



# North Dakota Legislative Council

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## NORTH DAKOTA COURT STRUCTURE AND FAMILY COURT OVERVIEW

This memorandum provides a summary of the court structure in North Dakota and an overview of family court structures in other states.

### BACKGROUND

#### North Dakota District Courts

Section 1 of Article VI of the Constitution of North Dakota provides the judicial power of the state is vested in a unified judicial system consisting of a Supreme Court, a district court, and other courts as may be provided by law. The district courts exercise exclusive jurisdiction in criminal cases and general jurisdiction in civil cases, including domestic relations cases involving divorce, custody, and parenting time disputes.<sup>1</sup>

Section 3 of Article VI of the Constitution of North Dakota provides the Supreme Court with the authority to establish rules of procedure to be followed by all the courts of the state. The Supreme Court has organized the district courts into eight judicial districts operating within four administrative units.<sup>2</sup> In each district, there is a presiding judge who oversees the judicial services in the district's geographical area and serves as the chief administrative officer of all courts in the district. The duties of the presiding judge include assigning cases among the judges of the district.<sup>3</sup>

According to the *North Dakota Supreme Court Annual Report*, in 2024, there were 6,468 domestic relations case filings, consisting of divorce (35 percent), protection and restraining orders (36 percent), support proceedings (14 percent), paternity (4 percent), adoption (5 percent), parenting responsibility (6 percent), and termination of parental rights (less than 1 percent).

#### District Court Judges

There are 55 district court judges serving in the state. The number of judges assigned to each judicial district is as follows:

- South Central (Burleigh, Emmons, Grant, McLean, Mercer, Morton, Oliver, and Sheridan counties): 10.
- Northwest (Divide, Williams, and McKenzie counties): 6.
- North Central (Burke, Mountrail, and Ward counties): 5.
- East Central (Cass, Steele, and Traill counties): 11.
- Northeast Central (Grand Forks and Nelson counties): 6.
- Northeast (Benson, Bottineau, Cavalier, McHenry, Pembina, Pierce, Ramsey, Renville, Rolette, Towner, and Walsh counties): 6.

<sup>1</sup>North Dakota Century Code (NDCC) § 27-05-06.

<sup>2</sup>Administrative unit 1 consists of the Northeast Central and Northeast judicial districts; administrative unit 2 consists of the East Central and Southeast judicial districts; administrative unit 3 consists of the South Central and Southwest judicial districts; and administrative unit 4 consists of the North Central and Northwest judicial districts.

<sup>3</sup>North Dakota Supreme Court Administrative Rules 2 and 6.

- Southeast (Barnes, Dickey, Eddy, Foster, Griggs, Kidder, LaMoure, Logan, McIntosh, Ransom, Richland, Sargent, Stutsman, and Wells counties): 7.
- Southwest (Adams, Billings, Bowman, Dunn, Golden Valley, Hettinger, Slope, and Stark counties): 4.

The office of district court judge is an elected position that is filled every 6 years following a nonpartisan election held in the district in which the judge will serve.<sup>4</sup> When a vacancy occurs in the office of district court judge, the Supreme Court must determine whether that office is necessary for effective judicial administration or whether the district judgeship may be transferred to another location to fill a need for judicial services.<sup>5</sup> If the vacancy is to be filled, the Governor may either fill the vacancy by appointing a candidate from a list of nominees submitted by the Judicial Nominating Committee or by calling a special election.<sup>6</sup>

District court judges are judges of general jurisdiction, meaning they may preside over any case properly brought before the district court, including criminal proceedings, family law disputes, complex civil actions, and juvenile matters.

The 2025 Legislative Assembly increased the district court judge annual salary from \$171,113 to \$184,366, effective July 1, 2025. A presiding judge of a judicial district is entitled to receive an additional \$5,162 per year.<sup>7</sup>

### Judicial Referees

The presiding judge of a judicial district may appoint one or more judicial referees to serve on a full-time or part-time basis. Under North Dakota Century Code Section 27-05-30, judicial referees may preside over a variety of matters, including domestic relations, civil protection orders, juvenile court proceedings, child welfare and delinquency cases, and reviews of administrative agency actions. Section 27-05-30 also authorizes the Supreme Court to adopt rules relating to the qualifications and authority of judicial referees.

North Dakota Supreme Court Administrative Rule 13 further defines the authority of judicial referees and the scope of duties a presiding judge may delegate to a judicial referee. Judicial referees may carry out all delegated duties, including issuing orders to show cause, temporary restraining orders, temporary injunctions, and imposing remedial sanctions for contempt of court.<sup>8</sup>

The presiding judge of the judicial district also may appoint judicial referees as magistrates.<sup>9</sup> Magistrates may be delegated various responsibilities, including issuing search warrants, presiding over certain criminal hearings, determining eligibility for appointment of indigent defense counsel, conducting preliminary mental health commitment proceedings, and issuing temporary civil protection orders.<sup>10</sup>

There are five judicial referees serving in three judicial districts: two serve the East Central Judicial District; two serve the South Central Judicial District; and one serves the North Central Judicial District. Each judicial referee has 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 party to a proceeding before a judicial referee is entitled to have the matter heard by a district court judge if a written request is filed by the party within 7 days after service of either the initiating documents or other notice informing the party of the right. A party also may request a review of the findings and order

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<sup>4</sup>NDCC § 27-05-02.

<sup>5</sup>NDCC § 27-05-02.1.

<sup>6</sup>NDCC Chapter 27-25.

<sup>7</sup>NDCC § 27-05-03; Senate Bill No. 2002 (2025).

<sup>8</sup>NDCC § 27-05-30; North Dakota Supreme Court Administrative Rule 13.

<sup>9</sup>NDCC § 27-05-31.

<sup>10</sup>*Id.*; North Dakota Supreme Court Administrative Rule 20.

of a judicial referee by a district court judge. Unless superseded by a written order of a district court judge following the review process, a judicial referee's decision has the same effect as a district court judge's ruling.<sup>11</sup>

Each judicial referee receives 80 percent of a district court judge's salary, which amounts to \$147,493.

### **Juvenile Court and Specialized Dockets**

The juvenile court is a subset of the district court which has jurisdiction over children in need of protection, and termination of parental rights, guardianship, and delinquency cases. The mission of the juvenile court is to promote public safety, hold juvenile offenders accountable, and increase the capacity of juveniles to contribute productively to their community.

In 2024, the juvenile court received:

- 1,764 child abuse and neglect referrals from human service zones following child abuse and neglect investigations;
- 248 new filings relating to the guardianship of a minor and child placements, and held 413 juvenile guardianship review hearings on existing cases; and
- 135 children's treatment services assessment approvals for review.

In North Dakota, there are both adult and juvenile specialized dockets. A specialized docket is a juvenile or district court that oversees a therapeutic program comprised of interdisciplinary teams, enhanced judicial involvement, court-supervised treatment programs, and other components designed to achieve effective alternatives to traditional case dispositions. The specialized dockets include juvenile drug courts, an adult treatment court, a veterans' treatment court, and a domestic violence court.

### **North Dakota Family Court Law**

The 1965 Legislative Assembly adopted House Bill No. 903, commonly referred to as the family court law, which permitted the establishment of a family court as a division of a district court.

Between 1965 and the repeal of the law in 1991, district judges in counties having a population exceeding 10,000 were allowed to establish family court divisions. The purpose of the family court was to protect the rights of children, and to promote the public welfare and the welfare of children by preserving, promoting, and protecting family life and the institution of marriage. The court also was responsible for providing means for the reconciliation of spouses and the amicable settlement of domestic and family controversies.

In counties in which a family court was established, a civil action instituted in divorce or separation cases could not be filed unless family court jurisdiction in that case had been waived by court order or a petition had been filed with the clerk of the district court. Under the family court system, at the time of the hearing on the petition or at any time after the petition had been filed, the court was authorized to refer the parties to the court's family court counselor for a conference or series of conferences to attempt to effect a reconciliation of the spouses or an amicable adjustment or settlement of the issues of the controversy. The conferences were to be held informally and could involve, with the consent of both of the parties to the proceeding, the aid of physicians, psychiatrists or other specialists, scientific or social experts, or the pastor or director of any religious denomination to which the parties belonged. Any admission or statement made by either party during the conference could not be used in evidence in any action without the consent of that individual.

Under the family court system, an action could not be filed for divorce or separation within a 60-day period after the date of the hearing on the petition. If, after the expiration of the waiting period, the controversy between the spouses had not been resolved, either spouse was permitted to institute proceedings for divorce or separation.

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<sup>11</sup>North Dakota Supreme Court Administrative Rule 13.

Records indicated family courts were not widely used and only one family court remained in existence beyond 1979.<sup>12</sup>

## **FAMILY COURT STRUCTURES IN OTHER STATES**

Family courts in other states manage a variety of family related matters, including juvenile proceedings, child abuse and neglect, divorce, custody, parenting time, and support. These courts also frequently provide or refer the public to services, including counseling, mediation, parenting education, and social services.

Although the subject matter handled by family courts often is similar, the structure of family courts varies significantly among states. Some states have established a separate dedicated family court, while others operate a family court division within a court of general jurisdiction. The authority creating the family court also varies among states, with some states establishing a family court through statute, while others are created through court or administrative rule.

Consistent with North Dakota's court structure, some states, including Iowa, Kansas, Montana, Nebraska, Oklahoma, South Dakota, Wisconsin, and Wyoming, assign domestic relations matters to county, district, circuit, or trial courts of general jurisdiction, rather than a specialized family court.

### **Separate Family Courts**

Several states, including Delaware, New York, Rhode Island, South Carolina, Virginia, and West Virginia, have established a family court by law as a separate court.<sup>13</sup>

#### **Delaware<sup>14</sup>**

In 2005, the Constitution of Delaware was amended to include the family court as a constitutionally established court. The mission of the family court is to provide fair, efficient, and equal access to justice for the families and children within its jurisdiction, while preserving public trust and confidence in an independent and accountable judiciary.<sup>15</sup>

The family court exercises jurisdiction over a wide range of domestic and juvenile matters, including divorce, support, custody, delinquency, orders of protection, and child abuse and neglect. It also has jurisdiction over misdemeanor offenses committed between former spouses, individuals cohabiting, and individuals who share a child but live separately. The court does not have jurisdiction over adults charged with felonies or juveniles charged with serious felonies, such as murder, sexual assault, or kidnapping.

The family court bench consists of 18 judges, including a chief judge appointed by the governor to serve as the statewide chief administrative and executive officer of the family court system. Judges are appointed by the governor for 12-year terms, must be licensed to practice law for at least 5 years before appointment, and must have knowledge of the relevant law and an understanding of family dynamics. Family court judges are prohibited from practicing law during their tenure.

In addition to judges, the governor also nominates family court commissioners to hear a broad range of matters, including child support cases, civil protection orders, delinquency hearings, and other assigned proceedings. Commissioners are attorneys appointed by the governor and confirmed by the Senate to serve initial 4-year terms. Upon second and subsequent appointments and confirmations, commissioners serve 6-year terms. An order issued by a commissioner is subject to review by a family court judge.

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<sup>12</sup>Testimony in support of Senate Bill No. 2268 (1991), which repealed the family court law, indicated the family court system was used in the 1970s to attempt to prevent divorces by requiring couples to go to counseling, but the system was not successful, did not have funding, and was no longer used.

<sup>13</sup>Del. Const. art. IV § 2; N.Y. Fam. Court Act Art. 1; R.I. Pub. Laws § 8-10-3 (2025); S.C. Code Ann. § 63-3-10 (2025); Va. Code Ann. ch. 16.1-11 (2025); and W. Va. Code § 51-2A-1 (2025).

<sup>14</sup>Del. Code Ann. tit. 10, ch. 9 (2025).

<sup>15</sup>According to the United States Census Bureau's 2020 Census, Delaware's population is approximately 989,948.

## Rhode Island<sup>16</sup>

Established in 1961, the Rhode Island Family Court was the first statewide family court in the United States. It was created to provide focused attention on social and individual issues affecting families and children, with the overarching goal of restoring families whose stability or well-being is at risk. The court also is responsible for ensuring children within its jurisdiction receive care, guidance, and control consistent with their welfare and the best interests of the state.<sup>17</sup>

The family court has jurisdiction over various domestic relations matters, including divorce, custody, and support proceedings. The court also has jurisdiction over matters concerning delinquent, neglected, and abused children.

The family court's bench consists of 1 chief judge, 11 associate judges, 1 general magistrate, and 8 magistrates. Judges are appointed by the governor for life terms, as approved by the Senate, and are authorized to preside over any matter within the court's jurisdiction. The chief judge may appoint magistrates, who are empowered by state law to preside over certain divorce, custody, support, adoption, and child placement matters. Orders issued by magistrates are subject to review by a family court judge.

The chief judge also appoints a family court administrator, who is responsible for developing procedures governing the provision of court services, compiling statistics, preparing reports, and supervising court staff.

### Family Court Divisions

Many states, including Alabama, Hawaii, Illinois, Kentucky, Maine, Massachusetts, Michigan, Minnesota, Missouri, Nevada, New Hampshire, Oregon, Pennsylvania, Texas, and Vermont, have established a family court as a division of a court of general jurisdiction, either throughout the state or in select regions or jurisdictions.<sup>18</sup>

## Maine<sup>19</sup>

The district courts in Maine exercise general jurisdiction over civil, criminal, and family matters. The court system includes 38 judges, who serve in eight judicial regions and are appointed by the governor to 7-year terms, subject to confirmation by the Senate. Within the district court, the family division is established to hear family matters and provide a system that is responsive to the needs of families and the well-being of children.<sup>20</sup>

The supreme judicial court has authority to adopt administrative orders and court rules governing the practice, procedure, and administration of the family division. These rules must include education for the parties, case management, mediation referrals, and other forms of alternative dispute resolution.

The chief justice of the district court appoints magistrates to serve in the family division, subject to the approval of the chief justice of the supreme judicial court. Eight family law magistrates preside over proceedings under the jurisdiction of the family division. Magistrates must be licensed attorneys with family law experience and must receive annual training and education addressing domestic violence and child abuse, neglect, and maltreatment issues.

<sup>16</sup>R.I. Pub. Laws §§ 8-10-1 through 8-10-45 (2025).

<sup>17</sup>According to the United States Census Bureau's 2020 Census, Rhode Island's population is approximately 1,097,379.

<sup>18</sup>Ala. Code § 12-17-24.1 (2025); Haw. Rev. Stat. § 571.1 (2025); See Illinois S.C. Rule 21 (providing authority to circuit courts to establish rules to manage civil cases); KY Const. § 112(6); Me. Rev. Stat. tit. 4, § 183 (2025); Mass. Gen. Laws ch. 211B § 1 (2025); Mich. Comp. Laws Ann. § 600.1011 (2025); Minn. Stat. §§ 484.64 and 484.65 (2025); Mo. Rev. Stat. § 487.010 (2025); Nev. Rev. Stat. § 3.0105 (2025); N.H. Rev. Stat. Ann. § 490-D:1 (2025); Or. Rev. Stat. § 3.405 (2025); 42 Pa. Cons. Stat. § 951 (2025); Tex. Gov't Code Ann. §§ 24.601 through 24.644 (2025); and Vt. Stat. Ann. tit. 4, § 30 (2025).

<sup>19</sup>Me. Rev. Stat. tit. 4, § 183 (2025).

<sup>20</sup>According to the United States Census Bureau's 2020 Census, Maine's population is approximately 1,362,359.

Family law magistrates may preside over a variety of matters, including interim proceedings in divorce, custody, and support cases, and final orders in any of those matters when the proceedings are uncontested.<sup>21</sup>

### **Michigan<sup>22</sup>**

In Michigan, each of the state's 57 circuit courts includes a family division. The judicial circuit, chief circuit judge, and chief probate judge must agree upon a family court plan that details how the family division will operate and how services will be organized to ensure efficiency and effectiveness for families and individuals.

Under the family court plan, the chief circuit judge designates which judges will serve in the family division and determines the length of their assignments. Judges are typically assigned based on their expertise and experience in family law, and each judge must participate in appropriate training as required by the supreme court.

Family division courts handle a wide range of domestic matters, including divorce, custody, domestic violence, paternity, and adoption. The division structure also incorporates support services, including mediation and counseling, to assist in resolving disputes amicably.

### **Minnesota<sup>23</sup>**

In Minnesota, family law matters generally are handled by the district courts. The state is divided into 10 judicial districts, encompassing all 87 counties. By statute, the second and fourth judicial districts must maintain dedicated family court divisions to handle divorce and related matters. District courts also may establish family court divisions, consistent with rules established by the supreme court.

Each judicial district has one or more district courts, and many counties have designated family courts. These courts preside over various types of family law matters, including divorce, domestic abuse, paternity, child custody, and support. Under the Minnesota General Rules of Practice, most family case types filed in family court must participate in alternative dispute resolution processes, which may include early neutral evaluations, non-binding advisory opinions, parenting time expediting, and parenting consulting services.

### **Nevada<sup>24</sup>**

Nevada law requires the establishment of a family court division of the district court in each county with a population of 100,000 or more.<sup>25</sup> In January 1993, the family court division of the eighth judicial district court was established in Clark County. Twenty-six judges preside over family and juvenile cases in the family court division, and additional district judges may be temporarily assigned by the chief judge when caseloads demand it. The family court division has original, exclusive jurisdiction over various domestic relations cases, including divorce, custody, support, and juvenile matters.

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<sup>21</sup>A family division magistrate may preside over a final order in a contested proceeding when child support is the only contested issue.

<sup>22</sup>Mich. Comp. Laws Ann. § 600.1011 (2025).

<sup>23</sup>Minn. Stat. §§ 484.64, 484.65, and 484.86 (2025).

<sup>24</sup>Nev. Rev. Stat. §§ 3.0105 and 3.223 (2025).

<sup>25</sup>According to the United States Census Bureau's 2020 Census, the only county with a population of 100,000 or more is Clark County, which has a population of 2,265,461.