

**Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023**

HOUSE BILL NO. 1137
(Representatives Klemin, Hanson)
(Senators Elkin, Larson)

AN ACT to create and enact a new subdivision to subsection 1 of section 27-20.2-21 and section 27-20.4-05.1 of the North Dakota Century Code, relating to inspection of court files and records, and delinquency referrals to juvenile court; and to amend and reenact sections 14-10-06, 27-20.1-04, and 27-20.1-07, subsection 1 of section 27-20.1-09, section 27-20.2-01, subsection 1 of section 27-20.2-03, section 27-20.2-05, subsection 3 of section 27-20.2-09, section 27-20.2-12, subsection 5 of section 27-20.2-15, sections 27-20.3-01, 27-20.3-03, 27-20.3-04, and 27-20.3-05, subsections 1 and 3 of section 27-20.3-06, subsection 3 of section 27-20.3-08, section 27-20.3-09, subsection 1 of section 27-20.3-10, subsection 1 of section 27-20.3-15, subsection 4 of section 27-20.3-16, subsection 5 of section 27-20.3-19, sections 27-20.3-21, 27-20.3-26, 27-20.4-01, 27-20.4-03, 27-20.4-04, 27-20.4-05, 27-20.4-06, 27-20.4-08, 27-20.4-09, and 27-20.4-10, subsection 5 of section 27-20.4-11, sections 27-20.4-14, 27-20.4-17, 27-20.4-18, and 27-20.4-25, subsection 1 of section 27-20.4-26, and section 27-20.4-27 of the North Dakota Century Code, relating to juvenile court procedures.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-10-06 of the North Dakota Century Code is amended and reenacted as follows:

14-10-06. Unlawful to encourage or contribute to the deprivation or delinquency of minor or the conditions of a child in need of protection - Penalty.

1. Any individual who by any act willfully encourages, causes, or contributes to the delinquency of a minor or deprivation of any minor~~the condition of a child in need of protection as defined in section 27-20.2-01~~ is guilty of a class A misdemeanor.
2. Any individual who by any act willfully encourages, causes, or contributes to the ~~deprivation~~conditions of a child in need of protection of a child less than sixteen years of age by causing that child to engage in sexual conduct as defined under section 12.1-27.2-01, in any play, motion picture, photograph, dance, or other visual representation is guilty of a class C felony.
3. If an individual is convicted of this section for encouraging, causing, or contributing to the consumption or possession of alcoholic beverages by a minor, the court shall consider the following in mitigation:
 - a. After consuming the alcohol, the underage individual was in need of medical assistance as a result of consuming alcohol; and
 - b. Within twelve hours after the underage individual consumed the alcohol, the defendant contacted law enforcement or emergency medical personnel to report that the underage individual was in need of medical assistance as a result of consuming alcohol.

SECTION 2. AMENDMENT. Section 27-20.1-04 of the North Dakota Century Code is amended and reenacted as follows:

27-20.1-04. Venue.

Except as otherwise provided by this section, a proceeding under this chapter must be commenced in the county in which the child resides. If ~~deprivation~~a child in need of protection is alleged, the

proceeding may be brought in the county in which the child is present when it is commenced, the county in which the child has resided for the majority of the thirty days ~~prior to~~before the date of the alleged deprivation child in need of protection, or the county where the alleged deprivation ~~has~~conditions of the child in need of protection have occurred. The court shall determine the appropriate venue ~~for a deprivation~~when the conditions of a child in need of protection action is based on the best interest of the child.

SECTION 3. AMENDMENT. Section 27-20.1-07 of the North Dakota Century Code is amended and reenacted as follows:

27-20.1-07. Procedure upon filing of petition.

1. A supporting affidavit establishing the basis for the guardianship under subdivision n of subsection 2 of section 27-20.1-06, and that the guardianship is in the best interest of the child, must be filed with the petition. Where ~~deprivation~~a child in need of protection is alleged under paragraph 4 of subdivision n of subsection 2 of section 27-20.1-06, the petition must contain sufficient statements to establish ~~deprivation~~a child in need of protection unless the child has resided in the home of the proposed guardian for at least one year before the filing date of the petition.
2. A petition under this chapter must be reviewed by the court to determine whether the contents of the petition comply with section 27-20.1-06.
3. If a petition alleges ~~deprivation~~a child in need of protection, the petition will be reviewed by the court to determine whether there has been a sufficient showing of ~~deprivation~~a child in need of protection.
4. If the petitioner has made an insufficient showing of ~~deprivation~~a child in need of protection, the court, without oral argument or an evidentiary hearing shall issue an order denying the petition. If the petitioner has made a sufficient showing of ~~deprivation~~a child in need of protection justifying a guardianship, the court shall set a date for an evidentiary hearing.

SECTION 4. AMENDMENT. Subsection 1 of section 27-20.1-09 of the North Dakota Century Code is amended and reenacted as follows:

1. If, at any time in the proceeding, the court determines the interests of the child are or may be inadequately represented and the child is of sufficient age and competency to assist counsel, the court may appoint an attorney to represent the child.

SECTION 5. AMENDMENT. Section 27-20.2-01 of the North Dakota Century Code is amended and reenacted as follows:

27-20.2-01. Definitions.

As used in this chapter, unless the context requires otherwise:

1. "Abandon" means:
 - a. As to a parent of a child not in the custody of that parent, failure by the noncustodial parent significantly without justifiable cause:
 - (1) To communicate with the child; or
 - (2) To provide for the care and support of the child as required by law; or
 - b. As to a parent of a child in that parent's custody:
 - (1) To leave the child for an indefinite period without making firm and agreed plans, with the child's immediate caregiver, for the parent's resumption of physical custody;

- (2) Following the child's birth or treatment at a hospital, to fail to arrange for the child's discharge within ten days after the child no longer requires hospital care; or
 - (3) Willfully fail to furnish food, shelter, clothing, or medical attention reasonably sufficient to meet the child's needs.
- 2. "Abandoned infant" means a child who has been abandoned before reaching the age of one year.
- 3. "Certified shelter care" means a nonsecure permanent dwelling operated by an agency certified by the department of health and human services, where employees offer safe shelter, food, and a structured routine, and which is available twenty-four hours a day to a resident in need of emergency placement, not to exceed seven days, unless otherwise approved by the department.
- 4. "Child" means an individual who is:
 - a. Under the age of eighteen years and is not married; or
 - b. Under the age of twenty years with respect to a delinquent act committed while under the age of eighteen years and not married.
- 4.5. "Child in need of protection" means a child who:
 - a. Is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for the child's physical, mental, or emotional health, or morals, and the need for services or protection is not due primarily to the lack of financial means of the child's parents, guardian, or other custodian;
 - b. Has been placed for care or adoption in violation of law;
 - c. Has been abandoned by the child's parents, guardian, or other custodian;
 - d. Is without proper parental care, control, or education as required by law, or other care and control necessary for the child's well-being because of the physical, mental, emotional, or other illness or disability of the child's parent or parents, and that such lack of care is not due to a willful act of commission or act of omission by the child's parents, and care is requested by a parent;
 - e. Is in need of treatment and whose parents, guardian, or other custodian have refused to participate in treatment as ordered by the juvenile court;
 - f. Was subject to prenatal exposure to chronic or severe use of alcohol or any controlled substance as defined in chapter 19-03.1 in a manner not lawfully prescribed by a practitioner;
 - g. Is present in an environment subjecting the child to exposure to a controlled substance, chemical substance, or drug paraphernalia as prohibited by section 19-03.1-22.2; or
 - h. Is a victim of human trafficking as defined in title 12.1.
- 5.6. "Child in need of services" means a child who in any of the foregoing instances is in need of treatment or rehabilitation:
 - a. Is habitually and without justification truant from school subject to compulsory school attendance and is absent from school without an authorized excuse more than three days during a school year;

- b. Is habitually disobedient of the reasonable and lawful commands of the child's parent, guardian, or other custodian, including running away, and is ungovernable or who is willfully in a situation dangerous or injurious to the health, safety, or morals of the child or others;
- c. Has committed an offense applicable only to a child, except for an offense committed by a minor fourteen years of age or older under subsection 2 of section 12.1-31-03 or an equivalent local ordinance or resolution; or
- d. Is under the age of fourteen years and has purchased, possessed, smoked, or used tobacco, a tobacco-related product, an electronic smoking device, or an alternative nicotine product in violation of subsection 2 of section 12.1-31-03. As used in this subdivision, "electronic smoking device" and "alternative nicotine product" have the same meaning as in section 12.1-31-03; and
- e. In any of the foregoing instances is in need of treatment or rehabilitation.

~~6-7.~~ "Custodian" means a person, other than a parent or legal guardian, which stands in loco parentis to the child and a person that has been given legal custody of the child by order of a court.

~~7-8.~~ "Delinquent act" means an act designated a crime under the law, including local ordinances or resolutions of this state, or of another state if the act occurred in that state, or under federal law.

~~8-9.~~ "Delinquent child" means a child who has committed a delinquent act and is in need of treatment or rehabilitation or is a child subject to proceedings arising under the interstate compact on juveniles.

~~9-10.~~ "Director" means the director of juvenile court or the director's designee.

~~10-11.~~ "Diversion" means an intervention strategy that redirects a child away from formal processing in the juvenile justice system, while still holding the child accountable for that child's actions.

~~11-12.~~ "Facility" means buildings, structures, or systems, including those for essential administration and support, which are used to provide residential treatment for children.

~~12-13.~~ "Host county" means the county within the human service zone in which the human service zone administrative office is located and in which the human service zone team members are employed.

~~13-14.~~ "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department of health and human services.

~~14-15.~~ "Juvenile court" means the district court of this state.

~~15-16.~~ "Juvenile drug court" means a program established by the supreme court which is a post-petition or post-adjudication program aimed at intervening in substance use disorders through intense supervision and participation in recovery services.

~~16-17.~~ "Proceeding" means any hearing conducted before a juvenile court or a referral for service.

~~17-18.~~ "Qualified residential treatment program" means a licensed or approved residence providing an out-of-home treatment placement for children, including a trauma-informed model.

~~18-19.~~ "Relative" or "kinship relative" means:

- a. The child's grandparent, great-grandparent, sibling, half-sibling, aunt, great-aunt, uncle, great-uncle, nephew, niece, or first cousin;
- b. An individual with a relationship to the child, derived through a current or former spouse of the child's parent, similar to a relationship described in subdivision a;
- c. An individual recognized in the child's community as having a relationship with the child similar to a relationship described in subdivision a; or
- d. The child's stepparent.

~~19-20.~~ "Restorative justice" means a system of justice which focuses on the rehabilitation of offenders through reconciliation with victims and the community at large.

~~20-21.~~ "Shelter care" means temporary care ~~of a child in physically unrestricted facilities during which a child needs a safe bed outside the home, in a shelter care site or certified shelter care site managed by an agency or licensed foster care facility.~~

~~21-22.~~ "The court" means the district courts as designated by the North Dakota supreme court which includes juvenile court as a subset of district court.

~~22-23.~~ "Willfully" has the meaning provided in section 12.1-02-02.

SECTION 6. AMENDMENT. Subsection 1 of section 27-20.2-03 of the North Dakota Century Code is amended and reenacted as follows:

1. The juvenile court has exclusive original jurisdiction of the following proceedings, which are governed by this chapter:
 - a. Proceedings in which a child is alleged to be delinquent, ~~a child in need of services, or a child in need of services or protection under this chapter or chapter~~ chapters 27-20.3 and 27-20.4;
 - b. Proceedings for the termination of parental rights except if a part of an adoption proceeding ~~under chapter 27-20.3;~~
 - c. Proceedings arising under section 27-20.3-16;
 - d. Civil forfeiture proceedings arising under chapter 19-03.1 or section 29-31.1-04 for which a child is alleged to have possessed forfeitable property. The juvenile court shall conduct the proceedings in accordance with the procedures provided for under sections 19-03.1-36 through 19-03.1-37; and
 - e. Proceedings for the guardianship of a child under chapter 27-20.1, except the testamentary appointment of a guardian for a minor governed by chapter 30.1-27.

SECTION 7. AMENDMENT. Section 27-20.2-05 of the North Dakota Century Code is amended and reenacted as follows:

27-20.2-05. Powers and duties of the director of juvenile court.

1. For the purpose of carrying out the objectives and purposes of this chapter and subject to the limitations of this chapter or imposed by the court, a director shall:
 - a. Make investigations, reports, and recommendations to the juvenile court.
 - b. Receive and examine referrals and charges of delinquency, ~~a child in need of services, or a child in need of protection for the purpose of considering the commencement of proceedings under this chapter.~~

- c. Make a determination upon intake of referrals regarding the appropriate manner to handle delinquent conduct, ~~or a child in need of services~~ or a child in need of protection by use of nonjudicial adjustments or formal court processes.
 - d. Supervise and assist a child placed on probation for delinquency ~~or a child in need of services, or both.~~
 - e. Make appropriate referrals to other private or public agencies of the community if assistance of the agencies appears to be needed or desirable.
 - f. Issue a temporary custody order concerning a child who is referred to the director's supervision or care as a delinquent or a child in need of ~~services or~~ protection. Except as provided by this chapter, a director does not have the powers of a law enforcement officer.
 - g. Take acknowledgments of instruments for the purpose of this chapter.
 - h. Make such temporary order not to exceed ninety-six hours for the custody and control of a child alleged to be in need of ~~services or~~ protection as may be deemed appropriate. The order must be reduced to writing within twenty-four hours, excluding holidays and weekends.
 - i. Perform all other functions designated by this chapter or under section 27-05-30 or by order of the court pursuant to such law, including, if qualified, the order of a referee.
 - j. Issue an order to a law enforcement authority to transport a child to and from a specified location.
 - k. Receive and examine requests for review of a child's placement at a qualified residential treatment program under the federal Family First Prevention Services Act [Pub. L. 115-123; 132 Stat. 64; 42 U.S.C. 675].
 - l. Receive and examine petitions to establish, modify, or terminate a guardianship of a minor under chapter 27-20.1.
2. Any of the foregoing functions may be performed in another state if authorized by the court of this state and permitted by the laws of the other state.

SECTION 8. AMENDMENT. Subsection 3 of section 27-20.2-09 of the North Dakota Century Code is amended and reenacted as follows:

3. The giving of information and advice and any conditions imposed for the conduct and control of the child may not extend beyond six months from the day commenced unless extended by the court for an additional period not to exceed six months and does not authorize the detention of the child if not otherwise permitted by this chapter. ~~If the child admits to driving or being in actual physical control of a vehicle in violation of section 39-08-01 or an equivalent ordinance, the child may be required to pay a fine as a condition imposed under this section. For a driving-related offense, the conditions may include a restriction on the child's driving privileges as authorized under section 27-20.4-19.~~

SECTION 9. AMENDMENT. Section 27-20.2-12 of the North Dakota Century Code is amended and reenacted as follows:

27-20.2-12. Right to counsel.

1. Except as provided in section 27-20.1-09, a child alleged to be within the jurisdiction of the court in an action arising under chapters 27-20.1, 27-20.2, 27-20.3, and 27-20.4 has the right to be represented by counsel in all proceedings in which a petition has been filed. Counsel for

the child must be appointed, regardless of income, unless counsel is retained for the juvenile, in any proceeding in which the juvenile is alleged to be:

- a. Delinquent; or
 - b. ~~A child in need of services; or~~
 - c. A child in need of protection if the child is of sufficient age and competency to assist counsel.
2. A child may waive the right to counsel in a juvenile delinquency proceeding if the child, who is fourteen years of age or older and the court has determined the waiver is knowing, voluntary, and intelligent. The waiver must be made on the record. If a child waives counsel for a hearing, the child must be informed of the right to revoke the waiver and request counsel at all subsequent hearings.
 3. The court ~~shall~~may require payment for reimbursement of counsel appointed pursuant to this section from a person that has legal care, custody, or control of the child. The court must include ~~this~~a finding regarding reimbursement in the findings of fact and order for disposition.
 4. A child's parent, legal guardian, or custodian is entitled to counsel upon the filing of an application for counsel and a determination of indigency. If a party appears without counsel, the court shall determine whether the party knows the party may be represented by counsel and that the party is entitled to counsel at public expense if indigent. The court may continue the proceeding to enable a party to obtain counsel. A child's parent, legal guardian, or custodian determined to be indigent is entitled to counsel:
 - a. At a detention hearing;
 - b. At the dispositional stage of a juvenile delinquency matter;
 - c. At all proceedings in a child in need of ~~services~~ or protection; or
 - d. In a permanency or review of an order entered in any of the proceedings under subdivision a, b, or c.
 5. The child may elect to be represented by counsel for a nonjudicial adjustment.

SECTION 10. AMENDMENT. Subsection 5 of section 27-20.2-15 of the North Dakota Century Code is amended and reenacted as follows:

5. In considering whether to involuntarily place an Indian child in foster care or to terminate the parental rights of the parent of an Indian child, the court shall require that a qualified expert witness must be qualified to testify regarding whether the child's continued custody by the parent or Indian custodian is likely to result in serious emotional or physical damage or harm to the child and should be qualified to testify as to the prevailing social and cultural standards of the Indian child's tribe. If the parties stipulate in writing and the court is satisfied the stipulation is made knowingly, intelligently, and voluntarily, the court may accept a declaration or affidavit from a qualified expert witness in lieu of testimony. An individual may be designated by the Indian child's tribe as being qualified to testify to the prevailing social and cultural standards of the Indian child's tribe. The court or any party may request the assistance of the Indian child's tribe or the bureau of Indian affairs office serving the Indian child's tribe in locating individuals qualified to serve as expert witnesses. The social worker regularly assigned to the Indian child may not serve as a qualified expert witness in child-custody proceedings concerning the child. The qualified expert witness should be someone familiar with the particular child and have contact with the parents to observe interaction between the parents, child, and extended family members. The child welfare agency and courts should facilitate access to the family and records to facilitate accurate testimony.

SECTION 11. A new subdivision to subsection 1 of section 27-20.2-21 of the North Dakota Century Code is created and enacted as follows:

The staff of a juvenile detention center or the staff of a juvenile intake and assessment center designated by the court to assist in performing and scoring the detention screening tool.

SECTION 12. AMENDMENT. Section 27-20.3-01 of the North Dakota Century Code is amended and reenacted as follows:

27-20.3-01. Definitions.

As used in this chapter:

1. "Abandon" means:
 - a. As to a parent of a child not in the custody of that parent, failure by the noncustodial parent significantly without justifiable cause:
 - (1) To communicate with the child; or
 - (2) To provide for the care and support of the child as required by law; or
 - b. As to a parent of a child in that parent's custody:
 - (1) To leave the child for an indefinite period without making firm and agreed plans, with the child's immediate caregiver, for the parent's resumption of physical custody;
 - (2) Following the child's birth or treatment at a hospital, to fail to arrange for the child's discharge within ten days after the child no longer requires hospital care; or
 - (3) Willfully to fail to furnish food, shelter, clothing, or medical attention reasonably sufficient to meet the child's needs.
2. "Abandoned infant" means a child who has been abandoned before reaching the age of one year.
3. "Aggravated circumstances" means circumstances in which a parent:
 - a. Abandons, tortures, chronically abuses, or sexually abuses a child;
 - b. Fails to make substantial, meaningful efforts to secure treatment for the parent's addiction, mental illness, behavior disorder, or any combination of those conditions for one year;
 - c. Engages in conduct prohibited under sections 12.1-20-01 through 12.1-20-08 or chapter 12.1-27.2, in which a child is the victim or intended victim;
 - d. Engages in conduct that constitutes one of the following crimes, or of an offense under the laws of another jurisdiction which requires proof of substantially similar elements:
 - (1) A violation of section 12.1-16-01, 12.1-16-02, 12.1-16-03, or 14-09-22 in which the victim is another child of the parent;
 - (2) Aiding, abetting, attempting, conspiring, or soliciting a violation of section 12.1-16-01, 12.1-16-02, or 12.1-16-03 in which the victim is a child of the parent; or
 - (3) A violation of section 12.1-17-02 in which the victim is a child of the parent and has suffered serious bodily injury;

- e. Engages or attempts to engage in conduct, prohibited under sections 12.1-17-01 through 12.1-17-04, in which a child is the victim or intended victim;
 - f. In the case of a child age nine or older, has been incarcerated under a sentence for which the latest release date is after the child's age of majority;
 - g. Subjects the child to prenatal exposure to chronic or severe use of alcohol or any controlled substance as defined in chapter 19-03.1 in a manner not lawfully prescribed by a practitioner; or
 - h. Allows the child to be present in an environment subjecting the child to exposure to a controlled substance, chemical substance, or drug paraphernalia as prohibited by section 19-03.1-22.2.
4. ~~"Attendant care" means a nonsecure holdover site for children in need of services who are in the custody of law enforcement and need constant short term supervision on a preadjudicatory basis.~~
5. "Certified shelter care" means a nonsecure permanent dwelling operated by an agency certified by the department of health and human services, where employees offer safe shelter, food, and a structured routine, and which is available twenty-four hours a day to a resident in need of emergency placement, not to exceed seven days, unless otherwise approved by the department.
5. "Child in need of protection" means a child who:
- a. Is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for the child's physical, mental, or emotional health, or morals, and the need for services or protection is not due primarily to the lack of financial means of the child's parents, guardian, or other custodian;
 - b. Has been placed for care or adoption in violation of law;
 - c. Has been abandoned by the child's parents, guardian, or other custodian;
 - d. Is without proper parental care, control, or education as required by law, or other care and control necessary for the child's well-being because of the physical, mental, emotional, or other illness or disability of the child's parent or parents, and that such lack of care is not due to a willful act of commission or act of omission by the child's parents, and care is requested by a parent;
 - e. Is in need of treatment and whose parents, guardian, or other custodian have refused to participate in treatment as ordered by the juvenile court;
 - f. Was subject to prenatal exposure to chronic or severe use of alcohol or any controlled substance as defined in chapter 19-03.1 in a manner not lawfully prescribed by a practitioner;
 - g. Is present in an environment subjecting the child to exposure to a controlled substance, chemical substance, or drug paraphernalia as prohibited by section 19-03.1-22.2; or
 - h. Is a victim of human trafficking as defined in title 12.1.
6. "Child in need of services" means a child who:
- a. Is habitually and without justification truant from school subject to compulsory school attendance and is absent from school without an authorized excuse more than three days during a school year;

- b. Is habitually disobedient of the reasonable and lawful commands of the child's parent, guardian, or other custodian, including running away, and is ungovernable or who is willfully in a situation dangerous or injurious to the health, safety, or morals of the child or others;
 - c. Has committed an offense applicable only to a child, except for an offense committed by a minor fourteen years of age or older under subsection 2 of section 12.1-31-03 or an equivalent local ordinance or resolution; or
 - d. Is under the age of fourteen years and has purchased, possessed, smoked, or used tobacco, a tobacco-related product, an electronic smoking device, or an alternative nicotine product in violation of subsection 2 of section 12.1-31-03. As used in this subdivision, "electronic smoking device" and "alternative nicotine product" have the same meaning as in section 12.1-31-03; and
 - e. In any of the foregoing instances is in need of treatment or rehabilitation.
- 7. "Custodian" means a person, other than a parent or legal guardian, which stands in loco parentis to the child and a person to which legal custody of the child has been given by order of a court.
 - 8. "Diversion" means an intervention strategy that redirects a child away from formal processing in the juvenile justice system, while still holding the child accountable for that child's actions.
 - 9. "Fit and willing relative or other appropriate individual" means a relative or other individual who has been determined, after consideration of an assessment that includes a criminal history record investigation under chapter 50-11.3, to be a qualified individual under chapters 27-20.1 and 30.1-27, and who consents in writing to act as a legal guardian.
 - 10. "Home" as used in the phrase "to return home" means the abode of the child's parent with whom the child formerly resided.
 - 11. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department of health and human services.
 - 12. "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 the following:
 - 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 the home of the siblings 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.
- h. In the case of a child who has attained age fourteen, the services needed to assist the child to make the transition to successful adulthood.
13. "Qualified residential treatment programs" mean residential child care facilities that provide a higher level of care which must use a trauma-informed treatment model and employ registered or licensed nursing staff and other licensed clinical staff to meet the treatment needs of children in out-of-home placement.
14. "Referral" means a written report submitted to ~~the director of juvenile court or the director of the human service zone concerning behavior without an arrest or taking into custody having occurred and the child remains in the parental home to be notified of any action taken by the director of human service zone~~ a child in need of services as authorized in this chapter.
15. "Relative" or "kinship relative" means:
- a. The child's grandparent, great-grandparent, sibling, half-sibling, aunt, great-aunt, uncle, great-uncle, nephew, niece, or first cousin;
 - b. An individual with a relationship to the child, derived through a current or former spouse of the child's parent, similar to a relationship described in subdivision a;
 - c. An individual recognized in the child's community as having a relationship with the child similar to a relationship described in subdivision a; or
 - d. The child's stepparent.
16. "Shelter care" means temporary care ~~of a child in physically unrestricted facilities during which a child needs a safe bed outside of the home, in a shelter care site or a certified shelter care site managed by an agency or licensed foster care facility.~~

SECTION 13. AMENDMENT. Section 27-20.3-03 of the North Dakota Century Code is amended and reenacted as follows:

27-20.3-03. Venue.

Except as otherwise provided by this section, a proceeding under this chapter must be commenced in the county in which the child resides. ~~If the need for services or a child in need of protection are~~ alleged, the proceeding may be brought in the county in which the child is present at the time the proceeding is commenced, the county in which the child has resided for the majority of the thirty days

before the date of the alleged need for ~~services or~~ protection, or the county in which the alleged need for ~~services or~~ protection has occurred. The court shall determine the appropriate venue for ~~a child in need of services or~~ a child in need of protection based on the best interest of the child.

SECTION 14. AMENDMENT. Section 27-20.3-04 of the North Dakota Century Code is amended and reenacted as follows:

27-20.3-04. Powers and duties of director of juvenile court.

1. For the purpose of carrying out the objectives and purposes of this chapter and subject to the limitations of this chapter or imposed by the court, a director shall:
 - a. ~~Make investigations, reports, and recommendations to the juvenile court.~~
 - b. ~~Receive and examine referrals of a child in need of services or child in need of protection for the purpose of considering diversion of services.~~
 - e. Make a determination upon intake of referrals regarding the appropriate manner to handle delinquent conduct, ~~a child in need of services, or~~ a child in need of protection under this chapter.
 - d.b. Make appropriate referrals to other private or public agencies of the community if their assistance appears to be needed or desirable.
 - e.c. Issue a temporary custody order concerning a child who is referred to the director's supervision or care as ~~a child in need of services or~~ a child in need of protection. Except as provided by this chapter, a director does not have the powers of a law enforcement officer.
 - f.d. Take acknowledgments of instruments for the purpose of this chapter.
 - g.e. Make such temporary order not to exceed ninety-six hours for the custody and control of a child alleged to be in need of ~~services or~~ protection as may be deemed appropriate. The order must be reduced to writing within twenty-four hours, excluding holidays and weekends.
 - h.f. Perform all other functions designated by this chapter or under section 27-05-30 or by order of the court, including, if qualified, those of a referee.
 - i.g. Issue an order to a law enforcement authority to transport a child to and from a specified location.
 - j.h. Receive and examine requests for review of a child's placement at a qualified residential treatment program under the Family First Prevention Services Act [Pub. L. 115-123; 132 Stat. 64; 42 U.S.C. 675].
2. Any of the foregoing functions may be performed in another state if authorized by the court of this state and permitted by the laws of the other state.

SECTION 15. AMENDMENT. Section 27-20.3-05 of the North Dakota Century Code is amended and reenacted as follows:

27-20.3-05. Method of making a child in need of services referral.

1. A referral alleging a child is a child in need of services may be made by a parent, guardian or other custodian, a law enforcement officer, a school official, or any other person that has knowledge of the facts alleged and believes such facts are true.

2. ~~A referral alleging a child is a child in need of services under section 27-20.2-01 must be sent to the juvenile court.~~
3. The referral must be set forth in writing and must set forth the following:
 - a. The name, date of birth, and residence address of the child alleged to be a child in need of services;
 - b. The names and residence addresses of the parent, guardian or legal custodian, any other family members, or any other individuals living within the child's home;
 - c. The name of any public institution or agency having the responsibility or ability to supply services alleged to be needed by the child; and
 - d. Whether any of the matters required by this subsection are unknown.
- 4.3. If a school official is filing a referral alleging a child is a child in need of services, information must be included which shows:
 - a. The legally responsible school district has sought to resolve the expressed problem through all appropriate and available educational approaches; and
 - b. The school district has sought to engage the parent, guardian, or legal custodian of such child in solving the problem but such person has been unwilling or unable to do so, that the problem remains, and that court intervention is needed.
- 5.4. If a school official is filing a complaint alleging a child is a child in need of services involving a child who is eligible or suspected to be eligible for services under the federal Individuals with Disabilities Education Act of 1990 [20 U.S.C. 1400 et seq.] or Section 504 of the federal Rehabilitation Act of 1973 [29 U.S.C. 725], information must be included which demonstrates that the legally liable school district:
 - a. Has determined the child is eligible or suspected to be eligible under the federal Individuals with Disabilities Education Act of 1990 [20 U.S.C. 1400 et seq.] or Section 504 of the federal Rehabilitation Act of 1973 [29 U.S.C. 725]; and
 - b. Has reviewed for appropriateness the child's current individualized education program and placement and has made modifications as appropriate.
- 6.5. A referral alleging that a child is a child in need of services under section 27-20.2-01 must be sent to the applicable human service zone.

SECTION 16. AMENDMENT. Subsection 1 of section 27-20.3-06 of the North Dakota Century Code is amended and reenacted as follows:

1. A child alleged to be in need of protection may be taken into protective custody:
 - a. Pursuant to an order of the court under this chapter;
 - b. By a law enforcement officer or designee if there are reasonable grounds to believe the child:
 - (1) ~~The child is~~ suffering from illness or injury or is in immediate danger from the child's surroundings, and the child's removal is necessary; ~~or~~
 - (2) ~~The child has~~ is in violation of a city or county curfew; or
 - (3) Has run away from the child's parents, guardian, or other custodian; or
 - c. By order of the director made pursuant to section 27-20.3-04.

SECTION 17. AMENDMENT. Subsection 3 of section 27-20.3-06 of the North Dakota Century Code is amended and reenacted as follows:

3. A law enforcement officer may transport a child to and from attendant-care shelter care facility or a certified shelter care facility.

SECTION 18. AMENDMENT. Subsection 3 of section 27-20.3-08 of the North Dakota Century Code is amended and reenacted as follows:

3. If the petition is not filed within thirty days from the date of protective custody, the child must be released from shelter care.

SECTION 19. AMENDMENT. Section 27-20.3-09 of the North Dakota Century Code is amended and reenacted as follows:

27-20.3-09. Place of shelter care.

A child alleged to be in need of shelter care may be placed only in:

1. A licensed foster home or a home approved by the court;
2. A shelter care or certified shelter care facility operated by a licensed child welfare agency; or
3. Any other suitable place or facility, including a medical facility for the treatment of mental illness, alcoholism, or drug addiction, designated by the court.

SECTION 20. AMENDMENT. Subsection 1 of section 27-20.3-10 of the North Dakota Century Code is amended and reenacted as follows:

1. If a child is brought before the court or delivered to a shelter care or certified shelter care facility ~~designated by the court, the director, an intake officer, or other authorized officer of the court or human service zone~~ immediately shall make an investigation and release the child unless it appears that the child's shelter care is warranted or required under section 27-20.3-07. If there is reason to believe the child may be an Indian child and the federal Indian Child Welfare Act of 1978 [25 U.S.C. 1901 through 1963] may apply, the judge or referee may order the child be placed under the custody of the human service zone for a maximum of thirty days from the date of the emergency removal upon finding:
 - a. A return of the child to the parent or Indian custodian would subject the child to imminent danger or harm;
 - b. The court has been unable to transfer the proceeding to the appropriate Indian tribe; or
 - c. Holding an adjudicatory hearing is not possible.

SECTION 21. AMENDMENT. Subsection 1 of section 27-20.3-15 of the North Dakota Century Code is amended and reenacted as follows:

1. If a child is found to be a child in need of protection, the court may make any of the following orders of disposition best suited to the protection and physical, mental, and moral welfare of the child:
 - a. Permit the child to reside with the child's parents, guardian, or other custodian, subject to conditions and limitations as the court prescribes, including supervision as directed by the court for the protection of the child.
 - b. Subject to conditions and limitations as the court prescribes, transfer temporary legal custody to any of the following:

- (1) An agency or other private organization licensed or otherwise authorized by law to receive and provide care for the child.
 - (2) The director of the human service zone ~~or other public agency authorized by law~~ to receive and provide care for the child.
- c. Require the parents, guardian, or other custodian to participate in treatment.
 - d. Appoint a fit and willing relative or other appropriate individual as the child's legal guardian under section 27-20.1-11.
 - e. 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, establish, by order, some other planned permanent living arrangement.

SECTION 22. AMENDMENT. Subsection 4 of section 27-20.3-16 of the North Dakota Century Code is amended and reenacted as follows:

4. If a child is in need of continued foster care services as determined by the human service zone or the department of health and 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 in need of ~~services~~ or protection or delinquent, 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 human service zone or the department of health and 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 the state if the child is not subject to the jurisdiction of the state, 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 27-20.3-18;
 - 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 federal Fostering Connections to Success and Increasing Adoptions Act of 2008 [Pub. L. 110-351] and as set forth by the department of health and human services;
 - h. That the human service zone, as determined by the department of health and human services, or that an agency or tribal council of a recognized Indian reservation in the state, shall continue foster care case management, unless otherwise agreed to or required by the department of health and human services;
 - i. That the human service zone or an agency or tribal council of a recognized Indian reservation in the state must have care and placement responsibility of the child;
 - j. That permanency hearing must be as set forth in section ~~27-20.3-24~~27-20.3-36; and

- k. That there are no grounds to file a petition to terminate parental rights under section 27-20.3-20.

SECTION 23. AMENDMENT. Subsection 5 of section 27-20.3-19 of the North Dakota Century Code is amended and reenacted as follows:

5. In considering whether to involuntarily place an Indian child in foster care or to terminate the parental rights of the parent of an Indian child, the court shall require that a qualified expert witness must be qualified to testify regarding whether the child's continued custody by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child and should be qualified to testify as to the prevailing social and cultural standards of the Indian child's tribe. If the parties stipulate in writing and the court is satisfied the stipulation is made knowingly, intelligently, and voluntarily, the court may accept a declaration or affidavit from a qualified expert witness in lieu of testimony. An individual may be designated by the Indian child's tribe as being qualified to testify to the prevailing social and cultural standards of the Indian child's tribe. The court or any party may request the assistance of the Indian child's tribe or the bureau of Indian affairs office serving the Indian child's tribe in locating individuals qualified to serve as expert witnesses. The social worker regularly assigned to the Indian child may not serve as a qualified expert witness in child-custody proceedings concerning the child. The qualified expert witness should be someone familiar with the particular child and have contact with the parents to observe interaction between the parents, child, and extended family members. The child welfare agency and courts should facilitate access to the family and records to facilitate accurate testimony.

SECTION 24. AMENDMENT. Section 27-20.3-21 of the North Dakota Century Code is amended and reenacted as follows:

27-20.3-21. Petition for termination of parental rights.

1. As used in this section:
 - a. "A finding that the child has been subjected to child abuse or neglect" means:
 - (1) A finding of a child in need of protection made under this chapter; or
 - (2) A conviction of a person, responsible for a child's welfare, for conduct involving the child, under chapter 12.1-16 or sections 12.1-17-01 through 12.1-17-04 or 12.1-20-01 through 12.1-20-08.
 - b. "Compelling reason" means a recorded statement that reflects consideration of:
 - (1) The child's age;
 - (2) The portion of the child's life spent living in the household of a parent of the child;
 - (3) The availability of an adoptive home suitable to the child's needs;
 - (4) Whether the child has special needs; and
 - (5) The expressed wishes of a child age ten or older.
 - c. "Department" means the department of health and human services.
 - d. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department.
2. A petition for termination of parental rights must be prepared, filed, and served upon the parties by the state's attorney. A petition may also be prepared by any other person that is not

the court, including a law enforcement officer, who has knowledge of the facts alleged or is informed and believes that they are true. A petition prepared by any person other than a state's attorney may not be filed unless the director or the court has determined the filing of the petition is in the best interest of the public and the child.

3. Except as provided in subsection 4, a petition for termination of parental rights must be filed:
 - a. If the child has been in foster care, in the custody of the department, human service zone, or, in cases arising out of an adjudication by the court of a child ~~in need of services~~ in a delinquency case, the division of juvenile services, for at least four hundred fifty out of the previous six hundred sixty nights;
 - b. Within sixty days after the court has found the child to be an abandoned infant; or
 - c. Within sixty days after the court has convicted the child's parent of one of the following crimes, or of an offense under the laws of another jurisdiction which requires proof of substantially similar elements:
 - (1) A violation of section 12.1-16-01, 12.1-16-02, or 12.1-16-03, or subsection 1 of section 14-09-22 in which the victim is another child of the parent;
 - (2) Aiding, abetting, attempting, conspiring, or soliciting a violation of section 12.1-16-01, 12.1-16-02, or 12.1-16-03 in which the victim is a child of the parent; or
 - (3) A violation of section 12.1-17-02 in which the victim is a child of the parent and has suffered serious bodily injury.
4. A petition for termination of parental rights need not be filed if:
 - a. The child is being cared for by a relative approved by the ~~department~~ and human service zone;
 - b. The ~~department~~ or human service zone has documented in the case plan a compelling reason for determining that filing such a petition would not be in the child's best interests and has notified the court that the documentation is available for review by the court; or
 - c. The ~~department~~ or the human service zone has determined:
 - (1) Reasonable efforts to preserve and reunify the family are required under section 27-20.3-26 to be made with respect to the child;
 - (2) The case plan provides such services are necessary for the safe return of the child to the child's home; and
 - (3) Such services have not been provided consistent with time periods described in the case plan.
5. For purposes of subsection 3, a child in foster care entered foster care on the earlier of:
 - a. The date of the court's order if the court:
 - (1) Made a finding that the child has been subjected to child abuse or neglect;
 - (2) Determined that it is unsafe or contrary to the welfare of the child to remain in the home; and
 - (3) Granted custody of the child to the ~~department~~ or human service zone or, in cases arising out of an adjudication by the court that a child is in need of services, the division of juvenile services; or

- b. The date that is sixty days after:
 - (1) The date of a hearing under section 27-20.3-10 which results in maintaining a child in shelter care;
 - (2) The date of an order in a dispositional hearing under which a child is placed in foster care; or
 - (3) The date a child is placed in foster care voluntarily and with the consent of the child's parent.
- 6. For purposes of subsection 3, a child leaves foster care at the time:
 - a. The court enters an order:
 - (1) Denying a petition to grant care, custody, and control of the child to the human service zone or the division of juvenile services;
 - (2) Terminating an order that granted custody of the child to the human service zone or the division of juvenile services; or
 - (3) Appointing a legal guardian under chapter 27-20.1;
 - b. The court order under which the child entered foster care ends by operation of law;
 - c. The child is placed in a parental home by the court or a legal custodian other than the division of juvenile services and the legal custodian lacks authority to remove the child without further order of the court; or
 - d. The child is placed in a parental home by the division of juvenile services.
- 7. For purposes of subsection 3, a child is not in foster care on any night during which the child is:
 - a. On a trial home visit;
 - b. Receiving services at the youth correctional center pursuant to an adjudication of delinquency; or
 - c. Absent without leave from the place in which the child was receiving foster care.

SECTION 25. AMENDMENT. Section 27-20.3-26 of the North Dakota Century Code is amended and reenacted as follows:

27-20.3-26. Limitations of time on orders of disposition.

- 1. An order terminating parental rights is without limit as to duration.
- 2. An order of disposition requiring services for the family without the removal of custody may not exceed twelve months from disposition unless extended by the court. The human service zone may request two extensions of up to four months each for the family to complete the treatment goals of the court order and the case plan.
- 3. Except as provided in subsection 2, an order of disposition pursuant to which a child is placed in foster care may not continue in force for more than twelve months after the child is considered to have entered foster care. Before the extension of any court order limited under this subsection, a permanency hearing must be conducted. Any other order of disposition may not continue in force for more than twelve months.

4. Unless the requirements of a permanency hearing were fulfilled at the hearing, a permanency hearing must be held within thirty days of the court's determination that reasonable efforts to return the child home are not required.
5. Except after a termination of parental rights finding, the court may terminate an order of disposition before the expiration of the order or extend its duration for further periods. An order of extension may be made if:
 - a. A hearing is held before the expiration of the order upon motion of a party or on the court's own motion;
 - b. Reasonable notice of the hearing and opportunity to be heard are given to the parties affected;
 - c. The court finds the extension is necessary to accomplish the purposes of the order extended; and
 - d. The extension does not exceed twelve months from the expiration of an order limited by subsection 3 or two years from the expiration of any other limited order.
- 5.6. The court may terminate an order of disposition or extension before its expiration, on or without an application of a party, if it appears to the court the purposes of the order have been accomplished. If a party may be affected adversely by the order of termination, the order may be made only after reasonable notice and opportunity to be heard have been given to the party.
- 6.7. Except as provided in subsection 1, when the child attains the age of ~~twentyeight~~ eighteen years, all orders affecting the child who is the subject of a child in need of protection order then in force terminate and the child is discharged from further obligation or control.
- 7.8. If an order of disposition is made with respect to a child under the age of ten years pursuant to which the child is placed in foster care without terminating parental rights and the parent and child relationship, the court, before extending the duration of the order, shall determine upon the extension hearing whether the child is adoptable and whether termination of those rights and that relationship is warranted under section ~~27-20.3-03.1~~ 27-20.3-20 and is in the best interest of the child. In that case the notice of the extension hearing also must inform the parties affected that the court will determine whether the child is adoptable and whether termination of their parental rights and the parent and child relationship is warranted and in the best interest of the child and that a further order of disposition may be made by the court placing the child with a view to adoption. If the court determines the child is adoptable and termination of parental rights and the parent and child relationship is warranted and is in the best interest of the child, the court shall make a further order of disposition terminating those rights and that relationship and committing the child under section ~~27-20.3-09~~ 27-20.3-24.

SECTION 26. AMENDMENT. Section 27-20.4-01 of the North Dakota Century Code is amended and reenacted as follows:

27-20.4-01. Definitions.

1. "Accountability" means that after a child is determined to have committed delinquent behavior, by admission or adjudication, the child is held responsible for the behavior through individualized and structured consequences or sanctions for the loss, damage, or injury suffered and proportionate to the offense.
2. "Arrest" means a taking into custody of a child by law enforcement in the manner authorized by law to answer for the commission of a delinquent offense.

3. "Attendant care" is a nonsecure holdover site for delinquent children ~~or children in need of services who have been picked up by law enforcement and need constant short-term supervision on a preadjudicatory basis or as an alternative to detention.~~
4. "Certified shelter care" means a nonsecure permanent dwelling operated by an agency certified by the department of health and human services, where employees offer safe shelter, food, and a structured routine, and which is available twenty-four hours a day to a resident in need of emergency placement, not to exceed seven days, unless otherwise approved by the department.
5. "Child" means an individual who is:
 - a. Under the age of eighteen years and is not married; or
 - b. Under the age of twenty years with respect to a delinquent act committed while under the age of eighteen years and not married.
- ~~5.6.~~ "Community-based program" means a nonresidential program.
- ~~6.7.~~ "Custodian" means a person, other than a parent or legal guardian, which stands in loco parentis to the child and a person that has been given legal custody of the child by order of a court.
- ~~7.8.~~ "Delinquent act" means an act designated a crime under the law, including local ordinances or resolutions of this state, or of another state if the act occurred in that state, or under federal law.
- ~~8.9.~~ "Delinquent child" means a child who has committed a delinquent act and is in need of treatment or rehabilitation or is a child subject to proceedings arising under the interstate compact on juveniles.
- ~~9.10.~~ "Detention" means a physically secure facility with locked doors. The term does not include shelter care, attendant care, or home confinement.
- ~~10.11.~~ "Director" means the director of juvenile court services.
- ~~11.12.~~ "Dispositional stage" means any proceeding after adjudication for a delinquent offense.
- ~~12.13.~~ "Diversion" means an intervention strategy made by a person with authority which directs the child away from formal court processing to a specifically designed program or activity to hold the child accountable for the actions of the child and prevents further involvement in the formal legal system.
- ~~13.14.~~ "Division" means the division of juvenile services.
- ~~14.15.~~ "Evidence-based" means a program or practice that has had multiple randomized control studies demonstrating the program or practice is effective for a specific population, has been researched, and has been rated as effective by a standardized program evaluation tool.
- ~~15.16.~~ "Facility" means buildings, structures, or systems, including those for essential administration and support, which are used to provide residential treatment for children.
- ~~16.17.~~ "Fit and willing relative or other appropriate individual" means a relative or other individual who has been determined, after consideration of an assessment that includes a criminal history record investigation under chapter 50-11.3, to be a qualified individual under chapters 27-20.1 and 30.1-27, and who consents in writing to act as a legal guardian.
- ~~17.18.~~ "Graduated sanctions" means a calibrated system of sanctions designed to ensure that children face timely and consistent consequences that correspond to the frequency and nature

of a child's noncompliant behaviors, public safety risk, and engagement in supervision and services.

- ~~18-19.~~ "Home" when used in the phrase "to return home" means the abode of the child's parent with whom the child formerly resided.
- ~~19-20.~~ "Home confinement" means predisposition or post-disposition temporary placement of a child in the child's home, or a surrogate home with the consent of the child's parent, guardian, or custodian for supervision.
- ~~20-21.~~ "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department of health and human services.
- ~~21-22.~~ "Incentives" means calibrated system of rewards designed so that children receive immediate and consistent feedback that supports appropriate behavior and follow through with probation conditions.
- ~~22-23.~~ "Informal adjustment" means a meeting held by the director of juvenile court or designee to resolve a low-level delinquent referral and is an alternative to the filing of a petition for formal court processing.
- ~~23-24.~~ "Intensive supervision probation program" means a community-based alternative that provides a higher degree of supervision and use of graduated incentives and sanctions over a child, post-adjudication, to ensure public safety and applies to children who are at high risk to reoffend.
- ~~24-25.~~ "Juvenile court" means the district court of this state.
- ~~25-26.~~ "Juvenile drug court" means a program established by the supreme court which is a post-petition or post-adjudication program aimed at intervening in substance use disorders through intense supervision and participation in recovery services.
- ~~26-27.~~ "Pick up and hold order" means an order of the court to take a child into custody based upon an allegation of delinquency or failure to appear for court, or a determination the child poses a risk to public safety while under court-ordered supervision.
- ~~27-28.~~ "Predisposition assessment" means an investigation, assessment, and written report to the court based on the results of risk and need screening and assessment tools regarding a disposition for a delinquent child.
- ~~28-29.~~ "Proceeding" means any hearing or informal adjustment conducted before a court.
- ~~29-30.~~ "Qualified residential treatment program" means a licensed or approved residence providing an out-of-home treatment placement for children including a trauma-informed model.
- ~~30-31.~~ "Referral" means a written report of alleged delinquent behavior of a child which is received by the director of juvenile court.
- ~~31-32.~~ "Relative" or "kinship relative" means:
- a. The child's grandparent, great-grandparent, sibling, half-sibling, aunt, great-aunt, uncle, great-uncle, nephew, niece, or first cousin;
 - b. An individual with a relationship to the child, derived through a current or former spouse of the child's parent, similar to a relationship described in subdivision a;
 - c. An individual recognized in the child's community as having a relationship with the child similar to a relationship described in subdivision a; or

d. The child's stepparent.

~~32.~~33. "Risk factors" means characteristics and behaviors that, when addressed or changed, affect a child's risk for committing delinquent acts.

~~33.~~34. "Shelter care" means temporary care ~~of a child in physically unrestricted facilities during which a child needs a safe bed outside the home, in a shelter care site or a certified shelter care site managed by an agency or licensed foster care facility.~~

~~34.~~35. "Treatment" means targeting interventions that focus on risk factors, improved mental health, and improved positive youth outcomes.

SECTION 27. AMENDMENT. Section 27-20.4-03 of the North Dakota Century Code is amended and reenacted as follows:

27-20.4-03. Venue.

A proceeding under this chapter may be commenced in the county in which the child resides. ~~If delinquent conduct is alleged, the proceeding is commenced in the county in which the acts constituting the alleged delinquent conduct occurred. If delinquent conduct is alleged in part in one county and in part in another county, the venue is in either of the counties. If it is in the best interest of the child, the case may be commenced in the child's county of residence.~~

SECTION 28. AMENDMENT. Section 27-20.4-04 of the North Dakota Century Code is amended and reenacted as follows:

27-20.4-04. Powers and duties of director of juvenile court.

1. For the purpose of carrying out the objectives and purposes of this chapter and subject to the limitations of this chapter or imposed by the court, a director shall:
 - a. Make investigations, reports, and recommendations to the juvenile court.
 - b. Receive and examine complaints, referrals, and charges of delinquency for the purpose of considering the commencement of proceedings under this chapter.
 - c. Make a determination upon intake of runaway referrals regarding the appropriate manner to handle a child in need of services or a child in need of protection by use of nonjudicial commencement of proceedings under this chapter subject to the interstate compact on juveniles for purposes of compliance with the compact.
 - d. Supervise and assist a child placed on probation for delinquency.
 - e. Make appropriate referrals to other private or public agencies of the community if their assistance appears to be needed or desirable.
 - f. Issue a temporary custody order concerning a child who is referred to the director's supervision or care as a delinquent child. Except as provided by this chapter, a director does not have the powers of a law enforcement officer.
 - g. Take acknowledgments of instruments for the purpose of this chapter.
 - h. Perform all other functions designated by this chapter, under section 27-05-30, or by order of the court, including, if qualified, those of a referee.
 - i. Issue an order to a law enforcement authority to transport a child to and from a specified location.

- j. Receive and examine requests for review of a child's placement at a qualified residential treatment program under the Family First Prevention Services Act [Pub. L. 115-123; 132 Stat. 64; 42 U.S.C. 675].
2. Any of the foregoing functions may be performed in another state if authorized by the court of this state and permitted by the laws of the other state.

SECTION 29. AMENDMENT. Section 27-20.4-05 of the North Dakota Century Code is amended and reenacted as follows:

27-20.4-05. Taking into custody.

1. A child may be taken into custody:
 - a. Pursuant to a pick up and hold order or other order of the court under this chapter;
 - b. Pursuant to the laws of arrest and as authorized after scoring of the detention screening tool; or
 - c. For preadjudicatory supervision in attendant care ~~or~~ shelter care, certified shelter care, or detention.
2. The taking of a child into custody is not an arrest, except for the purpose of determining the validity of the arrest under the Constitution of North Dakota or the United States Constitution.
3. A law enforcement officer shall transport a child if necessary as determined by the court.

SECTION 30. Section 27-20.4-05.1 of the North Dakota Century Code is created and enacted as follows:

27-20.4-05.1. Method of making a delinquency referral to juvenile court.

1. A referral alleging a child has committed a delinquent act may be made to the juvenile court by a law enforcement officer who has reasonable grounds and knowledge of the facts alleged and believes such facts are true.
2. If a child is taken into custody on the alleged delinquent act, the law enforcement officer shall send the referral to the juvenile court within twenty-four hours after the time in which the minor is taken into custody under section 27-20.4-05.
3. A child who commits an infraction or misdemeanor offense on school property may not be referred to the juvenile court unless school interventions have been unsuccessful and documentation is included with the referral indicating which interventions or educational approaches were attempted.
 - a. A school is not required to engage in interventions before referring a case for the following misdemeanor offenses:
 - (1) Drug-related offenses under title 19;
 - (2) Offenses against a person under chapter 12.1-17, 12.1-31.2, or 14-07.1;
 - (3) Sex offenses under chapters 12.1-20, 12.1-27.1, 12.1-27.2, and 12.1-29; and
 - (4) Any offense involving a firearm, weapon, or dangerous weapon as defined in section 62.1-01-01.
 - b. A law enforcement officer may:

- (1) Investigate possible delinquent offenses and conduct occurring at a school, including conducting probable cause searches;
- (2) Consult with school staff about the conduct of a child enrolled in a school;
- (3) Refer a child to the juvenile court for a delinquent offense occurring on school grounds or on school property as allowed by this section;
- (4) Transport a child enrolled in a school to a location permitted by law;
- (5) Take temporary custody of a child in accordance with section 27-20.4-05 or protective custody of a child in accordance with section 27-20.3-06; and
- (6) Protect the safety of students and the school community.

SECTION 31. AMENDMENT. Section 27-20.4-06 of the North Dakota Century Code is amended and reenacted as follows:

27-20.4-06. Detention - Nonsecure care of child.

1. A child taken into custody may not be detained or placed in nonsecure care before the hearing on the petition unless the child's detention or nonsecure care is required to protect the person or property of others or of the child or because the child may abscond or be removed from the jurisdiction of the court or because the child has no parent, guardian, or custodian or other person able to provide supervision and care for the child and return the child to the court if required, or an order for the child's detention or nonsecure care has been made by the court pursuant to this chapter.
2. Law enforcement, juvenile court staff, ~~and~~or division staff shall use a detention screening tool to assure the appropriate use of detention and whether the child is a public safety risk. The juvenile court shall establish the detention screening tool, which must include objective factors to aid in the decision of placement of the child. Law enforcement, court records, and division records must include data on detention screening scores and, if the score does not authorize detention, the explanation for the override resulting in placing the juvenile in detention.
3. The court may place a juvenile in detention ~~before adjudication~~ only if the court finds releasing the child would pose an ~~unreasonable~~unreasonable risk to public safety and that all less restrictive alternatives have been considered.
4. A juvenile may be placed in a secure detention facility if one or more of the following conditions are met:
 - a. The child is alleged to have committed an offense that if committed by an adult would constitute a felony against person, felony weapon, or felony drug distribution;
 - b. The child has a record of failure to appear in court or there is probable cause to believe that the child will flee the jurisdiction of the court;
 - c. The child has violated the terms of detention release on home confinement or electronic monitoring;
 - d. There is oral or written verification that the child is an alleged delinquent child sought for an offense in another jurisdiction or that the child left a juvenile detention facility without authorization;
 - e. The child is an out-of-state runaway subject to the rules of the interstate commission on juveniles;
 - f. The child meets criteria for secure detention on the detention screening tool; or

- g. The child meets criteria for an override on the detention screening tool.
- 5. A child may not be placed in detention ~~by law enforcement or juvenile court, including drug court solely:~~
 - a. Due to a lack of supervision alternatives, service options, or more appropriate facilities;
 - b. Due to the community's inability to provide treatment or services;
 - c. Due to a lack of supervision in the home or community;
 - d. In order to allow a parent, guardian, or legal custodian to avoid his or her legal responsibility;
 - e. Due to a risk of the juvenile's self-harm;
 - f. In order to attempt to punish, treat, or rehabilitate the child;
 - g. Due to a request by a victim, law enforcement, or the community; or
 - h. In order to permit more convenient administrative access to the juvenile.
- 6. Alternatives to secure detention may be utilized to include home confinement, electronic monitoring, and parental or guardian supervision if the court determines there is no unreasonable risk to public safety.
- 7. A child placed in detention must have a mental health and trauma screening tool completed by the juvenile detention center or by juvenile court upon entry and provide that information to the juvenile court before release or detention hearing.

SECTION 32. AMENDMENT. Section 27-20.4-08 of the North Dakota Century Code is amended and reenacted as follows:

27-20.4-08. Place of detention.

- 1. A child alleged to be delinquent may be detained only in:
 - ~~4.~~ a. A licensed foster home or a home approved by the court;
 - ~~2.~~ b. A facility operated by a licensed child welfare agency;
 - ~~3.~~ c. A detention home or center for delinquent children which is under the direction or supervision of the court or other public authority or of a private agency approved by the court:
 - a. ~~Any or any~~ other suitable place or facility, including a medical facility for the treatment of mental illness, alcoholism, or drug addiction, designated by the court; ~~or~~
 - b. ~~A jail or other facility for the detention of adults only if the facility is not available, the detention is in a room separate and removed from those for adults, it appears to the satisfaction of the court, the director, or designee, that public safety and protection reasonably require detention, and it is so authorized.~~
- 2. A child alleged or adjudicated delinquent, who has not reached the age of eighteen, may not be held in an adult jail or correctional facility, adult lockup, or court holding facility.

SECTION 33. AMENDMENT. Section 27-20.4-09 of the North Dakota Century Code is amended and reenacted as follows:

27-20.4-09. Release from detention or nonsecure care - Hearing - Conditions of release.

1. If a child is brought before the court or delivered to a detention, attendant care, or nonsecure care facility designated by the court, the director, the intake officer, or other authorized officer of the court immediately shall make an investigation and release the child unless it appears that the child's detention is warranted or required under section 27-20.4-05.
2. Reasonable notice of the release from detention must be provided to any victim as required by subsection 19 of section 12.1-34-02.
3. If the child is not released, reasonable notice, either oral or written, stating the time, place, and purpose of the detention or shelter care must be given to the child and, if able to be found, to the child's parents, guardian, or other custodian. If the child is not represented by counsel at a proceeding, the court shall inform the child of the right to counsel, regardless of income. Before the commencement of the hearing, the court shall inform the child's parents, legal guardian, or custodian of the right to counsel at public expense at the dispositional stage if the parent, guardian, or custodian applies and is determined to be indigent and of the child's right to remain silent with respect to any allegations of delinquent conduct.
 - a. If the child is not released from detention, a judge or referee shall hold a detention hearing within twenty-four hours after the time the child is placed in detention, excluding weekends or legal holidays, to determine whether there is probable cause to believe the child has committed the delinquent act alleged, and whether the child's detention is required under section 27-20.4-05. In determining whether a child requires detention, the court shall consider the results of the detention screening tool.
 - b. If the child is not released from attendant care or nonsecure care, a judge or referee shall hold a hearing promptly and not later than ninety-six hours after the child is placed in nonsecure care to determine whether there is probable cause to believe the child has committed a delinquent act and whether the child's shelter care is required.
4. If the child is not released and a parent, guardian, or custodian has not been notified of the hearing, did not appear or waive appearance at the hearing, and files an affidavit showing these facts, the court shall rehear the matter without unnecessary delay and order the child's release, unless it appears from the hearing that the child's detention is required under section 27-20.4-05.
5. If the parents cannot be found ~~or fail to appear~~ for the detention or nonsecure care hearing and the child does not pose a substantial risk to the community and needs~~does not need to be detained~~, the human service zone is notified and a child in need of protection or ~~services~~shelter care hearing is held.
6. If it appears that any child being held in detention, attendant care, or shelter care nonsecure care may have an intellectual or developmental disability, the court or detention personnel shall refer the child to the department of health and human services for an eligibility determination for intellectual or developmental disabilities program management services and a level of care assessment and the results must be filed with the court upon completion. The department of health and human services shall provide status updates to the court within the time required by the court.
7. If it appears that any child being held in detention or nonsecure care appears to have a serious and persistent mental illness, the detention staff or court intake officer shall request that the court order a diagnostic assessment that includes a recommendation for necessary level of care that must be conducted within forty-eight hours after the court's order. The person conducting the diagnostic assessment shall file the results with the court.
8. If an individual who is or appears to be a child is received at a jail facility or other facility for the detention of adult offenders or individuals charged with a crime, the official in charge of the

facility immediately shall inform the court and bring the individual before the court upon request or deliver the individual to a detention or nonsecure facility designated by the court.

9. If a case is transferred to ~~another adult~~ court for criminal prosecution, ~~thea child who has not reached the age of eighteen may not be transferred to the appropriate officer or detentionan adult jail or correctional facility, adult lockup, or court holding facility in accordance with the law governing the detention of persons charged with a crime. A child who has not reached the age of eighteen may continue to be held in a juvenile detention facility during the pendency of the criminal prosecution but only as ordered by the court.~~

SECTION 34. AMENDMENT. Section 27-20.4-10 of the North Dakota Century Code is amended and reenacted as follows:

27-20.4-10. Diversion.

1. Before an informal adjustment is held or a petition is filed, the director of juvenile court or designee may determine that no further action is required or impose conditions in lieu of further proceedings for the conduct and control of the child with a diversion to a community-based program or service.
2. A child referred to the court may be considered for diversion if any of the following criteria are met:
 - a. The referral is for a delinquent act that is not an offense requiring a notification to be sent to the department of transportation;
 - b. The referral is for a delinquent act that has not been previously diverted more than twice by the juvenile court within the last twelve months; or
 - c. The referral is not an offense that could require sex offender registration.
3. ~~Effective August 1, 2023, except for a drug-related offense, simple assault under chapter 12.1-17-01, or domestic violence under chapter 12.1-17-01.2, a child who commits an infraction or misdemeanor offense on school grounds during hours of operation may not be referred to the juvenile court.~~

SECTION 35. AMENDMENT. Subsection 5 of section 27-20.4-11 of the North Dakota Century Code is amended and reenacted as follows:

5. An informal agreement may not extend beyond six months from the day the agreement was agreed upon. An extension may be granted by the court for an additional period not to exceed six months. An extension may not authorize the detention of the child if not otherwise permitted by this chapter. ~~If the child admits to driving or being in actual physical control of a vehicle in violation of section 39-08-01 or an equivalent ordinance, the child may be required to pay a fine as a condition imposed under this section.~~ For a driving-related offense, the agreement may include a restriction on the child's driving privileges as allowed under section 27-20.4-19.

SECTION 36. AMENDMENT. Section 27-20.4-14 of the North Dakota Century Code is amended and reenacted as follows:

27-20.4-14. Conduct of hearings.

1. Hearings under this chapter must be conducted by the court without a jury, in an informal but orderly manner and separately from other proceedings not included in section 27-20.2-03 and in accordance with the North Dakota Rules of Juvenile Procedure.
2. If the hearing has not been held within the time limit, or any extension of the time limit, required by the North Dakota Rules of Juvenile Procedure, the petition must be dismissed.

3. The state's attorney shall present the evidence in support of any allegations of the petition not admitted and otherwise conduct the proceedings on behalf of the state.
4. Except for a diversion under section 27-20.4-10 or an informal ~~adjustments~~ adjustment under section ~~27-20.4-10~~ 27-20.4-11, the proceedings must be recorded by stenographic notes or by electronic, mechanical, or other appropriate means.
5. The general public must be excluded from all hearings under this chapter. During hearings, only the parties, the parties' counsel, witnesses, victims, and any other persons the court finds have a proper interest in the proceedings may be admitted by the court. The court may temporarily exclude the child or other person from the hearing if, after being warned by the court that disruptive conduct will cause removal from the courtroom, the child or other person persists in conduct that justifies removal from the courtroom.

SECTION 37. AMENDMENT. Section 27-20.4-17 of the North Dakota Century Code is amended and reenacted as follows:

27-20.4-17. Disposition of a delinquent child.

1. If the child is found to be a delinquent child, the court shall make findings and include in the order of disposition any actions or steps necessary to ensure:
 - a. The child receives the treatment or rehabilitation the court deems most appropriate;
 - b. Repairing harm caused to the victim or community; and
 - c. Safety of the community.
2. If the child is found to be a delinquent child, the court may order probation with conditions best suited to the child's individual need for treatment, rehabilitation, and welfare.
3. ~~If the court cannot find a less restrictive alternative, the~~ The court may commit a child to the division of juvenile services. ~~A risk and needs assessment must be the basis for the determination of commitment to the division of juvenile services. The court only may commit a child to the division for a new delinquent offense. Unless all probation extensions have been exhausted, the child's risk and treatment needs continue to be high and the child is refusing to comply with the terms of probation, the court may not commit a child for a violation of the terms of probation.~~
4. The court may:
 - a. Order the child to make monetary restitution to the victim of the offense or to complete a specified number of hours of community service as determined by the court, or both;
 - b. Order the periodic testing for the use of illicit drugs or alcohol; or
 - c. Order the child's participation in a juvenile drug court program.
5. If the delinquent act committed by the child was a sexual offense, the court shall ensure the child is assessed in a timely manner, not to exceed thirty days, with age-appropriate social assessments to determine the appropriate level of required treatment.

SECTION 38. AMENDMENT. Section 27-20.4-18 of the North Dakota Century Code is amended and reenacted as follows:

27-20.4-18. Probation of a delinquent child.

1. A probation order entered by the court must place the child under the supervision of the director.

2. The conditions of probation must be specifically stated in writing and provided to the child.
3. Probation conditions must relate to the individual child's risk and needs assessment and the adjudicated offense.
4. Violations of probation conditions may be sanctioned by the juvenile director, or designee utilizing graduated sanctions ~~and incentives~~.
5. Formal probation orders may not exceed twelve months from disposition.
6. The court may release a child from probation or modify the terms and conditions of the probation at any time, but the court shall release a child who has complied satisfactorily with the terms, conditions, and duration of probation and the court shall terminate the court's jurisdiction.
7. The director of juvenile court shall establish procedures regarding graduated sanctions and incentives. The graduated sanctions program may include a program of home confinement or electronic monitoring but may not include a secure detention stay.
8. The director or assigned probation court officer may request two extensions up to four months each ~~or one extension up to four months for intensive supervised probation programs~~ for failure to comply or meet the treatment goals of the court order and case plan.
9. Probation may not be extended solely to collect restitution. If probation is terminated with restitution owing the victim, court procedure governs continued collection or motion for civil judgment against the parents, if appropriate.

SECTION 39. AMENDMENT. Section 27-20.4-25 of the North Dakota Century Code is amended and reenacted as follows:

27-20.4-25. Law enforcement and correctional facility records.

1. Unless a charge of delinquency is transferred for criminal prosecution under section 27-20.4-20, the interest of national security requires, or the court otherwise orders in the interest of the child, the law enforcement and correctional facility records and files of a child alleged or found to be delinquent ~~or in need of services or protection~~ are not open to public inspection; but inspection of these records and files is permitted by:
 - a. A juvenile court having the child before the court in any proceeding;
 - b. Counsel for a party to the proceeding;
 - c. The officers of public institutions or agencies to whom the child is or may be committed;
 - d. Law enforcement officers of other jurisdictions if necessary for the discharge of official duties of the officers;
 - e. A court in which the child is convicted of a criminal offense for the purpose of a presentence report or other dispositional proceeding, or by officials of correctional facilities to which the child is detained or committed, or by the parole board, the governor, or the pardon advisory board, if one has been appointed, in considering the child's parole or discharge or in exercising supervision over the child;
 - f. The professional staff of the uniform crime victims compensation program if necessary for the discharge of the duties of the professional staff pursuant to chapter 54-23.4; and
 - g. A superintendent, assistant superintendent, principal, or designee of the school in which the child is currently enrolled or of a school in which the child wishes to enroll.

2. Notwithstanding that law enforcement records and files of a child alleged or found to be delinquent ~~or in need of services or protection~~ are not open to public inspection, this section does not limit the release of general information that does not identify the identity of the child.

SECTION 40. AMENDMENT. Subsection 1 of section 27-20.4-26 of the North Dakota Century Code is amended and reenacted as follows:

1. If a child is subject to nonjudicial adjustments under this chapter ~~and/or~~ is found to be delinquent under section 27-20.4-16, ~~or is found to be in need of services or protection under section 27-20.3-16,~~ the juvenile court may require a substance use screening and subsequent programming to appropriately address:
 - a. A child who is found to have violated section 39-08-01 or equivalent; or
 - b. If a child is found to have an alcohol concentration of at least two one-hundredths of one percent by weight at the time of performance of a test within two hours after driving or being in physical control of a motor vehicle.

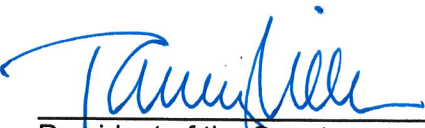
SECTION 41. AMENDMENT. Section 27-20.4-27 of the North Dakota Century Code is amended and reenacted as follows:

27-20.4-27. Tribal juvenile services cooperative agreement — ~~Report to legislative management. (Expired effective July 31, 2023)~~


4. The department of corrections and rehabilitation, through the division of juvenile services; the supreme court, through the office of the state court administrator; and the Indian affairs commission may negotiate and enter a memorandum of understanding with the tribal government of a federally recognized Indian tribe in the state for the purpose of accepting and providing for, in accordance with this chapter, the treatment and rehabilitation of tribal juveniles who have been adjudicated in tribal court under tribal or federal laws. Under the pilot program and terms of a memorandum of understanding:

- ~~a-1.~~ The tribal government, the department of corrections and rehabilitation, and the juvenile court may exchange information relevant to the treatment and rehabilitation needs of a tribal juvenile and the juvenile's family, including tribal court orders, medical and psychiatric reports, law enforcement reports, and other information pertinent to the referral;
 - ~~b-2.~~ The juvenile court and the department of corrections and rehabilitation shall provide services based on the individualized need of each tribal juvenile referred to and accepted by the tribal court, juvenile court, and department of corrections and rehabilitation;
 - ~~c-3.~~ The juvenile court and the department of corrections and rehabilitation shall maintain regular contact with the tribe regarding each tribal juvenile who has been placed in the supervision of the respective agency; and
 - ~~d-4.~~ The juvenile court and the department of corrections and rehabilitation may limit the number of tribal juveniles accepted based on criteria developed by the juvenile court and the availability of state resources and services.
2. ~~Before July first of each even-numbered year, the department of corrections and rehabilitation, the juvenile court, and the Indian affairs commission shall report and make recommendations to the legislative management on the status, effectiveness, performance, and sustainability of a memorandum of understanding established under this section.~~


Speaker of the House


President of the Senate


Chief Clerk of the House


Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1137.

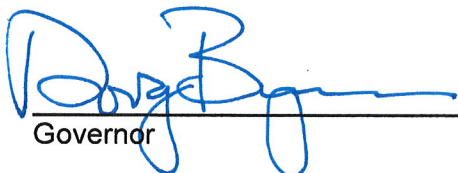
House Vote: Yeas 84 Nays 6 Absent 4

Senate Vote: Yeas 46 Nays 0 Absent 1


Chief Clerk of the House

Received by the Governor at 3:00 PM. on April 7, 2023.

Approved at 12:18 PM. on April 11, 2023.


Governor

Filed in this office this 12th day of April, 2023,
at 12:03 o'clock P. M.


Secretary of State