

**Sixty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 5, 2021**

SENATE BILL NO. 2002
(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the judicial branch; to amend and reenact sections 14-08.1-08, 14-09-08.1, 14-09-08.2, 14-09-09.29, 14-09-26, 27-02-02, and 27-05-03, and subsection 2 of section 50-09-02.1 of the North Dakota Century Code, and section 50-25.1-11.1 of the North Dakota Century Code, as amended in section 2 of Senate Bill No. 2131, as approved by the sixty-seventh legislative assembly, relating to clerk of court responsibilities regarding child support, salaries of justices of the supreme court, salaries of district court judges, and criminal history record checks for children's advocacy centers; to provide for a report; to provide a statement of legislative intent; and to provide an exemption.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the judicial branch for the purpose of defraying the expenses of the judicial branch for the biennium beginning July 1, 2021, and ending June 30, 2023, as follows:

Subdivision 1.

SUPREME COURT

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$11,338,720	(\$135,814)	\$11,202,906
Operating expenses	2,705,762	(355,668)	2,350,094
Guardianship monitoring program	<u>283,042</u>	<u>3,055</u>	<u>286,097</u>
Total all funds	\$14,327,524	(\$488,427)	\$13,839,097
Less estimated income	<u>0</u>	<u>0</u>	<u>0</u>
Total general fund	\$14,327,524	(\$488,427)	\$13,839,097

Subdivision 2.

DISTRICT COURTS

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$73,242,268	\$2,853,541	\$76,095,809
Operating expenses	20,396,902	(449,529)	19,947,373
Capital assets	0	2,000,000	2,000,000
Judges' retirement	<u>280,332</u>	<u>(143,086)</u>	<u>137,246</u>
Total all funds	\$93,919,502	\$4,260,926	\$98,180,428
Less estimated income	<u>1,659,596</u>	<u>(902,633)</u>	<u>756,963</u>
Total general fund	\$92,259,906	\$5,163,559	\$97,423,465

Subdivision 3.

JUDICIAL CONDUCT COMMISSION AND DISCIPLINARY BOARD

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Judicial conduct commission and	<u>\$1,250,962</u>	<u>\$66,519</u>	<u>\$1,317,481</u>

disciplinary board			
Total all funds	\$1,250,962	\$66,519	\$1,317,481
Less estimated income	<u>482,701</u>	<u>19,799</u>	<u>502,500</u>
Total general fund	\$768,261	\$46,720	\$814,981

Subdivision 4.

BILL TOTAL

	Base Level	Adjustments or Enhancements	Appropriation
Grand total general fund	\$107,355,691	\$4,721,852	\$112,077,543
Grand total special funds	<u>2,142,297</u>	<u>(882,834)</u>	<u>1,259,463</u>
Grand total all funds	\$109,497,988	\$3,839,018	\$113,337,006
Full-time equivalent positions	363.00	(1.00)	362.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-EIGHTH LEGISLATIVE ASSEMBLY. The following amounts reflect one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the 2021-23 biennium one-time funding items included in section 1 of this Act:

One-Time Funding Description	2019-21	2021-23
Juvenile case management system	\$0	\$2,000,000
Copy machines	82,500	0
Audio and visual equipment	64,852	0
Law library remodel	<u>970,000</u>	<u>0</u>
Total all funds	\$1,117,352	\$2,000,000
Less estimated income	<u>970,000</u>	<u>0</u>
Total general fund	\$147,352	\$2,000,000

The 2021-23 biennium one-time funding amounts are not a part of the entity's base budget for the 2023-25 biennium. The supreme court shall report to the appropriations committees of the sixty-eighth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 3. APPROPRIATION. There are appropriated any funds received by the supreme court, district courts, and judicial conduct commission and disciplinary board, not otherwise appropriated, pursuant to federal acts and private gifts, grants, and donations for the purpose as designated in the federal acts or private gifts, grants, and donations for the period beginning July 1, 2021, and ending June 30, 2023.

SECTION 4. EXEMPTION - TRANSFERS. Notwithstanding section 54-16-04, the director of the office of management and budget shall transfer appropriation authority between line items in section 1 of this Act as requested by the supreme court upon a finding by the court that the nature of the duties of the court and its staff requires the transfers to carry on properly the functions of the judicial branch of government.

SECTION 5. AMENDMENT. Section 14-08.1-08 of the North Dakota Century Code is amended and reenacted as follows:

14-08.1-08. Certification of records.

~~The clerk of court and any~~An authorized agent of the child support agency, in any circumstance or proceeding requiring proof of the contents of the official records of the state regarding any information maintained in the state case registry of the automated data processing system established under section 50-09-02.1, may certify the content of those records. A certification provided under this section is prima facie evidence of the contents of those records.

SECTION 6. AMENDMENT. Section 14-09-08.1 of the North Dakota Century Code is amended and reenacted as follows:

14-09-08.1. Support payments - Payment to state disbursement unit - Transfer of proceedings for enforcement of decree - Procedures upon failure to pay.

1. In any action in which a court orders that payments for child support be made, the court shall provide in its order that the payments be paid to the state disbursement unit for remittance to the obligee.
2. a. Each party subject to the order shall immediately inform the state disbursement unit of the party's:
 - (1) Social security number;
 - (2) Residential and mailing addresses and any change of address;
 - (3) Telephone number;
 - (4) Motor vehicle operator's license number;
 - (5) Employer's name, address, and telephone number;
 - (6) Electronic mail address; and
 - (7) Change of any other condition which may affect the proper administration of this chapter.
- b. Each order for payment of child support must notify each party of the requirements in subdivision a and require the party to provide the information within ten days from the date of the order or ten days after any change in the information.
- c. In any subsequent child support enforcement or modification action between the parties, upon sufficient showing that diligent effort has been made to ascertain the location of a party, the court shall deem due process requirements for notice and service to have been met, with respect to the noticed party, by delivery of written notice to the most recent residential or employer address provided by the noticed party pursuant to this subsection.
- d. The requirements of this subsection continue in effect until all child support obligations have been satisfied with respect to each child subject to the order.
3. Whenever there is failure to make the payments as required, the clerk of court ~~may, and~~ upon request of the obligee or child support agency, shall, send notice of the arrears by first-class mail, with affidavit of service, to the person required to make the payments, or request a district judge of the judicial district to issue a citation for contempt of court against the person who has failed to make the payments. The citation may be served on that person by first-class mail with affidavit of service to the person's last-known address.
4. The court of its own motion or on motion of the child support agency or the state's attorney of the county of venue, the county of the recipient's residence, or the county of the obligor's residence may cause a ~~certified copy of any~~ support order in the action to be transcribed and filed with the clerk of the district court of any county in this state in which the obligee or the obligor may reside from time to time. Thereafter, this section applies as if the support order were issued by the district court of the county to which the support order is transcribed. No fee may be charged for transcribing or filing a ~~certified copy of any~~ support order under this section.

SECTION 7. AMENDMENT. Section 14-09-08.2 of the North Dakota Century Code is amended and reenacted as follows:

14-09-08.2. Support for children after majority - Retroactive application.

1. A judgment or order requiring the payment of child support until the child attains majority continues as to the child until the end of the month during which the child is graduated from high school or attains the age of nineteen years, whichever occurs first, if:
 - a. The child is enrolled and attending high school and is eighteen years of age ~~prior to~~before the date the child is expected to be graduated; and
 - b. The child resides with the person to whom the duty of support is owed.
2. A judgment or order may require payment of child support after majority under substantially the circumstances described in subsection 1.
3. The person to whom the duty of support is owed under either subsection 1 or 2 may file an affidavit with the district court and provide a copy to the child support agency stating that the requirements of subsection 1 are met, the school in which the child is enrolled, and the anticipated date of the child's graduation. Upon filing of the affidavit, the child support resumes pursuant to subsection 1 or pursuant to the terms of a judgment or order described in subsection 2. A fee may not be charged for filing such an affidavit.
4. ~~The clerk of court~~child support agency shall serve the affidavit by first-class mail upon the person owing the duty of support. If at any time thereafter the person owing the duty of support files a motion with the court, supported by that person's affidavit that the child is no longer enrolled in or attending high school or is no longer residing with the person to whom the duty of support is owed, the court shall determine if the child is enrolled in and attending high school and residing with the person to whom the duty of support is owed and shall enter an order accordingly.
5. This section applies to child support orders concerning children described in subsection 1 or 2, regardless of the date of entry of the order.
6. This section does not preclude the entry of an order for child support which continues after the child reaches age eighteen, if the parties agree, or if the court determines the support to be appropriate.
7. For purposes of this section:
 - a. A child is treated as being in school during summer vacation if the child was enrolled in and attending school and did not graduate from high school at the end of the school period immediately preceding the summer vacation; and
 - b. A child who is currently enrolled in school is not considered to have graduated, even if all required coursework and examinations have been completed, until the ceremony is held by the school to commemorate the child's graduation.

SECTION 8. AMENDMENT. Section 14-09-09.29 of the North Dakota Century Code is amended and reenacted as follows:

14-09-09.29. Coordination of income withholding activities and child support case management.

The child support agency ~~shall assume responsibility~~is responsible for administration of income withholding, managing accrual and termination dates and payment ledger adjustments on the automated system established under section 50-09-02.1, and the receipt and disbursement of child support payments. This section also applies to an order that does not require the payment of child

support but requires the payment of spousal support, if the court orders the spousal support be paid through the state disbursement unit or be enforced through income withholding.

SECTION 9. AMENDMENT. Section 14-09-26 of the North Dakota Century Code is amended and reenacted as follows:

14-09-26. Modification of existing child support orders.

1. A child support order issued under any provision of this code and in effect on October 1, 1998, is deemed to require payment to the state disbursement unit after September 30, 1998.
2. A child support order issued under any provision of this code after September 30, 1998, must require payment to the state disbursement unit.
3. ~~A payment of child support received by a clerk of court after September 30, 1998, is deemed to be a payment to the state disbursement unit. A clerk of court receiving such child support payment after September 30, 1998, shall promptly remit or transfer that payment to the state disbursement unit.~~

SECTION 10. AMENDMENT. Section 27-02-02 of the North Dakota Century Code is amended and reenacted as follows:

27-02-02. Salaries of justices of supreme court.

The annual salary of each justice of the supreme court is ~~one hundred fifty-nine thousand four hundred nine dollars through June 30, 2020~~one hundred sixty-five thousand eight hundred forty-five dollars through June 20, 2022, and ~~one hundred sixty-three thousand three hundred ninety-four~~one hundred sixty-nine thousand one hundred sixty-two dollars thereafter. The chief justice of the supreme court is entitled to receive an additional ~~four thousand five hundred eight dollars per annum through June 30, 2020~~four thousand six hundred ninety dollars per annum through June 30, 2022, and ~~four thousand six hundred twenty-one~~four thousand seven hundred eighty-four dollars per annum thereafter.

SECTION 11. AMENDMENT. Section 27-05-03 of the North Dakota Century Code is amended and reenacted as follows:

27-05-03. Salaries and expenses of district judges.

The annual salary of each district judge is ~~one hundred forty-six thousand two hundred sixty-nine dollars through June 30, 2020~~one hundred fifty-two thousand one hundred seventy-five dollars through June 30, 2022, and ~~one hundred forty-nine thousand nine hundred twenty-six~~one hundred fifty-five thousand two hundred nineteen dollars thereafter. Each district judge is entitled to travel expenses, including mileage and subsistence while engaged in the discharge of official duties outside the city in which the judge's chambers are located. The salary and expenses are payable monthly in the manner provided by law. A presiding judge of a judicial district is entitled to receive an additional ~~four thousand one hundred fifty-six dollars per annum through June 30, 2020~~four thousand three hundred twenty-four dollars per annum through June 30, 2022, and ~~four thousand two hundred sixty~~four thousand four hundred ten dollars thereafter.

SECTION 12. AMENDMENT. Subsection 2 of section 50-09-02.1 of the North Dakota Century Code is amended and reenacted as follows:

2. The state agency shall establish a statewide automated data processing system designed to conform to requirements imposed by or under title IV-D. ~~The state agency must make that system available for the use of clerks of court in carrying out their duties under section 14-09-08.1.~~ The official records of the state regarding all child support amounts owed, collected, and distributed must be maintained in that system. Notwithstanding section 14-08.1-05, any record of a child support obligation that is currently being enforced in another jurisdiction and not by a child support agency, that is owed by an obligor who is deceased, or

that is owed to a deceased obligee for whom disbursement of any collections could not occur under section 14-09-25, may be removed indefinitely from the statewide automated data processing system until a request is received from a party to the child support case to restore those records.

SECTION 13. AMENDMENT. Section 50-25.1-11.1 of the North Dakota Century Code, as amended in section 2 of Senate Bill No. 2131, as approved by the sixty-seventh legislative assembly, is amended and reenacted as follows:

50-25.1-11.1. Children's advocacy centers - Confidentiality of records - Criminal history record checks.

1. Records and digital media in the possession of a children's advocacy center relating to a forensic medical examination, forensic interview, or therapy are confidential and may be released only to a person other than a law enforcement agency, the department or the department's authorized agent, or a medical or mental health professional when the child comes before the medical or mental health professional in that person's professional capacity, upon service of a subpoena signed by a judge.
2. ~~Upon receipt of a request by a children's advocacy center, the~~The department may submit a request for a criminal history record check under section 12-60-24. ~~Under this subsection, a children's advocacy center may require the following individuals to submit to a criminal history record check:~~
 - a. ~~An~~ on an employee, final applicant for employment, contractor, multidisciplinary team member, or volunteer, of a children's advocacy center who has contact with a child at or through a children's advocacy center; ~~and~~
 - b. ~~An individual a children's advocacy center determines requires a criminal history record check to participate in services at a center.~~

SECTION 14. LEGISLATIVE INTENT - INFORMATION TECHNOLOGY PROJECTS. It is the intent of the sixty-seventh legislative assembly that the judicial branch pursue the use of federal funds from the coronavirus relief fund to defray the cost of remote video equipment and district court wi-fi access points.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2002.

Senate Vote: Yeas 47 Nays 0 Absent 0

House Vote: Yeas 88 Nays 3 Absent 3

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2021.

Approved at _____ M. on _____, 2021.

Governor

Filed in this office this _____ day of _____, 2021,

at _____ o'clock _____ M.

Secretary of State