

2023 SENATE JUDICIARY

SB 2252

2023 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Peace Garden Room, State Capitol

SB 2252
1/31/2023

A bill relating to judicial referees, relating to the abolition of the position of judicial referee.

2:30 PM Chairman Larson opened the meeting.

Present are Chairman Larson and Senators Myrdal, Luick, Estenson, Sickler, Braunberger and Paulson.

Discussion Topics:

- Juvenile services
- Judge availability
- Case scheduling

2:31 PM Senator Jeff Magrum introduced the bill.

2:32 PM John Jensen, Chief Justice of the North Dakota Supreme Court, spoke in favor of the bill.

2:48 PM Sally Holewa, State Court Administrator, testified in favor of the bill and provided written testimony #18138.

2:57 PM Cynthia Feland, South Central Judicial District Judge, spoke opposed to the bill.

3:17 PM Chairman Larson closed the public hearing.

Additional written testimony:

Bruce Romanick provided written testimony #17488.

Stephen McCullough provides written testimony #17415.

Sara Behrens provided written testimony #18131.

Gary Lee provided written testimony #17492.

Robert Vallie provided written testimony #18200.

3:17 PM Chairman Larson closed the meeting.

Rick Schuchard, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Peace Garden Room, State Capitol

SB 2252
2/8/2023

A bill relating to judicial referees, relating to the abolition of the position of judicial referee.

3:46 PM Chairman Larson opened the meeting.

Chairman Larson and Senators Myrdal, Luick, Estensen, Sickler, Paulson and Braunberger are present.

Discussion Topics:

- Committee action

3:46 PM Committee has discussion on the bill.

3:46 PM Senator Sickler moved Do Pass on SB 2252.
Motion seconded by Senator Luick.

Roll call vote was taken.

Senators	Vote
Senator Diane Larson	N
Senator Bob Paulson	N
Senator Jonathan Sickler	Y
Senator Ryan Braunberger	Y
Senator Judy Estenson	N
Senator Larry Luick	Y
Senator Janne Myrdal	Y

Motion passes 4-3-0.

Senator Sickler will carry the bill.

This bill does not affect workforce development.

3:59 PM Chairman Larson closed the meeting.

Rick Schuchard, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2252: Judiciary Committee (Sen. Larson, Chairman) recommends **DO PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2252 was placed on the Eleventh order on the calendar. This bill does not affect workforce development.

TESTIMONY

SB 2252

Senate Bill 2252
Senate Judiciary Committee

Testimony Presented by the Judges and Referees
of the East Central Judicial District Court
January 31, 2023

Good Morning, Chairman Larson and members of the Committee. For the record, we are:

The Honorable John C. Irby, Presiding Judge;
The Honorable Wade L. Webb, District Judge;
The Honorable Steven E. McCullough, District Judge;
The Honorable Susan Bailey, District Judge;
The Honorable Stephannie N. Stiel, District Judge;
The Honorable Tristan J. Van de Streek, District Judge;
The Honorable Reid A. Brady, District Judge;
The Honorable Nicholas W. Chase, District Judge;
The Honorable Constance L. Cleveland, District Judge;
The Honorable Stephanie R. Hayden, Judicial Referee; and
The Honorable Daniel E. Gast, Judicial Referee.

We constitute all of the present judicial officers (both judges and referees) of the East Central Judicial District Court of the State of North Dakota (hereinafter "ECJD"). Because of our workloads we are unable to appear personally and present oral testimony. Therefore, we are all jointly providing this written testimony in opposition to Senate Bill 2252.

The ECJD is comprised of Cass, Steele and Traill counties. Presently, the ECJD is served by nine judges and two judicial referees (all of the undersigned). It is one of three judicial districts in the State which presently utilizes judicial referees (the others being the South Central Judicial District (which includes the cities of Bismarck and Mandan) and the North Central Judicial District (which includes the city of Minot)). It is, therefore, one of the three judicial districts that will be directly affected by Senate Bill 2252.

The purpose of Senate Bill 2252 is to abolish the position of judicial referee and, instead, create additional judgeships in their place. The intent of the Bill is not to provide any additional resources available to help process cases, but merely to allegedly promote unification by eliminating one category of judicial officer and replacing it with another. We point this out only to emphasize that in this session, the Judicial Branch is asking for two additional, and badly needed, judgeships for the ECJD. This Bill will not help to address our pressing need for more judges in the ECJD, and we want to make sure that you are aware our opposition to this Bill in no way undercuts our request for additional judges in the ECJD. In other words, even if this Bill were to become law, it would not provide the needed additional resources for the ECJD.

Our primary opposition to this Bill is that, under the guise of unification, it will actually reduce the quality of services provided to the citizens of the ECJD. Presently, the referees in the ECJD handle cases including juveniles, small claims, evictions, child support enforcement and the issuance of civil protections orders. The referees' single biggest caseload involves handling juvenile matters, which include delinquent matters, matters involving children in need of protection (previously known as deprivations), and matters involving children in need of services (previously known as unruly children). Thus, our testimony will revolve largely around the juvenile area.

From a historical perspective, the handling of juvenile matters was the initial purpose for the creation of the referee position in North Dakota. Since at least 1969, with the passage of the Uniform Juvenile Court Act, the court system of North Dakota has consistently allowed for and utilized referees in the juvenile justice system. 1969 N.D. Laws, ch. 289, § 1; see also 1985 N.D.

Laws, ch. 334, § 1 (replacing the Uniform Juvenile Court Act referee positions with a bill entitled: “Juvenile Court Referees”).

Juvenile matters are unlike other matters in the Court system in that they categorically must, by law, be processed more quickly. The processing of cases is generally handled by rules of procedure rather than by statutes. In North Dakota, there are distinct rules of procedure for civil cases, criminal cases and juvenile cases. Only the North Dakota Rules of Juvenile Procedure contain specific time requirements for when interim hearings must be held in a case. See N.D.R. Juv. Pro. 2. A formal case in a juvenile matter is commenced by the filing of a Petition. The rules of procedure in juvenile cases require that if a child is placed into detention, a hearing must be held within 24 hours and if a child is placed into shelter care a hearing must be held within 96 hours. An initial hearing on the Petition must be held within 30 days of the filing of the Petition, and must be held within 14 days if the child is in custody. An adjudicative hearing in a delinquency (akin to the trial in adult criminal case) must be held within 30 days of the initial hearing.

There are no similar rules governing when hearings must be held in either civil or criminal matters. The closest approximation is the right to a speedy trial in criminal matters, which is governed by constitutional and statutory provisions. For example, for alleged sex offenders and controlled substance abusers, there is a statutory right to a speedy trial within 90 days of when a defendant files a demand for the speedy trial. N.D. Cent. Code § 29-19-02; see also N.D. Cent. Code § 29-33-03 (requiring, upon demand by the defendant, that any untried criminal matter pending against someone already incarcerated in this state must be tried within 90 days of the demand).

The point is that all juvenile cases, not just those in which a demand is filed, must move very quickly through the system. Further, juvenile cases, unlike any other general category of cases, have mandated interim hearings that must occur within specific time frames. This is important not only for federal funding when it comes to matters involving children in need of protection (more about which will be discussed later), but it directly impacts how the ECJD has structured its policies and caseload to meet these challenges.

As noted, there are presently nine district judges in the ECJD (hopefully soon to be 11 with the request to add two more judges to our district.) District judges are judges of general jurisdiction in North Dakota. This means that they hear all kinds of cases, from traffic offenses to premeditated murders and from default collections to the most complex class actions. The ECJD judges operate in a rotation, meaning that each week a district judge will be scheduled to hear certain types of cases. This rotation means that a district judge in the ECJD only has the availability to hear interim hearings in cases once every 4-5 weeks. Obviously, this would not allow the ECJD to meet the time restrictions for juvenile cases set forth above.

The 2020-21 weighted caseload study showed that out of the annual average of 2,266 juvenile filings statewide, 583 (26 percent) were filed in the ECJD. In other words, of the eight judicial districts in the state, a quarter of all juvenile filings were in the ECJD (with over 90 percent of those filed in Cass County alone). These large numbers of juvenile filings in the ECJD, combined with a large number of judicial officers, make it necessary to create a specialized system and calendar to handle juvenile matters within the time limits set forth in the rules. If these juvenile matters were simply included into the regular schedule of a judge, there is no way those cases could be processed in a timely manner. The fact that referees are still located in the high volume

districts, such as in Fargo and Bismarck/Mandan, helps to emphasize this point. What may be doable in a district with fewer judges and fewer juvenile filings simply is not possible in the ECJD.

There are only two possibilities which are available to process this number of juvenile matters with this many judicial officers. The first option would be to have different judicial officers hear different parts of a case. In order to meet the time deadlines, one judicial officer might hear the detention hearing (required within 24 hours of when the juvenile is taken into detention). Another judicial officer might then have to conduct the initial hearing on the Petition (required within 14 days of when the child is taken into custody). Another judicial officer might then have to conduct the adjudicative hearing (again, akin to the trial in an adult criminal matter and required to be held within 30 days of the initial hearing). Finally, yet another judicial officer might then have to conduct the dispositional hearing (akin to the sentencing hearing in an adult criminal matter). In short, a child and their family might have five different judges for their one case.

Not only would this present a real risk of conflicting and contradictory opinions or statements from the Court, it also would increase the amount of time required to be spent on each file. Each new judge on the file would have to conduct a review of what happened in previous hearings in order to ensure that the judge has sufficient familiarity with the child and the child's progress (or lack thereof) to date. This is why all of the best practices manuals in the juvenile area advise that the same judicial officer handle the entirety of a juvenile matter. In short, while this first option might eliminate one type of judicial officer (the referee), it would do so at the cost of lessening the quality of the service provided to the public in juvenile cases.

The second possibility is to do what has been done in the ECJD, i.e., to create a specialized docket for the handling of juvenile matters by a limited number of judicial officers. If unification means that the same type of judicial officer does all judicial functions, then the elimination of the referee position would foster unification. If the referee positions were eliminated but a specialty docket were retained, then a limited number of judges (rather than referees) would handle the specialized juvenile docket. This would allow for the same judge (rather than the same referee) to preside over all of the hearings in a single juvenile case. However, in the ECJD, and because of the number of juvenile cases, it would not be possible for that judge to then hear all of the other cases that a “normal” judge would hear during a “normal” rotation. In short, this would simply mean that the specialty docket system with a limited number of judicial officers serving that docket would continue, but only with district judges serving the juvenile docket rather than referees. However, those judges on the specialty, juvenile docket, while technically the same type of judicial officer, would have duties distinct from a judge not serving the specialty, juvenile docket. This second possibility then would not effectively accomplish the goal of unification. It would simply transpose the referee on the specialty docket to a judge on the specialty docket. Further, it would be at greater expense to the state (since referees are paid slightly less than judges).

This Bill is simply proposing to abolish the referee positions and create an equivalent number of corresponding judgeship positions. This Bill does not propose the creation of a separate class of “juvenile court judges.” As these judicial officers would be regular judges, they would still be district judges of general jurisdiction. While any such district judge might sit on a specialty juvenile docket for a short period of time, ultimately that district judge would be

entitled to rotate off the specialty juvenile docket and another district judge would have to take their place. This would inevitably result in a diminishment of the expertise of the judicial officers hearing juvenile matters. In short, this Bill would result in less competent judicial officers in the juvenile area at a greater expense to the state. The biggest losers to such a change would again likely be the users of the juvenile justice system (the children and their families).

We are unaware of any existing problems anywhere in the State with either the performance of, or the obtaining of, referees. For example, in the past several years both of the referee positions in the ECJD have come open. One position came open when a referee took a similar referee position for more pay in Clay County, Minnesota. The other came open when a referee retired. We had no problems filling either position. For both positions, we had several extremely qualified individuals apply. Anecdotally, some of those applicants indicated that they would not have applied for, and had no interest in, a district judgeship. They told us this was because of the limited area of expertise required of a referee as opposed to the breadth of knowledge required of, and of the variety of case types heard by, a district judge of general jurisdiction. In short, we do not believe this legislation is being sought by the districts which currently have referees or by the referees themselves.

As indicated above, the federal government has taken an active interest in juvenile justice in the United States. Congress has adopted numerous federal laws addressing the responsibilities of the states relating to the prevention, identification, and treatment of child abuse and neglect. Examples include the Child Abuse Prevention and Treatment Act (Public Law 93-247) [originally adopted in 1974], the Adoption Assistance and Child Welfare Act of 1980 (Public Law 96-272), and the Adoption and Safe Families Act of 1997 (Public Law 105-89). These Acts recognized goals

of safety, permanency, and timeliness as imperative to the long-term welfare of children. As a result of these Acts, state courts have been charged with assuring the goals are met. In addition to these three major Acts, there have been additional federal laws that have added to the complexity of child welfare practice. Several national entities, including the National Center for State Courts, the National Association of Counsel for Children, the American Bar Association's Center for Children and the Law, the US Department of Human Services' Children's Bureau, and National Conference of Juvenile and Family Court Judges, all promote best practices in juvenile matters. These best practices consistently include specialization of those involved in the juvenile justice system and timeliness of hearing and disposing of juvenile matters. For example, the National Conference of Juvenile and Family Court Judges, in partnership with the Office of Juvenile Justice and Delinquency Prevention, have developed model courts toward achieving the stated goal of "One family – One judge." This Bill takes us farther away from these best practices goals and would not make it better for those involved in the juvenile justice system.

This is important because while child welfare funding in North Dakota is complex, one of the primary sources of funds for juvenile cases our courts handle is Federal IV-E and IV-B dollars (especially as it relates to matters involving children in need of protective services). Further, North Dakota is a state administered/county administered program. Therefore, the performance of those counties which are reviewed in federal audits affects the federal dollars coming into our state overall.

According to the Child Welfare Director for North Dakota, because of its large number of cases, Cass County accounts for around 40 percent of the cases reviewed by the federal government for compliance with federal standards, even in random reviews. To be clear, the

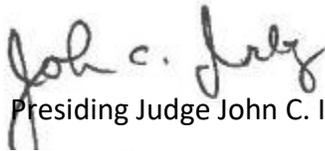
time parameters for federal funding are not the same as those set forth in the North Dakota Rules of Juvenile Procedure. Rather, those time parameters are found in federal regulations governing grants to the states. However, what is important is that because Cass County Social Services (n/k/a Cass County Human Service Zone) serves the largest metropolitan area in the state, it is **always** included in the Child and Family Services Review. This review has a direct impact on the amount of federal funding received for the entire State, and not just Cass County.

As pointed out above, this Bill would require significant changes to how the ECJD (including Cass County) processes its juvenile caseload. Passage of this Bill will almost certainly negatively affect the timeliness of case processing. By eliminating the specialty nature of the docket, it will inevitably result in judicial officers with less familiarity of applicable federal laws, and having to manage competing dockets in other areas of law. All of this is likely to be reflected in the Child and Family Services Reviews conducted by the federal government. This may have an unintended consequence of lessening federal dollars to all parts of the State of North Dakota for child welfare.

The stated goal of this legislation is further unification of the courts in North Dakota. Even if this Bill passes, North Dakota will not have a completely unified court system. There will still be municipal courts. Undoubtedly, unification of the courts can be a laudatory goal. It can eliminate some potential for confusion for the litigants and can streamline the process. Although some of us have spoken to the judges from the other affected districts, we do not purport to speak for those other areas of the State. However, we can tell you that in the ECJD, the elimination of referees will have a significant negative impact on the users of the system (especially in juvenile cases). It also risks a negative impact on the state-wide funding from the

federal government for juvenile and family cases. In our opinion none of these risks is outweighed by the asserted goal of additional unification. Therefore, we, as the judges and referees of the ECJD, oppose SB 2252 and urge you to adopt a **Do Not Pass** recommendation.

Thank you.



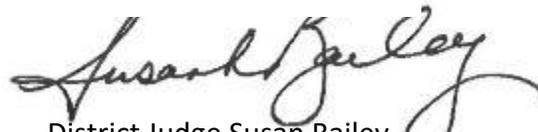
Presiding Judge John C. Irby



District Judge Wade L. Webb



District Judge Steven E. McCullough



District Judge Susan Bailey



District Judge Stephanie N. Stiel



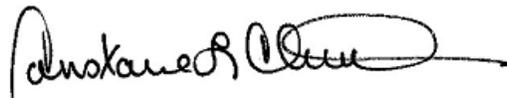
District Judge Tristan J. Van de Streek



District Judge Reid A. Brady



District Judge Nicholas W. Chase



District Judge Constance L. Cleveland



Judicial Referee Stephanie R. Hayden



Judicial Referee Daniel E. Gast

**Senate Bill 2252
Senate Judiciary Committee**

**Testimony Presented by the Judges and Referees
of the South Central Judicial District**

January 31, 2023

Chair Larson, and members of the Senate Judiciary Committee, for the record,
we are:

The Honorable Bruce A. Romanick, Presiding Judge;
The Honorable Douglas A. Bahr, District Judge;
The Honorable Daniel J. Borgen, District Judge;
The Honorable Cynthia M. Feland, District Judge;
The Honorable James S. Hill, District Judge;
The Honorable Pamela A. Nesvig, District Judge;
The Honorable Lindsey Nieuwsma, District Judge;
The Honorable David E. Reich, District Judge;
The Honorable Bonnie L. Storbakken, District Judge;
The Honorable Bobbi Weiler, District Judge;
The Honorable Jason Hammes, Judicial Referee; and
The Honorable Krista Thompson, Judicial Referee.

We constitute the present judicial officers, both district judges and referees, of the South Central Judicial District of the State of North Dakota. We are jointly providing this written testimony in opposition to Senate Bill 2252.

The South Central Judicial District is comprised of Burleigh, Morton, McLean, Mercer, Emmons, Grant, Sioux, Oliver, and Sheridan counties. Our district is one of the three judicial districts in the State which presently utilizes judicial referees. In reviewing the written testimony of the other two districts using judicial referees, the East Central Judicial District, and the North Central Judicial District, we join in their respective comments and recommendations.

While joining in the comments of our colleagues in the East Central and North Central Judicial Districts, we also must touch on the characteristics of our district which make referees an indispensable resource in providing timely quality judicial services. Although the bulk of our cases arise out of Burleigh and Morton Counties, the combined cases in Mercer and Mclean rival those in Morton County. In addition to these four counties, we have five other counties to serve. Given the number of counties, their respective caseloads and the distance between each county, a rotation reminiscent of circuit judges has been created and used to ensure appropriate service to all the citizens in the district.

Although this district has a high volume of juvenile filings, comprising 27% of juvenile proceedings in the State, the current referee schedule has enabled our district to keep the same referee with the same family/persons involved while still meeting the short hearing time frames associated with juvenile cases as noted by our colleagues. Further, if scheduling problems arise on the referee calendar, non-juvenile cases can be moved to the district judge calendar.

The characteristics of this district simply reemphasizes the need for specialty judicial officers to maintain continuity, and provide timely services for juvenile cases in a high case volume district.

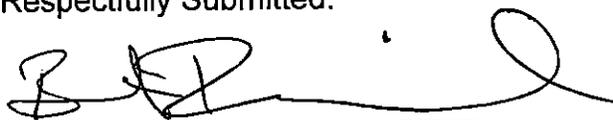
Two of our judges, one a former referee, and one of our current referees support referees becoming district judges as contemplated by this bill only to the extent that the tasks and roles of the referee are important and should be treated with the same respect and compensation as a district judge. The one judge and referee having worked in the juvenile system know the full benefit of the "One family - One judge"

model in servicing the families/persons coming before the Court. This bill does not create a specialty court within the district court to handle juvenile cases and preserve that model, it simply creates more district judgeships with no guidance as to how to maintain the continuity of having the "One family - One judge" model to handle these juvenile cases timely, effectively and appropriately. In creating additional judgeships, the bill also does not lessen the caseload of the district, as the Referees already maintain full caseloads.

As noted by our colleagues East Central Judicial District, and the North Central Judicial District, this bill will leave each district with the task of creating specialty courts on their own to best service the juvenile docket. Further, we too are unaware of any existing problems anywhere in the State with either the performance of, or the obtaining of, referees. In this district, we have never had a shortage of applicants when a referee position has been open.

We respectfully urge that you adopt a Do Not Pass recommendation on Senate Bill 2252.

Respectfully Submitted:



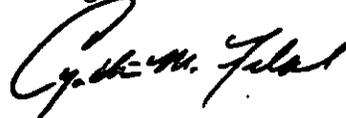
Bruce A. Romanick,
Presiding District Judge;



Daniel J. Borgen,
District Judge;



Douglas A. Bahr,
District Judge;



Cynthia M. Feland,
District Judge;

James S. Hill

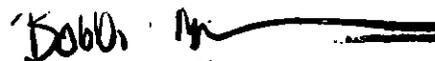
James S. Hill,
District Judge;



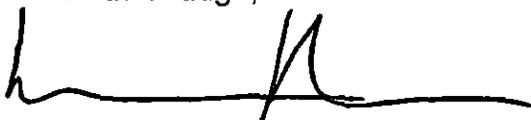
Bonnie L. Storbakken,
District Judge;



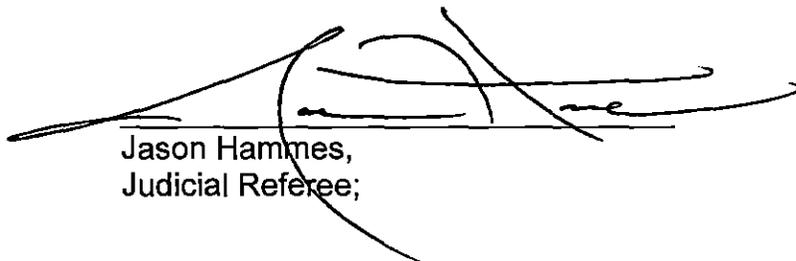
Pamela A. Nesvig,
District Judge;



Bobbi Weiler,
District Judge;



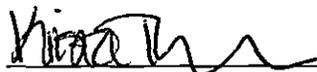
Lindsey Nieuwsma,
District Judge;



Jason Hammes,
Judicial Referee;



David E. Reich,
District Judge;



Krista Thompson,
Judicial Referee.

PRESIDING JUDGE
GARY H. LEE
(701) 857-6637

DISTRICT JUDGES
DOUGLAS L. MATTSON
(701) 857-6635

STACY J. LOUSER
(701) 857-6633

RICHARD L. HAGAR
(701) 857-6639

TODD L. CRESAP
(701) 857-6692



State of North Dakota
DISTRICT COURT
NORTH CENTRAL JUDICIAL DISTRICT
Ward County Courthouse
315 3rd St SE PO Box 5005
Minot ND 58702-5005

JUDICIAL REFEREE
KELLY A. DILLON
(701) 857-6645

DISTRICT COURT FAX
(701) 857-6649

SCHEDULING
(701) 857-6628

**UNIT COURT
ADMINISTRATOR**
CAROLYN PROBST
(701) 857-6625

SENATE BILL 2252

Senate Judiciary Committee

Testimony Presented by the Judges and Referee of the North Central Judicial

District Court

January 27, 2023

Good morning, Chairman Larson and members of the committee. For the record we are:

The Honorable Gary H. Lee, Presiding Judge

The Honorable Douglas L. Mattson, District Judge

The Honorable Richard L. Hagar, District Judge

The Honorable Todd L. Cresap, District Judge

The Honorable Stacy J. Louser, District Judge

The Honorable Kelly A. Dillon, Judicial Referee

We constitute all of the present judicial officers (both judges and referee) of the North Central Judicial District Court of the State of North Dakota. We are jointly providing this written testimony in opposition to Senate Bill 2252.

The North Central Judicial District is comprised of Ward, Mountrail, and Burke counties.

We have received the comments to your committee presented by the judges and referees of the East Central Judicial District. The East Central District and the South Central Judicial District, are the other two Judicial Districts which are presently utilizing judicial referees. We join in the comments and recommendations made by our counterparts from those Districts. We too urge a Do Not Pass recommendation from your committee.

The North Central Judicial District is serviced by five District Judges, and one Judicial Referee. Our Referee is assigned a broad range of judicial tasks authorized by statute. Our Referee is our primary judicial officer for all Juvenile Court matters. Additionally, she handles child support enforcement, small claims proceedings, disorderly conduct restraining order proceedings, domestic violence restraining order proceedings, and sexual assault restraining order proceedings.

Comments from the other Judicial Districts which utilize Judicial Referees emphasized the many time constraints and scheduling imperatives of the Juvenile

Court. We join in those comments and express the same concerns. However, rather than simply repeating those concerns we urge you to review and consider the most recent Juvenile Court Annual Report released by the North Dakota Supreme Court on April 28, 2022. This report is available on the North Dakota Supreme Court website.

Some of the highlights of that report:

1. The total number of referrals to the Juvenile Court has steadily increased over the years from 6,928 referrals in 2016, to 7,471 referrals in 2021. The percentage increase of the number of referrals between 2020 and 2021 was 18%.

2. The total number of children in need of protection services and termination of parental rights cases filed in the East Central Judicial District was 207. In the South Central Judicial District (Burleigh and Morton counties only) was 199. In the North Central Judicial District the total number of these cases was 184. These cases often involve emergency procedures to protect children, followed by lengthy and often highly emotionally charged hearings to determine whether a child should be reunited with a parent, or taken from parents forever. For all the reasons stated by the judges and referees in the other judicial districts, the “one family, one judge” model for these types of cases is essential to maintain

continuity of decision making by a judicial officer fully conversant in the case from day one.

3. Changes in the law now require that all guardianship proceedings for minors be handled in the Juvenile Court. This includes a duty by the Juvenile Court not only establish the guardianship, but also to conduct reviews and monitoring of guardianships throughout the life of the case. These duties include monitoring the child's well-being, finances, and also determining whether the guardianship should continue. All of these functions were formerly conducted by the District Court. These are just a few of the highlights from that report. One take away from the report is, however, that the caseload and workload of the Juvenile Court is ever increasing. Having referees with the specialized knowledge and skill to address those expanding needs is crucial.

As noted above, the referee of the North Central Judicial District has duties outside of the Juvenile Court as well. Those duties likewise have time constraints. For example:

If a defendant in a small claims proceeding requests a hearing, that hearing must be held not less than 10 days, nor more than 30 days from that request.

Hearings in domestic violence protection order proceedings, disorderly conduct restraining order proceedings, and sexual assault restraining order proceedings must be held within 14 days of the issuance of any temporary order.

Given the rotation system we have implemented in the North Central Judicial District, it would be extremely difficult to meet these statutorily imposed deadlines in these other case areas without a referee.

Finally, we note that over the past years specialty courts have been created to deal with specific problems. There are now juvenile and adult drug courts. There has been movement to create veterans courts, mental health courts, and domestic violence courts. The Juvenile Court is, in essence, a specialty court already in existence. For the three judicial districts that operate the Juvenile Courts by relying on the services of competent referees, the system has been working. We have competent judicial referees, well versed in the intricacies of juvenile law, including federal laws, and tribal laws which impact Juvenile Court decisions. The elimination of the dedicated referees, who have years of skill and knowledge of the applicable laws and rules, and have the care and compassion for those caught up in the juvenile justice system, is a step backwards.

For those who would argue that individuals caught up in any judicial process should have their case determined by a judge who is responsive to the electorate,

please keep in mind that anyone who believes that a referee has made a wrong decision has the right to appeal that decision for review by a district judge, and in some instances, may have a right of appeal to the North Dakota Supreme Court.

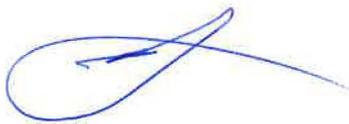
We respectfully urge that you adopt a Do Not Pass recommendation on Senate Bill 2252.



Gary H. Lee, Presiding Judge



Douglas L. Mattson, District Judge



Richard L. Hagar, District Judge



Todd L. Cresap, District Judge



Stacy J. Louser, District Judge



Kelly A. Dillon, Judicial Referee

Senate Bill 2252
Senate Judiciary Committee
January 31, 2023

Chair Larson, members of the committee, my name is Sara Behrens and I am a staff attorney with the State Court Administrator's Office. Unfortunately, I am unable to be present in person so I am submitting this written bill summary for Senate Bill 2252.

Sections 1 to 4: Simply remove references to judicial referees in sections 11-18-03, 12.1-01-04, 14-02.1-03.1, and 14-05-24.2.

Section 5: Creates a new section to chapter 27-05 abolishing the position of judicial referee.

Subsection 1: Provides for the abolition of the judicial referee position by January 1, 2029. If a referee position is vacated prior to January 1, 2029, that particular referee position would be abolished on the day the position is vacated. Each referee position is then converted to a judgeship position.

Subsections 2-3: References the process for filling a judgeship provided in section 13 of article VI of the Constitution. The Governor fills the judgeship by appointing from a list of candidates forwarded by the judicial nominating committee (the individuals considered by the committee apply for the position). The appointment continues until the next general election or two years, whichever period is longer. Following that initial term, the judge elected serves for a six year term. The Supreme Court decides where to locate each of the new judgeships.

Subsection 4: The judicial budget, from 2024 going forward, must include the salaries and expenses for each new judgeship established under the newly created section.

Sections 6 to 8: Removes the procedure for contempt of court when a referee presides over a trial or issue.

Sections 9 to 29: Removes references to judicial referees, small claims referees and to section 27-05-30 from sections 27-20.1-05, 27-20.2-21, 27-20.3-04, 27-20.3-10, 27-20.4-04, 27-20.4-09, 27-23-01, 28-25-03, 28-25-10, 28-25-16, 28-26-06, 28-26-08, 28-26-13, 28-26-17, 29-01-14, 29-01-15, 32-15-22, 32-34-11, 44-04-18.3, 54-12-01.3, and 62.1-02-05.

Section 30: Repeals section 27-05-30 which provides for appointment of judicial referees, their salary, and the types of cases which can be assigned to them. Also repeals section 27-08.1-08 which provides for appointment of small claims referees.

Section 31: Provides for an effective date of January 1, 2029 for sections 1 to 4 and 6 to 30. Because there may be judicial referees still in office through January 1, 2029 these sections must stay in effect until all judicial referee positions are abolished.

SB 2252
Senate Judiciary Committee
January 31, 2023
Testimony of Sally Holewa

My name is Sally Holewa and I serve as the state court administrator.

SB 2252 would gradually convert existing judicial referee positions to district court judge positions. Sen. Magrum has introduced this bill at the request of the Supreme Court. The Court's goal is to phase out referees, which they can do so through a reduction-in-force or by refusing to fill vacancies when a referee terminates employment with us. What this bill does is put a plan in place to ensure that there is no gap in services when a vacancy occurs.

The Court wants to phase out referees, not because they are no longer needed, but because the need has grown far beyond the limited scope these positions were intended to be. Today's referees are able to work in roughly 80% of the case types that district court judges do. However, unlike district court judges, judicial referees are appointed to their positions. North Dakota has chosen to have elected judges, accountable to the people, and that accountability does not exist with the referee position. It is not a matter of unification or even transparency. It is a matter of maintaining the integrity of the judicial system.

Judicial referees are lawyers who are hired by the North Dakota Court System to decide cases. They do not assist district court judges as law clerks and staff attorneys do. Instead, they are assigned a portion of the district court judges' caseload within the jurisdictional scope set forth in statute and rule. As an employee, they are supervised by the presiding judge of the district, however the presiding judge does not – and cannot ethically – oversee the decisions they make in individual cases. Decisions made by referees have the same effect as a decision made by a district court judge, unless superseded by a written order of a district court judge following the review process allowed under Administrative Rule 13. While this provision is an outlet for those litigants who understand the difference between a judge and a referee, in contested cases it can increase the workload.

The position of judicial referee was originally introduced into the North Dakota judicial system as part of the Uniform Juvenile Court Act of 1969. In 1985, the legislature adopted a proposal by the Supreme Court to move the referees from the juvenile section of code into the section on district courts to address issues related

to judicial immunity and to allow them to perform duties outside of the juvenile court. The Court subsequently adopted Administrative Rule 13 setting forth the qualifications and authority of judicial referees. Over time that authority has come to encompass actions in several sections of code.

In addition to the duties under AR 13, referees are also appointed as magistrates under NDCC 27-05-31. Magistrate duties have always been a part of the criminal court process, but the actual position of magistrate was first authorized by the legislature in 1981 to address concerns about being able to reach a judicial officer in a timely manner. In response, the Court adopted Administrative Rule 20 setting forth the qualifications and scope of delegable duties. In their role as magistrate, referees are able to conduct certain proceedings in criminal, probate, mental health and the various types of restraining order cases. I have attached the court rules related to referees and magistrates but also included a separate list of assigned duties since the rules only refer to them by statute or rule number.

As you can see from the explanatory notes to AR 13, the scope of their authority has increased steadily since 2012. It is not coincidental that these changes occurred as case numbers climbed and the number of new causes of action increased. We would not have the case clearance rates the Chief talked about in his State of the Judiciary address if we did not have referees picking up a large part of the caseload. At the same time, if you were to compare the jurisdiction of county court judges¹ before the county courts were merged with the district court, you would see that the differences between a county court judge then and a referee today is how they reach the bench and the geographic regions they serve. County court judges were elected and their jurisdiction was limited to the county borders. Judicial referees are hired by the court system and can act within any of the counties that make up the judicial district in which they are appointed.

You might ask why the supreme court doesn't address its concerns by just scaling back the scope of duties they have authorized referees to carry out. The answer to that is the same answer as to why the scope has increased: the demands of the caseload have exceeded our judicial resources.

We currently have 5 referees serving in three judicial districts: Two work in the East Central Judicial District (Cass, Steele and Traill counties); two work in the South Central Judicial District (Burleigh, Emmons, Grant, Kidder, Morton,

¹ County court judges could hear civil disputes that involved sums up to \$10,000. The limit on small claims court at that time was \$500. The limit on small claims court today is \$15,000.

McLean, Mercer, Oliver, Sheridan and Sioux counties); and one works in the North Central Judicial District (Burke, Mountrail, and Ward counties).

This is down from the 8 referee positions that we had prior to 2015. Three referee positions were eliminated between 2015 and 2016. One referee position in the Northeast Central Judicial District (Grand Forks and Nelson counties) was held vacant in 2015 due to budget constraints and later eliminated as part of the rescissions enacted in the 2016 interim session. The second referee in the Northeast Central Judicial District and the referee in the North Central Judicial District (Benson, Bottineau, Cavalier, McHenry, Pembina, Pierce, Ramsey, Renville, Rolette, Towner, and Walsh counties) were part of the reduction-in-force that the court enacted in 2016 to meet the lowered appropriation that resulted from the rescissions. Although the loss of referee services was difficult for these districts, they were able to adjust their schedules to meet the expedited timelines required for some hearings.

Three of our judicial districts have never had the services of a judicial referee. Those districts are the Northwest Judicial District (Divide, McKenzie and Williams counties)², Southwest Judicial District (Adams, Billings, Bowman, Dunn, Golden Valley, Hettinger, Slope and Stark counties and Southeast Judicial District (Barnes, Eddy, Foster, Griggs, LaMoure, Logan, McIntosh, Dickey, Ransom, Richland, Sargent and Stutsman counties). These districts have built their schedules to accommodate expedited hearings.

Much of the testimony submitted focuses on juvenile court cases. Statewide, juvenile court cases make up only 3.5% of the caseload. Looking at the numbers by judicial district, they are 4.8% of the ECJD caseload, 3.8% of the SCJD caseload and 3.1% of the caseload. To convert judicial referees to full-time juvenile court judges would be counterproductive. We would be paying them the full salary of a district court judge but cutting their workload to a fraction of what they can currently do at 80% of the salary.

Because referees are already full-time employees and are paid at the rate of 80% of the annual salary of a district court judge, the cost to convert a judgeship is simply the difference between the salaries and the change in employer contribution from

²Effective January 1, 2014, the Northwest Judicial District was divided into a Northwest Judicial District and a North Central Judicial District. Although there was a referee in the original Northwest Judicial District, that position has always been housed in Minot and has not routinely been assigned to cases filed outside of Ward County.

the NDPERS main plan to the Judges Retirement plan. For the coming biennium, that equates to a per position cost of \$132,604.

As I stated at the beginning of my testimony, the need for the work the referees do has outgrown the intent of the position. The five referees we have carry full caseloads. To simply eliminate the position without a plan in place to backfill those vacancies would cause our judge shortage to shoot up from 4 to 9. This bill would put the needed plan in place to do that and I urge a Do Pass.

Duties that may be assigned to a Referee

1. Conduct proceedings in disorderly conduct cases
2. Conduct proceedings in sexual assault restraining order cases
3. Conduct any type of proceeding under the domestic relations and persons section of code, except contested divorce trials (Title 14 includes such things as divorce, annulment, domestic violence protection orders, paternity, parental rights and responsibility, nonparent custody and visitation, adoption, and child relinquishment)
4. Conduct proceedings in non-criminal game and fish violation cases
5. Conduct proceedings in small claims court
6. Conduct proceedings in juvenile cases including delinquency, child welfare, and guardianship
7. Conduct proceedings in regard to debt collection
8. Conduct proceedings in guardianship cases
9. Conduct proceedings in conservatorship cases and other protective actions
10. Conduct reviews of administrative license suspensions for nonpayment of child support
11. Conduct reviews of administrative actions to collect child support
12. Conduct proceedings in eviction cases
13. Conduct proceedings in non-criminal traffic cases

Duties that may be assigned to a Magistrate

1. Issue search warrants in criminal investigations
2. Issue administrative search warrants (search or inspection of property that is “elsewhere authorized by law” and is not considered a criminal search warrant)
3. Approve complaints and issue summonses or warrants
4. Hold initial appearances and set bail
5. Conduct preliminary examinations
6. Perform registrar and clerk duties under the uniform probate code in general, but in particular in informal proceedings and in uncontested probate proceedings
7. Conduct preliminary mental health commitment proceedings

8. Issue temporary domestic violence protection orders
9. Issue temporary disorderly conduct orders
10. Issue temporary sexual assault restraining orders

Administrative Rule 13 - JUDICIAL REFEREES

Effective Date: 8/11/2021

Section 1. Authority.

The 1985 legislative assembly provided for appointment of judicial referees under House Bill 1586. Under N.D. Const. art. VI, § 3, and N.D.C.C. § 27-05-30, the supreme court adopts the following administrative rule relating to judicial referees.

Section 2. Statement of Policy.

The North Dakota judicial system's policy is to provide for the qualifications, the extent and assignment of authority, procedure and the conduct of the role of judicial referees within the North Dakota judicial system in each judicial district.

Section 3. Qualifications of Judicial Referees.

Minimum qualifications for a judicial referee include:

- (a) United States citizenship;
- (b) physical residence in the judicial district of the appointment after appointment unless physical residence is waived by the presiding judge of the judicial district; and
- (c) a license to practice law in the state of North Dakota; or a juvenile supervisor/referee meeting the requirements of N.D.C.C. § 27-20.2-05(1)(i).

Section 4. Appointment.

The presiding judge, on behalf of all of the district court judges of the judicial district, must execute in writing the appointment of all judicial referees, to serve at the pleasure of the district court judges of the judicial district. Judicial referees must be compensated under the personnel system of the North Dakota Judicial System

Section 5. Scope of Delegable Duties.

(a) A presiding judge, after consultation with the district court judges of the judicial district, may authorize a judicial referee to preside in any individual proceeding or class of proceedings under:

- (1) N.D.C.C. ch. 12.1-31.2;
- (2) N.D.C.C. 12.1-31-01.2;
- (3) N.D.C.C. title 14, except contested divorce trials;
- (4) N.D.C.C. §§ 20.1-01-28 and 20.1-01-29;
- (5) N.D.C.C. ch. 27-08.1;
- (6) N.D.C.C. chs. 27-20.1, 27-20.2, 27- 20.3, 27-20.4;
- (7) N.D.C.C. ch. 28-25;
- (8) N.D.C.C. ch. 30.1-28;
- (9) N.D.C.C. ch. 30.1-29;
- (10) N.D.C.C. §§ 50-09-08.6(6) and 50-09-14(2); and
- (11) N.D.C.C. 47-32.

(b) A presiding judge, after consultation with the district court judges of the judicial district, may authorize a judicial referee, while serving and acting as a magistrate appointed under N.D. Sup. Ct. Admin. R. 20, to preside in any individual proceeding or class of proceedings under N.D.C.C. § 39-06.1-03.

(c) A judicial referee has such other authority of a district court judge as is necessary to carry out the delegated duties, including the issuance of orders to show cause, temporary restraining orders, temporary injunctions, and the power to impose remedial sanctions for contempt of court.

(d) An order issued under subsection 5(a) must be reduced to writing and signed by the presiding judge of the judicial district. The order must be filed with the clerk of district court of each county of the judicial district. The

presiding judge must send a copy of this document to the state court administrator. A copy must be made available to any party upon request.

(e) Within the limits set forth in the written order of the presiding judge, district court judges may refer individual cases or classes of cases to a judicial referee by written order.

Section 6. Geographical Jurisdiction.

Each judicial referee will have jurisdiction only within the judicial district of appointment and is expected to maintain an office as assigned by the presiding judge of the judicial district. A judicial referee may be appointed to temporary duty in another judicial district by the presiding judge of the judicial district, with the consent of the presiding judge of the receiving judicial district or by the chief justice under N.D. Const. art. VI, § 3.

Section 7. Proceedings on the Record.

Except in small claims court cases under N.D.C.C. ch. 27-08.1 and in traffic cases under N.D.C.C. § 39-06.1-03, proceedings must be heard on the record.

Section 8. Removal from Referee.

Any party to a proceeding before a judicial referee is entitled to have the matter heard by a district court judge, if written request is filed by the party within seven days after service of either the initiating documents or other notice informing the party of this right.

Section 9. Standard of Conduct.

The Rules of Judicial Conduct must be observed by each judicial referee.

Section 10. Findings and Order.

(a) The findings and order of the judicial referee have the effect of the findings and order of the district court until superseded by a written order of a district court judge.

(b) Copies of the findings and order together with written notice of the right of review must be promptly served on the parties under N.D.R.Civ.P. 5.

Section 11. Procedure for Review.

(a) Except in small claims court cases under N.D.C.C. ch. 27-08.1 and in traffic cases under N.D.C.C. § 39-06.1-03, a review of the findings and order of a judicial referee may be ordered at any time by a district court judge and must be ordered if a party files a written request for a review within seven days after service of the notice in subsection 10(b). The request for review must state the reasons for the review. A party requesting review must give notice to all other parties. A party seeking to respond to a request for review must file their response within 14 days after service of notice of the request.

(b) The review by a district court judge must be a de novo review of the record. The district court may:

- (1) adopt the referee's findings;
- (2) remand to the referee for additional findings; or
- (3) reject the referee's findings.

(c) If the district court judge rejects the referee's findings, the court shall issue its own findings of fact, with or without a hearing.

Explanatory Notes

Adopted as emergency rule effective June 13, 1985; readopted September 17, 1985; amended effective March 1, 1994; January 1, 1995; March 1, 2000; March 1, 2003; March 1, 2004; March 1, 2011; March 1, 2012; June 1, 2012; September 1, 2013; March 1, 2014; March 1, 2015; August 1, 2017; March 1, 2018; January 1, 2019; August 11, 2021.

Section 5 was amended, effective September 1, 2013, to reflect enactment of 2013 House Bill No. 1075 [2013 N.D. Sess. Laws ch. 241, §1], which added three categories of cases to the statutory list of proceedings that may be delegated to a judicial referee by a presiding judge: disorderly conduct

restraining order cases, noncriminal game and fish violations, and review of administrative license suspensions for nonpayment of child support.

Section 5 was amended, effective March 1, 2012, to allow a presiding judge to authorize a judicial referee to preside in proceedings involving disorderly conduct restraining orders.

Section 5 was amended, effective March 1, 2014, to allow a presiding judge to authorize a judicial referee to preside in small claims and traffic court proceedings.

Section 5 was amended, effective March 1, 2015, to allow a presiding judge to authorize a judicial referee to preside in emergency guardianship proceedings.

Section 5 was amended, effective August 1, 2017, to allow a presiding judge to authorize a judicial referee to preside in sexual assault restraining order proceedings.

Section 5 was amended, effective March 1, 2018, to allow a presiding judge to authorize a judicial referee to preside in eviction and guardianship proceedings.

Section 5 was amended, effective January 1, 2019, to allow a presiding judge to authorize a judicial referee to preside in eviction and conservatorship proceedings.

Section 7 was amended, effective March 1, 2014, to clarify that small claims and traffic court matters decided by a judicial referee are not heard on the record.

Section 8 was amended, effective March 1, 2011, to increase the time to request a district court judge from five to seven days after service of initiating documents. A "proceeding" under this rule has the same meaning as a proceeding under N.D.C.C. § 29-15-21.

Section 11(a) was amended, effective March 1, 2011, to increase the time to request a review from a district court judge from five to seven days after

service of the right to review. The time to respond to a request for review was increased from 10 to 14 days after service of notice of the request.

Section 11(a) was amended, effective March 1, 2014, to clarify that small claims and traffic court matters decided by a judicial referee are not reviewable or appealable.

Administrative Rule 20 - MAGISTRATES— QUALIFICATIONS, AUTHORITY, EDUCATION AND PROCEDURES

Effective Date: 8/11/2021

Section 1. Authority.

In accordance with N.D. Const. art. VI, § 3, and N.D.C.C. § 27-05-31, the supreme court adopts the following rule relating to magistrates appointed by a presiding judge.

Section 2. Statement of Policy.

The North Dakota judicial system's policy is to provide for the qualifications, the extent and assignment of authority, and the conduct of the office of magistrate within the North Dakota judicial system in each judicial district.

Section 3. Qualifications of Magistrates.

Minimum qualifications for magistrates includes:

- (a) United States' citizenship;
- (b) except for duties delegated under subsections 5(a)(3), (4), and (6), admission to practice as an attorney in the state of North Dakota;
- (c) physical residence in the county of appointment after appointment unless physical residence is waived by the appointing and confirming authorities.

Section 4. Appointment.

The presiding judge of the judicial district may appoint a magistrate to serve at the pleasure of the presiding judge. A copy of an order appointing a magistrate and designating delegated duties or an order modifying delegated duties must be filed with the state court administrator within three business days of the date of the order. Magistrates may be paid a salary as determined by the supreme court.

Section 5. Scope of Delegable Duties.

(a) The presiding judge of the judicial district may delegate the following duties and authority to a magistrate who has met the qualifications in Section 3:

(1) to issue search warrants under N.D.C.C. § 29-29-01 and N.D.R.Crim.P. 41;

(2) to issue administrative search warrants under N.D.C.C. § 29-29.1-01;

(3) to approve complaints and to issue summonses or warrants under N.D.C.C. ch. 29-05 and N.D.R.Crim.P. 3 and 4;

(4) to hold initial appearance under N.D.R.Crim.P. 5, and to set bail under N.D.C.C. ch. 29-08 and N.D.R.Crim.P. 46;

(5) to conduct preliminary examinations under N.D.R.Crim.P. 5.1;

(6) to perform registrar and clerk duties under the Uniform Probate Code, N.D.C.C. tit. 30.1, particularly N.D.C.C. §§ 30.1-14-02 and 30.1-14-07 in informal probate proceedings and N.D.C.C. § 30.1-15-05 in uncontested formal probate proceedings;

(7) to conduct preliminary mental health commitment proceedings under N.D.C.C. § 25-03.1-09, notwithstanding and consistent with § 25-03.1-02(3) and (8);

(8) to issue temporary domestic violence protection orders under N.D.C.C. ch. 14-07.1;

(9) to issue temporary disorderly conduct restraining orders under N.D.C.C. ch. 12.1-31.2; and

(10) to issue temporary sexual assault restraining orders under N.D.C.C. § 12.1-31-01.2.

(b) The duties delegated to each magistrate under this section must be reduced to writing and signed by the presiding judge of the judicial district.

(c) The duties of a magistrate may be diminished by the presiding judge of the judicial district upon notice in writing to the magistrate.

Section 6. Geographical Jurisdiction.

Each magistrate has the geographical jurisdiction within the judicial district as assigned by the presiding judge of the judicial district, and is expected to maintain an office in conjunction with a district judge.

Section 7. Alternate Magistrate.

The presiding judge of the judicial district may appoint an alternate magistrate in a county in which the presiding judge or another district judge does not reside. The alternate magistrate must meet the qualifications of section 3 and may be delegated duties under section 5. The alternate magistrate will serve as magistrate whenever the magistrate for the county is unavailable to fulfill the duties of magistrate.

Section 8. Vacancy.

The presiding judge of the judicial district may fill any vacancy in the office of magistrate or alternate magistrate under section 4 and section 7.

Section 9. Proceedings on the Record.

Proceedings must be heard on the record as in district court.

Section 10. Removal From Office.

A magistrate may be removed from the office of magistrate by the presiding judge of the judicial district upon notice in writing to the magistrate. The presiding judge must notify the state court administrator of the removal.

Section 11. Standard of Conduct.

The Code of Judicial Conduct is the standard of conduct which must be observed by each magistrate. The judicial conduct commission has jurisdiction over the conduct of magistrates to the same extent as it has over other judges.

Section 12. Continuing Education.

(a) Each magistrate appointed under N.D.C.C. § 27-05-31 must attend a continuing education program every odd calendar year as provided by the judicial branch education commission. The magistrate must be reimbursed for necessary expenses, travel, and subsistence by the judicial system.

(b) If any magistrate fails to attend an educational session without being excused by the state court administrator, the state court administrator will report such fact to the presiding judge of the judicial district and to the judicial conduct commission, for such action as it considers appropriate.

Section 13. Effective Date.

This rule, as amended, is effective August 11, 2021.

Explanatory Note

Rule 20 adopted effective January 1, 1983; amended effective June 24, 1985; emergency amendments adopted effective December 20, 1989, readopted February 22, 1990; amended effective August 1, 1993; January 1, 1995; April 1, 1998; March 1, 2005; July 1, 2007; January 1, 2009; July 1, 2009; March 1, 2012; August 1, 2017; August 11, 2021.

**Robert Vallie-Assistant State's Attorney
Cass County State's Attorney's Office
Testimony Concerning Senate Bill 2252
January 31, 2023**

Madam Chair and members of the Senate Judiciary Committee,

My name is Robert Vallie and I am an Assistant State's Attorney with the Cass County State's Attorney's Office. I stand in opposition to the passage of Senate Bill 2252, which would remove the usage of judicial referees. In review of the materials already submitted, a number of arguments have been made from the judicial districts that will be impacted by this proposal. I believe the information provided in that testimony is important and helps to better understand the important role judicial referees from the perspective of our judges. My testimony will be reflective of an attorney at counsel table, who interacts with the bench on a daily basis and the benefits judicial referees provide.

Since my licensure in 2017, my entire legal career has been spent in the role of an Assistant State's Attorney. In that time, I have had the opportunity to work for both the Ward County State's Attorney's Office and the Cass County State's Attorney's Office. Both counties are a part of two of the three judicial districts that use judicial referees. I have also had the opportunity in my time in Cass County to practice in front of judicial referees on a regular basis. In my time, I have had the opportunity to practice in front of four judicial referees and have previously worked with a fifth. Each referee received their law degree. Each referee was admitted to the North Dakota Bar, with admission years ranging from 1979 to 2008. Each referee, prior to taking the bench had a variety of legal experience. These experiences include municipal court judge, Assistant State's Attorney, Assistant Attorney General, and private attorneys ranging from single attorney firms to large firms operating in multiple states. Each with years of experience in their fields of criminal, civil and juvenile law. Each Referee, like any other attorney or Judge, is held to certain rules of conduct and responsibility. The decision made can be challenged and reviewed by a higher court or authority.

Each Referee, with their varying experiences, handle a number of important matters that come through our court system every day. These include ones where a State's Attorney's Office would be involved such as Juvenile Court, child support hearings and Traffic Court. They also include others, such as termination of parental rights, small claims and various protection or restraining orders. Many of these matters, can operate under varying timeframes, rules or statutes, in comparison to a criminal case, or a civil matter you may think of as normal. Others can be emotional and high stress matters that require more time and attention, such as juvenile or family law matters. While many of these may not receive the same attention from the public, they are all critical in protecting individuals, the community and promoting Justice in whatever form it may be. In my experience, referees have been used with great success in allowing a consistent presence in matters like Juvenile Court, to follow those cases and their complexities from beginning to end. For other matters, like small claims or child support hearings, having a referee working on particular areas also allows the opportunity to build experience in those areas, or use their current experience to better serve in making a decision

in these matters. These referees help to move our judicial system forward, even as cases and demands increase across the State.

Additionally, Referees are flexible to the unique demands and geography of the districts they serve. In my time in Ward County, a District Court Judge would handle certain matters, like Traffic Court, whereas in Cass County, those matters are exclusively handled by Judicial Referees. In reviewing the testimony of the various Judicial Districts, I think it becomes clear that if it is efficient and effective for various matters to be handled by a District Court Judge, it continues to be the case. However, if it is more efficient in time and resources to allow Judicial Referees to handle matters, they have done so. I believe it speaks to the recognition of our Judicial Districts to make the most out of the valuable resources they are provided and to meet the demands of our taxpayers.

In every aspect of North Dakota's Court System, demands are increasing. Whether an increase in criminal charges, civil hearings or whatever metric you would prefer to review, our entire judicial system and those who are entrusted to carry out the needs of our citizens are being stretched thin. Our Judicial Branch requires additional resources and FTEs in order to combat the increased workload faced across the State, versus re-classifying Referees to District Judges.

In my experience, these judicial officers provide an necessary service to the elected District Judges in their areas and to the citizens of North Dakota. By removing the ability for our Court System to utilize these valuable and important resources would do a disservice to ensure resolution of those matters of concerns for citizens, each and every day.

Madam Chair and members of the Committee, thank you for the opportunity to provide testimony to this important issue. I urge a Do Not Pass Recommendation and happy to address any questions you may have as you deliberate this matter.

Robert Vallie
Robert Vallie
Assistant State's Attorney
Cass County State's Attorney's Office
211 9th St. S.
Fargo, ND 58103