

# JUDICIAL BRANCH OF GOVERNMENT

## CHAPTER 316

SENATE BILL NO. 2080  
(Judiciary Committee)  
(At the request of the Supreme Court)

### DISTRICT JUDGE VACANCIES

AN ACT to amend and reenact section 27-05-02.1 of the North Dakota Century Code, relating to judgeship vacancies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 27-05-02.1 of the North Dakota Century Code is amended and reenacted as follows:

<sup>1</sup> 27-05-02.1. Vacancy in office of district judge - Transfer of judgeships - 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~~ the judges and attorneys in the affected judicial district, whether ~~or not~~ that office is necessary for effective judicial administration or whether a district judgeship may be transferred to the location to fulfill a need for judicial services. 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, with or without transfer of a district judgeship as provided by subsection 5; 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

<sup>1</sup> NOTE: Section 27-05-02.1 was also amended by section 1 of Senate Bill No. 2032, chapter 317.

- 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~~ forty-two.
  4. For purposes of subsection 1, a vacancy is deemed to have occurred in the office of district judge if the judge in the affected office declares the intention not to seek reelection or if a judge fails to timely file a petition for candidacy with the secretary of state pursuant to section 16.1-11-06. The secretary of state shall immediately notify the supreme court if a judge fails to timely file a petition. The supreme court may establish by rule procedures for providing notice of the intention not to seek reelection. The supreme court, within ninety days of receiving notice of a judge's intention not to seek reelection or within twenty-one days of receiving notice that a judge has failed to timely file a petition for candidacy, shall determine whether the office is necessary for effective judicial administration. The supreme court shall consult with the judges and attorneys of the affected judicial district in making the determination. The supreme court, consistent with that determination, may order any disposition available under subsection 1. The supreme court shall notify the secretary of state of its determination. If the vacant office is abolished, an election for that office may not be held. This subsection applies to notice given by or the failure to timely file a petition for candidacy by a district judge otherwise eligible for reelection to the office of district judge or by a county judge otherwise eligible for election in 1994 to the district judgeship replacing the county judgeship.
  5. The supreme court may transfer a district judgeship to any location in which a judge is necessary for effective judicial administration.

6. The supreme court shall notify the governor of its determinations made pursuant to this section.

Approved March 16, 1993  
Filed March 16, 1993

## CHAPTER 317

SENATE BILL NO. 2032  
(Legislative Council)  
(Interim Court Services Committee)

### DISTRICT COURT JUDGES NUMBERS

AN ACT to amend and reenact section 27-05-02.1 of the North Dakota Century Code, relating to the number of district court judges.

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

**SECTION 1. AMENDMENT.** Section 27-05-02.1 of the North Dakota Century Code is amended and reenacted as follows:

<sup>1</sup> **27-05-02.1. 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

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<sup>1</sup> NOTE: Section 27-05-02.1 was also amended by section 1 of Senate Bill No. 2080, chapter 316.

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~~ forty-two.
4. The supreme court shall notify the governor of its determinations made pursuant to this section.

Approved March 15, 1993  
Filed March 16, 1993

## CHAPTER 318

SENATE BILL NO. 2033  
(Legislative Council)  
(Interim Court Services Committee)

### DISTRICT JUDGE CHAMBERS AND RESIDENCE

AN ACT to amend and reenact section 27-05-08 of the North Dakota Century Code as amended by section 85 of chapter 326 of the 1991 Session Laws of North Dakota, relating to the chambers and residency of district court judges; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 27-05-08 of the North Dakota Century Code, as amended by section 85 of chapter 326 of the 1991 Session Laws of North Dakota, is amended and reenacted as follows:

**27-05-08. Chambers - Residence.**

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~~ ten thousand ~~five hundred~~.
2. Each district judge shall reside within the ~~county~~ district where the judge's chambers are located, and, for the purposes of this section, the chief justice of the supreme court shall designate the respective chambers within the district to which each district judge is assigned.

**SECTION 2. EFFECTIVE DATE.** This Act becomes effective on January 2, 1995.

Approved April 7, 1993  
Filed April 8, 1993

## CHAPTER 319

SENATE BILL NO. 2529  
(Senators Tennefos, Robinson)  
(Representative R. Berg)

### **LESSEE LIABILITY AND VENUE**

AN ACT to create and enact a new subdivision to subsection 2 of section 27-08.1-01 and a new section to chapter 47-16 of the North Dakota Century Code, relating to venue of small claims courts and liability of tenants.

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

**SECTION 1.** A new subdivision to subsection 2 of section 27-08.1-01 of the North Dakota Century Code is created and enacted as follows:

If the defendant is an individual and the claim arose as the result of the defendant's lease of real property, in the county where the defendant resides or in the county where the real property is located.

**SECTION 2.** A new section to chapter 47-16 of the North Dakota Century Code is created and enacted as follows:

**Eviction - Lessee liable for rent during term of lease.** A lessee evicted according to law is liable for rent during the remainder of the term of the lease. However, this section does not relieve the landlord of the duty to mitigate damages.

Approved March 31, 1993  
Filed April 1, 1993

## CHAPTER 320

SENATE BILL NO. 2356  
(Senators W. Stenehjem, B. Stenehjem)  
(Representative Kretschmar)

### JURY QUALIFICATION AND DISQUALIFICATION

AN ACT to amend and reenact subsection 1 of section 27-09.1-07 and subsection 2 of section 27-09.1-08 of the North Dakota Century Code, relating to jury qualification forms and disqualification from jury service.

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

<sup>1</sup> **SECTION 1. AMENDMENT.** Subsection 1 of section 27-09.1-07 of the North Dakota Century Code is amended and reenacted as follows:

1. From time to time and in a manner prescribed by the court, the clerk shall mail to the prospective 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 must be ~~subject to approval~~ approved by the state court administrator as to matters of form and shall must 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 the prospective juror's capacity that may require reasonable accommodation~~ 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 must contain the prospective juror's declaration that the responses are true to the best of the prospective juror's knowledge and 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 is ~~be~~ required. If the prospective juror is unable to fill out the form, another person may do it for the prospective juror and shall indicate that fact and the reason therefor. If it appears there is an omission, ambiguity, or error in a returned form, the clerk

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<sup>1</sup> NOTE: Section 27-09.1-07 was also amended by section 9 of House Bill No. 1077, chapter 89.

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 clerk within ten days after its second receipt.

**SECTION 2. AMENDMENT.** Subsection 2 of section 27-09.1-08 of the North Dakota Century Code is amended and reenacted as follows:

2. A prospective juror is disqualified to serve on a jury if the prospective juror:
  - a. Is not a citizen of the United States and a resident of the state and county;
  - b. Is not at least eighteen years old;
  - c. Is unable with reasonable accommodation to communicate and understand the English language;
  - d. Is incapable, by reason of ~~his~~ a physical or mental disability and with reasonable accommodation, of rendering satisfactory jury service; but a person claiming this disqualification may be required to submit a physician's certificate as to the disability, and the certifying physician is subject to inquiry by the court at its discretion; or
  - e. Has lost the right to vote because of imprisonment in the penitentiary (section 12.1-33-01) or conviction of a criminal offense which by special provision of law disqualified ~~him~~ the prospective juror for such service.

Approved March 25, 1993  
Filed March 26, 1993

**CHAPTER 321**

SENATE BILL NO. 2354  
(Senator W. Stenehjem)  
(Representative Kretschmar)

**DELINQUENT CHILD DISPOSITION**

AN ACT to create and enact two new subsections to section 27-20-31 of the North Dakota Century Code, relating to the disposition of a delinquent child.

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

**SECTION 1.** Two new subsections to section 27-20-31 of the North Dakota Century Code are created and enacted as follows:

Ordering the child to make monetary restitution to the victim of the offense or to complete a specified number of hours of community service as determined by the court, or both.

Ordering the periodic testing for the use of illicit drugs or alcohol pursuant to rules or policies adopted by the supreme court.

Approved March 25, 1993

Filed March 26, 1993

## CHAPTER 322

SENATE BILL NO. 2140  
(Judiciary Committee)

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

### INTERSTATE RENDITION OF JUVENILES

AN ACT to create and enact a new section to chapter 27-22 of the North Dakota Century Code, relating to interstate rendition of juvenile delinquents.

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

**SECTION 1.** A new section to chapter 27-22 of the North Dakota Century Code is created and enacted as follows:

**Interstate rendition of juvenile delinquents.** The governor is authorized and directed to execute, with any other state or states legally joining the same, an amendment to the interstate compact on juveniles concerning interstate rendition of juveniles alleged to be delinquent. This amendment provides additional remedies and is binding only as among and between those party states that specifically execute this amendment. All provisions and procedures of articles V and VI of the interstate compact on juveniles must be construed to apply to any juvenile charged with being a delinquent by reason of a violation of any criminal law. Any juvenile charged with being a delinquent by reason of violating any criminal law, must be returned to the requesting state upon a requisition to the state where the juvenile may be found. A petition in such cases must be filed in a court of competent jurisdiction in the requesting state where the violation of criminal law is alleged to have been committed. The petition may be filed regardless of whether the juvenile has left the state before or after the filing of the petition. The requisition described in article V of the compact must be forwarded by the judge of the court in which the petition has been filed.

Approved March 4, 1993  
Filed March 5, 1993