Sixty-fourth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2015

SENATE BILL NO. 2064
(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to amend and reenact subsection15 of section 27-20-02, sections 27-20-30.1 and 27-20-38 of the North Dakota Century Code, relating to the definition of permanency hearing, a foster care agreement with an agency or tribal council of a recognized Indian reservation in North Dakota, and the rights and duties of legal custodian.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 15 of section 27-20-02 of the North Dakota Century Code is amended and reenacted as follows:

15. "Permanency hearing" means a hearing, conducted with respect to a child who is in foster care, to determine the permanency plan for the child which includes:

    a. Whether and, if applicable, when the child will be returned to the parent;

    b. Whether and, if applicable, when the child will be placed for adoption and the state will file a petition for termination of parental rights;

    c. Whether and, if applicable, when a fit and willing relative or other appropriate individual will be appointed as a legal guardian;

    d. Whether and, if applicable, to place siblings in the same foster care, relative, guardianship, or adoptive placement, unless it is determined that the joint placement would be contrary to the safety or well-being of any of the siblings;

    e. Whether and, if applicable, in the case of siblings removed from their home who are not jointly placed, to provide for frequent visitation or other ongoing interaction between the siblings, unless it is determined to be contrary to the safety or well-being of any of the siblings;

    f. In cases in which a compelling reason has been shown that it would not be in the child's best interests to return home, to have parental rights terminated, to be placed for adoption, to be placed with a fit and willing relative, or to be placed with a legal guardian, whether and, if applicable, when the child, aged sixteen or older, will be placed in another planned permanent living arrangement. The court shall:

        (1) Ask the child whether the child has a desired permanency outcome of another planned permanent living arrangement,

        (2) Make a judicial determination explaining why another planned permanent living arrangement is the best permanency plan for the child, and

        (3) Identify the compelling reasons it continues not to be in the best interest of the child to return home, be placed for adoption, be placed with a legal guardian, or be placed with a fit and willing relative;

    g. In the case of a child who has been placed in foster care outside the state in which the home of the parents is located, or if the parents maintain separate homes, outside the state in which the home of the parent who was the child's primary caregiver is located, whether out-of-state placements have been considered. If the child is currently in an

out-of-state placement, the court shall determine whether the placement continues to be appropriate and in the child's best interests; and

h. In the case of a child who has attained age sixteen, the services needed to assist the child to make the transition from foster care to independent living.

SECTION 2. AMENDMENT. Section 27-20-30.1 of the North Dakota Century Code is amended and reenacted as follows:

27-20-30.1. Disposition of child needing continued foster care services.

1. For purposes of this section, "child" means an individual between the ages of eighteen and twenty-one years who is in need of continued foster care services.

2. A petition to commence an action under this section must contain information required under section 27-20-21 along with an affidavit either prepared by the administrative county, as determined by the department of human services, or prepared by an agency or tribal council of a recognized Indian reservation in North Dakota.

3. The court shall issue a summons in accordance with section 27-20-22 upon the filing of a petition and affidavit.

4. If a child is in need of continued foster care services as determined by the department of human services and as set forth in a continued foster care agreement, the court shall make the following judicial determination:

   a. That the child is not deprived, delinquent, or unruly but is in need of continued foster care services;

   b. That the child will remain in or will return to foster care pursuant to the child's continued foster care agreement;

   c. That the child's continued foster care agreement has been willfully entered between:

      (1) ~~the~~The department of human services or its agent, the child, and the foster care provider; or

      (2) An agency or tribal council of a recognized Indian reservation in North Dakota if the child is not subject to the jurisdiction of the state of North Dakota, the child, and the foster care provider;

   d. That it is in the best interest of the child to remain in or return to foster care;

   e. That reasonable efforts were made in accordance with subsection 7 of section 27-20-32.2;

   f. That the child has attained the age of eighteen or older but does not exceed the age of twenty-one years;

   g. That the child has satisfied the education, employment, or disability requirements under the Fostering Connections to Success and Increasing Adoptions Act of 2008 [Pub. L. 110-351] and as set forth by the department of human services;

   h. That the administrative county, as determined by the department, or that an agency or tribal council of a recognized Indian reservation in North Dakota, shall continue foster care case management, unless otherwise agreed to or required by the department;

i. That the administrative county or ~~division of juvenile services~~an agency or tribal council of a recognized Indian reservation in North Dakota must have care and placement responsibility of the child;

j. That permanency hearing must be as set forth in section 27-20-36; and

k. That there are no grounds to file a petition to terminate parental rights under chapter 27-20.

5. Pursuant to ~~section 27-20-37~~N.D.R.Juv.P., Rule 16, a court may modify or vacate the judicial determination made under subsection 4.

SECTION 3. AMENDMENT. Section 27-20-38 of the North Dakota Century Code is amended and reenacted as follows:

27-20-38. Rights and duties of legal custodian.

A custodian to whom legal custody has been given by the court under this chapter has:

1. The right to the physical custody of the child and the right to determine the nature of the care, placement, and treatment of the child, including ordinary medical care as well as medical or surgical treatment for a serious physical condition or illness which in the opinion of a licensed physician requires prompt treatment, except for any limits the court may impose.

2. The right and duty to provide for the care, protection, training, and education and the physical, mental, and moral welfare of the child, subject to the conditions and limitations of the order and to the remaining rights and duties of the child's parents or guardian.

3. A duty within thirty days after the removal of a child from the custody of the parent or parents of the child for the purpose of placement into foster care, to exercise due diligence to identify and provide notice to the following relatives: all parents of a sibling of the child entering foster care who have legal custody of the sibling, all adult grandparents, and any other adult ~~relative~~ suggested by the parents ~~and grandparents~~, subject to exceptions due to family or domestic violence, that:

   a. Specifies that the child has been or is being removed from the custody of the parent or parents of the child;

   b. Explains the options the relative has under federal, state, and local law to participate in the care and placement of the child, including any options that may be lost by failing to respond to the notice;

   c. Describes the requirements and standards to become a foster family home and the additional services and supports that are available for children placed in that home; and

   d. Describes how the relative of the child may enter into an agreement with the department to receive a subsidized guardianship payment.

4. For purposes of this section, "sibling of the child entering foster care" means:

   a. A brother or sister who has at least one biological or adoptive parent in common;

   b. A fictive brother or sister with a significant bond as identified by the child or parent; or

   c. A child that would have been considered a sibling but for the termination or other disruption of parental rights, including a death of a parent.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-fourth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2064.

Senate Vote:	Yeas 45	Nays 0	Absent 2
House Vote:	Yeas 85	Nays 0	Absent 9

Secretary of the Senate

Received by the Governor at 8:45 A.M. on March 12, 2015.

Approved at 10:20 A.M. on March 13, 2015.

Governor

Filed in this office this 13th day of March, 2015, at 151 o'clock P M.

Secretary of State