

JUDICIAL BRANCH OF GOVERNMENT

CHAPTER 266

SENATE BILL NO. 2313

(Lashkowitz, Longmire, Jones, Ringsak, Lips, Schuster)

JUDICIAL SALARIES

AN ACT to amend and reenact sections 27-02-02 and 27-05-03 of the North Dakota Century Code, relating to salaries of the judges of the supreme and district courts, and to repeal section 27-02-02.1 relating to additional compensation for the supreme and district court judges; providing an appropriation; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 27-02-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-02-02. SALARIES OF JUDGES OF SUPREME COURT.) Each judge of the supreme court shall receive an annual salary of thirty-two thousand dollars except that the chief justice of the supreme court shall receive an additional one thousand five hundred dollars per annum.

SECTION 2. AMENDMENT.) Section 27-05-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-05-03. SALARIES AND EXPENSES OF DISTRICT JUDGES.) Each district judge of this state shall receive an annual salary of thirty thousand dollars and his actual travel expenses, which shall include mileage and subsistence while engaged in the discharge of his official duties outside the county in which his chambers are located. Such salary and expenses shall be payable monthly in the manner provided by law.

SECTION 3. REPEAL.) Section 27-02-02.1 of the North Dakota Century Code is hereby repealed.

SECTION 4. APPROPRIATION.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$26,308.00, or so much thereof as may be necessary, to carry out the provisions of this Act.

SECTION 5. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved April 8, 1975

CHAPTER 267

HOUSE BILL NO. 1415
(Wentz)

REPEAL OF LAW ON FURNISHING OPINIONS

AN ACT to repeal section 27-03-10 of the North Dakota Century Code, relating to the furnishing of opinions, abstracts, and briefs by the clerk of the supreme court to the supreme court reporter.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. REPEAL.) Section 27-03-10 of the North Dakota Century Code is hereby repealed.

Approved March 12, 1975

CHAPTER 268

SENATE BILL NO. 2101
(Freed)

RETIREMENT PAY FOR DISABLED JUDGES

AN ACT to amend and reenact section 27-05-03.2 of the North Dakota Century Code, relating to retirement pay for disabled judges.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 27-05-03.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-05-03.2. JUDICIAL RETIREMENT SALARY PAYABLE TO JUDGE RETIRED FOR MENTAL OR PHYSICAL DISABILITY.) If a judge of the supreme court or a judge of the district court retires under the provisions of section 27-05-03.1, he shall receive the compensation allotted to his office for the remainder of his said term and thereafter judicial retirement salary as provided for in subsection 3 of section 27-17-01, regardless of his age or years of service at that time. The provisions of this section shall be applicable to those judges who retire pursuant to section 27-05-03.1 after January 1, 1973.

Approved March 19, 1975

CHAPTER 269

HOUSE BILL NO. 1414
(Atkinson)

PRESIDING JUDGES OF DISTRICT COURTS

AN ACT to amend and reenact section 27-05-05 of the North Dakota Century Code, relating to the method by which presiding judges of district courts are determined.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 27-05-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-05-05. PRESIDING JUDGE OF DISTRICT - HOW DETERMINED.)
In judicial districts of this state having more than one judge, the supreme court shall name the presiding judge thereof, who shall serve in such position until the supreme court shall appoint his successor.

Approved March 12, 1975

CHAPTER 270

HOUSE BILL NO. 1486
(Atkinson)

DUTIES OF JUVENILE SUPERVISORS

AN ACT to provide that district courts may assign certain duties to juvenile supervisors; and to create and enact a new subdivision to subsection 1 of section 27-20-06 of the North Dakota Century Code, relating to the powers and duties of juvenile supervisors.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. DISTRICT JUDGES MAY ASSIGN ADDITIONAL DUTIES TO JUVENILE SUPERVISORS - AUTHORITY OF SUPREME COURT.) A district judge may authorize any juvenile supervisor, appointed by the judge in his capacity as judge of the juvenile court, to assume, and direct the supervisor to carry out, additional duties as provided in this section. The supreme court may promulgate rules concerning additional powers, duties, and responsibilities for juvenile supervisors. Subject to such rules, a district judge may authorize and direct his supervisor to conduct hearings on such domestic relations matters as child custody changes, support allowances, and other similar matters, provided that no authorization or direction shall be given to a juvenile supervisor to preside over a proceeding for divorce, separation, or annulment of a marriage.

SECTION 2.) A new subdivision to subsection 1 of section 27-20-06 of the North Dakota Century Code is hereby created and enacted to read as follows:

Perform such functions relating to domestic relations matters as directed by his appointing district judge, acting in accordance with section 1 of this Act.

Approved March 12, 1975

CHAPTER 271

SENATE BILL NO. 2358
(Ringsak, Schuster, Iszler, Lashkowitz)

COURT REPORTER COMPENSATION

AN ACT to amend and reenact section 27-06-02 of the North Dakota Century Code, relating to salary and expenses of court reporter.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 27-06-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-06-02. SALARY AND EXPENSES OF COURT REPORTER.) Each court reporter shall receive a salary not to exceed fifteen thousand five hundred dollars per annum, payable in equal monthly installments by the counties constituting the judicial district in which such reporter is employed. Such salary shall be set by each district court judge involved and shall be prorated among the respective counties of each judicial district on the basis of the ratio of the population of each county to the total population of the judicial district according to the last federal decennial census. The presiding judge of each judicial district, on the first day of January of each year, or as soon thereafter as may be, shall apportion the amount of such salary to be paid by each county in his district on the basis aforesaid, and the county auditors of the respective counties in such judicial district shall issue to the order of such court reporter a warrant to the amount shown to be due by such apportionment. As reimbursement for expenses incurred in the performance of official duties outside of the county where the district court chambers are situated, the court reporter shall receive expense allowances in accordance with the provisions of section 44-08-04. Such sums shall be paid monthly by the county wherein such court reporter is attending to such official duties, when approved by the board of county commissioners. Claims for transportation expenses shall not exceed amounts provided by section 54-06-09 and shall be in itemized form showing the mileage traveled, the days when and how traveled, and the purposes thereof, and verified by affidavit. No claim for living expenses or transportation expenses shall be approved for payment to a court reporter by the board of county commissioners unless such claim shall have been first approved by the district judge.

Approved March 14, 1975

CHAPTER 272

SENATE BILL NO. 2473
(Sands, Conlin)

CONTINUING JUDICIAL EDUCATION

AN ACT to create and enact sections 27-07-42, 27-08-43, 27-18-08, and 40-18-22 of the North Dakota Century Code, to require each judge of the county courts of increased jurisdiction, county justice courts, county courts, and municipal courts to attend and participate in educational sessions annually unless excused by the supreme court; to provide for referral to the commission on judicial qualifications any judge who fails to attend and participate in such educational sessions; and to repeal sections 12-61-07 and 12-61-08 of the North Dakota Century Code, relating to training of municipal judges and county justices.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1.) Section 27-07-42 of the North Dakota Century Code is hereby created and enacted to read as follows:

27-07-42. CONTINUING EDUCATION OF JUDGE OF COUNTY COURT REQUIRED.) Each judge of a county court shall be required, within one year after his election, and at least once each calendar year thereafter, to attend and participate in an educational session designated for that purpose by the supreme court, unless the judge is excused from such attendance by the supreme court.

If any such judge shall fail to attend such educational session within any calendar year, without being excused therefrom by the supreme court, the state court administrator shall report such fact to the commission on judicial qualifications for such action as it deems appropriate.

SECTION 2.) Section 27-08-43 of the North Dakota Century Code is hereby created and enacted to read as follows:

27-08-43. CONTINUING EDUCATION OF JUDGE OF COUNTY COURT OF INCREASED JURISDICTION REQUIRED.) Each judge of a county court of increased jurisdiction shall be required, within one year after his election, and at least once each calendar year thereafter, to attend and participate in an educational session designated for that purpose by the supreme court, unless the judge is excused from

such attendance by the supreme court.

If any such judge shall fail to attend such educational session within any calendar year, without being excused therefrom by the supreme court, the state court administrator shall report such fact to the commission on judicial qualifications for such action as it deems appropriate.

SECTION 3.) Section 27-18-08 of the North Dakota Century Code is hereby created and enacted to read as follows:

27-18-08. CONTINUING EDUCATION OF COUNTY JUSTICE REQUIRED.) Each county justice shall be required, within one year after his election, and at least once each calendar year thereafter, to attend and participate in an educational session designated for that purpose by the supreme court, unless the justice is excused from such attendance by the supreme court. Such justice shall be reimbursed for his necessary expenses of travel and subsistence as other county officials are so reimbursed.

If any such justice shall fail to attend such educational session within any calendar year, without being excused therefrom by the supreme court, the state court administrator shall report such fact to the commission on judicial qualifications for such action as it deems appropriate.

SECTION 4.) Section 40-18-22 of the North Dakota Century Code is hereby created and enacted to read as follows:

40-18-22. CONTINUING EDUCATION OF MUNICIPAL JUDGE REQUIRED.) Each municipal judge shall be required, within one year after his election, and at least once each calendar year thereafter, to attend and participate in an educational session designated for that purpose by the supreme court, unless the judge is excused from such attendance by the supreme court. Such judge shall be reimbursed for his necessary expenses of travel and subsistence as other city officials are so reimbursed.

If any such judge shall fail to attend such educational session within any calendar year, without being excused therefrom by the supreme court, the state court administrator shall report such fact to the commission on judicial qualifications for such action as it deems appropriate.

SECTION 5. REPEAL.) Sections 12-61-07 and 12-61-08 of the North Dakota Century Code are hereby repealed.

Approved March 14, 1975

CHAPTER 273

SENATE BILL NO. 2464
(Lashkowitz, Schuster, Lips, Melland, Thane)

SALARIES OF JUDGES OF COUNTY COURTS OF INCREASED JURISDICTION

AN ACT to amend and reenact section 27-08-08 of the North Dakota Century Code, relating to salaries of judges of county courts of increased jurisdiction.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 27-08-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-08-08. SALARIES OF JUDGES OF COUNTY COURTS OF INCREASED JURISDICTION - AMOUNT, PAYMENT.) A county judge of a county court of this state having increased jurisdiction shall receive the following salary: fifteen thousand five hundred dollars in counties having a population not exceeding ten thousand inhabitants; sixteen thousand dollars in counties having a population exceeding ten thousand inhabitants but not exceeding eighteen thousand inhabitants; nineteen thousand dollars in counties having a population exceeding eighteen thousand inhabitants but not exceeding forty thousand inhabitants; and twenty-three thousand dollars in counties having a population exceeding forty thousand inhabitants. Such salary shall be payable by the county in equal monthly installments and shall be full remuneration for all official duties including all fees collected for official acts as judge of the county court, except fees charged for performing marriage ceremonies. All fees collected for official acts as judge of the county court, except fees charged for performing marriage ceremonies, shall be deposited by the court into the county treasury of the county in which the court is located.

Approved March 27, 1975

CHAPTER 274

HOUSE BILL NO. 1118
(Rued)

COMPENSATION OF BAILIFFS

AN ACT to amend and reenact section 27-08-19 of the North Dakota Century Code, to provide that bailiffs shall be compensated at the same rate that jurors are compensated for required attendance of district and county court sessions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 27-08-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-08-19. BAILIFFS OF COUNTY COURTS HAVING INCREASED JURISDICTION - APPOINTMENT, TERMS, POWERS, COMPENSATION.) The judge of a county court having increased jurisdiction may appoint one or more competent persons as bailiffs of the court. Such bailiffs shall hold office at the pleasure of the judge, shall have the same powers as a constable, and shall receive for their services an amount which shall equal the compensation and mileage which is provided for jurors for required attendance at sessions of the district or county court under the provisions of section 27-09.1-14.

Approved March 17, 1975

CHAPTER 275

HOUSE BILL NO. 1516
(Kretschmar)

SMALL CLAIMS COURT

AN ACT to amend and reenact sections 27-08.1-01, 27-08.1-03, 27-08.1-04, 27-08.1-05, and 27-08.1-06 of the North Dakota Century Code, relating to the jurisdictional limits of the small claims court, the informal hearing, and the right to appeal.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 27-08.1-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-08.1-01. SMALL CLAIMS COURT - JURISDICTIONAL LIMITS - EFFECTIVE DATE.) All judges of the county courts with increased jurisdiction or the county justices shall exercise the jurisdiction conferred by this chapter, and while sitting in the exercise of said jurisdiction shall be known and referred to as the "small claims court". The jurisdiction of such court shall be confined to cases for recovery of money, or the cancellation of any agreement involving material fraud, deception, misrepresentation, or false promise, where the value of the agreement or the amount claimed by the plaintiff or the defendant does not exceed two hundred dollars where the action is commenced in the offices of a county justice and five hundred dollars where the action is commenced in a county court with increased jurisdiction. The proceedings in this court shall be commenced in the county of the defendant's residence, if the defendant is a natural person. If the defendant is a corporation or a partnership, the proceedings shall be commenced in any county in which the defendant has a place of business or in any county in which the subject matter of the claim arose. No claim shall be filed by an assignee of that claim. No garnishment or attachment shall issue from this court. Actions commenceable in the small claims court shall only be those in which the cause of action has accrued on or after January 1, 1971.

SECTION 2. AMENDMENT.) Section 27-08.1-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

*27-08.1-03. INFORMAL HEARING - ANSWER AND COUNTERCLAIM - FILING AND SERVICE FEES.) No formal pleadings other than the claim affidavit and order for appearance shall be required, and the hearing and disposition of actions shall be informal. No court reporter shall be required to be present to take the testimony unless arranged for and paid for by one of the parties to the action. The defendant may file an answer, and file a claim affidavit setting forth any new matter constituting a counterclaim, not to exceed two hundred dollars where the action was commenced in the office of the county justice, and five hundred dollars where the action was commenced in an office of the county court with increased jurisdiction, which shall be delivered to the plaintiff in person, not later than forty-eight hours before the hearing set for the appearance of the defendant. The compulsory counterclaim rule shall not apply to counterclaims in excess of two hundred dollars in county justice court, and five hundred dollars in county court with increased jurisdiction. At the hearing, the plaintiff and the defendant may appear without counsel. The court will conduct the proceedings and may make its own inquiry before, during, or after the hearing. A trial by jury shall not be allowed in small claims court. A fee of two dollars shall be charged for filing the claim affidavit, or counterclaim affidavit, plus one dollar for each defendant served.

SECTION 3. AMENDMENT.) Section 27-08.1-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-08.1-04. ELECTION TO PROCEED IN SMALL CLAIMS COURT IRREVOCABLE.) Election by the plaintiff to use the procedures provided for in this chapter shall be irrevocable. In the event the plaintiff elects to discontinue the proceedings, the court shall enter its order accordingly, and unless otherwise provided in the order such dismissal shall be deemed to be with prejudice. By election to proceed in small claims court, the plaintiff waives his right to appeal to any other court from the decision of the small claims court. The defendant waives his right to appeal from the decision of the small claims court upon receiving his order for appearance as required herein, unless he elects to remove the action from the small claims court to a court which would have jurisdiction over said matter in the absence of the small claims court by filing with the small claims court and serving upon the plaintiff a notice of such removal, and filing with the clerk of the court to which said action is removed a copy of the claim affidavit and the defendant's answer thereto along with the filing fee required for civil actions in said court, not later than forty-eight hours before the hearing set for the appearance of the defendant.

SECTION 4. AMENDMENT.) Section 27-08.1-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-08.1-05. JUDGMENT.) The court will enter a written

*NOTE: Section 27-08.1-03 was also amended by section 1 of House Bill No. 1079, chapter 276.

judgment indicating its decision on all cases filed with the court on the basis of the evidence presented. A judgment shall be entered even if either party fails to appear at the hearing.

SECTION 5. AMENDMENT.) Section 27-08.1-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-08.1-06. JUDGMENT UNSATISFIED - DOCKETING.) If the defendant fails to pay the judgment rendered by the court within twenty days after notice of entry has been filed, the judge of the court, upon application of the prevailing party, shall certify an abstract of the judgment to the district court, along with an affidavit of identity signed by the judgment creditor. The abstract may be filed with the clerk of the district court of the county in which the judgment was rendered without payment of a filing fee, and the clerk, thereupon, must enter the judgment in the judgment book and upon the judgment docket. From the time of such docketing, it becomes a judgment of such district court for the purpose of execution and a lien upon real property owned by the debtor in the same manner as an original judgment of the district court. A certified transcript of the docket of the judgment may be filed and the judgment docketed accordingly in any other county with the same effect in every respect as if the judgment had been rendered in the district court where such judgment is filed.

Approved April 8, 1975

CHAPTER 276

HOUSE BILL NO. 1079
(Atkinson)

SMALL CLAIMS COURT HEARINGS

AN ACT to amend and reenact section 27-08.1-03 of the North Dakota Century Code, relating to hearings before a small claims court.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 27-08.1-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

* 27-08.1-03. INFORMAL HEARING - ANSWER AND COUNTERCLAIM - FILING AND SERVICE FEES.) No formal pleadings other than the claim affidavit and order for appearance shall be required, and the hearing and disposition of all actions shall be informal. No court reporter shall be required to be present to take the testimony unless arranged for and paid for by one of the parties to the action. The defendant may file an answer, and file a claim affidavit setting forth any new matter constituting a counterclaim, not to exceed two hundred dollars, which shall be delivered to the plaintiff in person, not later than forty-eight hours before the hearing set for the appearance of the defendant. The compulsory counterclaims rule shall not apply to counterclaims in excess of two hundred dollars. At the hearing, the plaintiff and the defendant may appear without counsel. The court will conduct the proceedings and may make its own inquiry before, during, or after the hearing. A trial by jury shall be deemed to be waived if neither party, before the commencement of the trial, demands a jury, or if either party fails to appear at the time fixed for trial. Either party may demand a trial by jury. A jury shall be composed of six residents of the county having the qualifications of jurors, or of any number less than six if the parties so agree. A fee of two dollars shall be charged for filing the claim affidavit, or counterclaim affidavit, plus one dollar for each defendant served.

Approved March 9, 1975

*NOTE: Section 27-08.1-03 was also amended by section 2 of House Bill No. 1516, chapter 275.

CHAPTER 277

HOUSE BILL NO. 1399
(Kretschmar)

COUNTY JUDICIAL COORDINATING COUNCILS

AN ACT to allow for the creation of county judicial coordinating councils, and to provide for their membership and operation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. CREATION OF COUNTY JUDICIAL COORDINATING COUNCIL.) The judge of the county court with increased jurisdiction or the county justice in each North Dakota county may appoint, from elements of the county criminal justice system and the public, if he deems it appropriate and necessary, a county judicial coordinating council to serve as a forum for communication between the public and the county criminal justice agencies. In addition to persons representing the general public, these appointments could include, but would not be limited to, persons representing county social services, peace officers, municipal courts, correctional officers, parole and probation officers, juvenile supervisors, and the news media.

SECTION 2. MEETINGS.) The county judicial coordinating council shall meet annually at the county seat at a time and place designated by the appointing judge who shall serve as chairperson of the council. The appointing judge shall also inform the state court administrator of the time and place of the meeting, and shall forward to the court administrator a copy of the minutes of any such meeting.

SECTION 3. PURPOSE.) At its meetings, the county judicial coordinating council shall discuss recent developments in the county criminal justice and judicial systems, discuss problems existing in the systems, and make plans and recommendations for improvement in the administration of the systems.

SECTION 4. MEMBER OF THE STAFF OF THE STATE COURT ADMINISTRATOR TO ATTEND MEETINGS - DUTY OF THE OFFICE OF THE STATE COURT ADMINISTRATOR.) A member of the office of the state court administrator shall attend as many meetings as possible of county judicial coordinating councils. It shall be the duty of the state court administrator to inform such councils of recent developments in the state criminal justice and judicial systems and in other county criminal justice and judicial systems.

SECTION 5. PUBLIC ENCOURAGED TO ATTEND MEETINGS.) The time and place of meetings of the county judicial coordinating council shall be published in a newspaper of general circulation in the county sufficiently in advance of the meeting to encourage attendance and participation by the public. All interested persons should be encouraged to contribute to the council discussions.

SECTION 6. MEMBERS TO SERVE WITHOUT PAY.) No member of the county judicial coordinating council shall receive payment for attendance at meetings, except that members of the state court administrator's office shall be compensated for expenses at the rate normally paid to state employees.

Approved March 12, 1975

CHAPTER 278

HOUSE BILL NO. 1461
(Winkjer)

JUDICIAL COUNCIL

AN ACT to amend and reenact sections 27-15-01, 27-15-02, and 27-15-10 of the North Dakota Century Code, relating to additional memberships on the judicial council, and providing for the term of office and compensation for such additional members.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 27-15-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-15-01. JUDICIAL COUNCIL ESTABLISHED.) There shall be maintained a judicial council consisting of:

1. All judges of the supreme court, district courts, and county courts of increased jurisdiction of the state;
2. The attorney general;
3. The dean of the school of law of the university;
4. Five members of the bar who are engaged in the practice of law who shall be chosen by the executive committee of the state bar association;
5. All retired judges of the supreme and district courts of the state; and
6. Two judges of the county court without increased jurisdiction, two county justices, and two municipal judges, selected by the North Dakota supreme court.

SECTION 2. AMENDMENT.) Section 27-15-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-15-02. TERM OF OFFICE - VACANCY, HOW FILLED.) The judges of the supreme and district courts and county courts of increased jurisdiction, the attorney general, and the dean of the school of law in the university shall hold office as members of the council during the time they occupy their respective official positions. The retired judges of the supreme and district courts shall hold office as members of the council during retirement from their respective official positions. The term of office of the county

judges of courts without increased jurisdiction, county justices, and municipal judges who shall be appointed by the supreme court, and of the members of the bar who shall be appointed by the state bar association of North Dakota, shall be two years, commencing on the first Monday of January of odd-numbered years. A vacancy shall be filled by the authority originally selecting the member.

SECTION 3. AMENDMENT.) Section 27-15-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-15-10. COMPENSATION - EXPENSES.) No member of the council shall receive compensation for any services rendered by him in such capacity, but any necessary expenses incurred by any judge of the county court with increased jurisdiction, district, and supreme courts in the discharge of his duties as a member shall be deemed expenses incurred in the performance of the duties of his office and shall be paid as such. The necessary expenses of all other judges or justices shall be paid from funds appropriated for the purposes of the judicial council from the supreme court budget. The expenses of all other members of the council shall be audited and paid from the state bar fund in the same manner as other claims against such fund are paid except that in the matter of mileage expenses, the retired judges who are members of the council shall be paid such only for travel within the state.

Approved April 8, 1975

CHAPTER 279

HOUSE BILL NO. 1466
(Olson)

COMPENSATION OF COUNTY JUSTICES

AN ACT to amend and reenact section 27-18-03 of the North Dakota Century Code, relating to compensation of county justices.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 27-18-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-18-03. COMPENSATION OF COUNTY JUSTICE - AMOUNT - PAYMENT.) The county justice shall receive as full compensation for his services an annual salary not exceeding the sum of seven thousand dollars, for each county he serves, as may be determined from time to time by the board of county commissioners of the county for which he is elected or appointed. In addition thereto, the county justice shall be paid the reasonable travel expenses for mileage and subsistence necessarily incurred in the discharge of his official duties, in accordance with the amount allowed the county judge. The travel expenses shall be paid by the county or counties for which he is elected or appointed and shall be equitably apportioned by the several boards of county commissioners among the several counties if he serves more than one county. Such compensation shall be paid monthly by the county treasurers of the respective counties upon properly verified claims as other claims against the county are allowed and paid.

The board of county commissioners of any county having an office of county justice may increase the salary of the county justice by an amount not to exceed ten percent above the salary provided in this section, if, in the judgment of such board, by reason of duties performed, the county justice merits the increase.

Approved March 12, 1975

CHAPTER 280

SENATE BILL NO. 2047
(Kautzmann, Barth, Iszler)
(From Legislative Council Study)

JUVENILE COURT JURISDICTION

AN ACT to create and enact subsection 6 of section 27-20-36, and to amend and reenact subsections 1 and 10 of section 27-20-02, section 27-20-09, subsections 1 and 4 of section 27-20-34, and subsection 5 of section 27-20-36, of the North Dakota Century Code, relating to the definitions of "child" and "minor traffic offense", transfers to the juvenile court from other courts, limitations of time on orders of disposition of the juvenile court, and to waiver of juvenile jurisdiction in certain instances.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsections 1 and 10 of section 27-20-02 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. "Child" means an individual who is:
 - a. Under the age of eighteen years and is neither married and cohabiting with spouse nor in the military service of the United States; or
 - b. Under the age of twenty years with respect to a delinquent act committed while under the age of eighteen years.
10. "Minor traffic offense" means a violation of a law or local ordinance or resolution governing the operation of a vehicle upon the highways of this state, or the waterways within or adjoining this state, by a child who has been issued a valid operator's license or permit if one is required, other than an offense listed in section 39-06.1-05 or an open bottle law offense under section 39-08-18.

SECTION 2. AMENDMENT.) Section 27-20-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-20-09. TRANSFER FROM OTHER COURTS.) If it appears to the court in a criminal proceeding, except for an offense transferred under section 27-20-34, that the defendant is a child,

the court shall forthwith transfer the case to the juvenile court together with a copy of the accusatory pleading and other papers, documents, and transcripts of testimony relating to the case. It shall order that the defendant be taken forthwith to the juvenile court or to a place of detention designated by the juvenile court, or release him to the custody of his parent, guardian, custodian, or other person legally responsible for him, to be brought before the juvenile court at a time designated by that court. The accusatory pleading may serve in lieu of a petition in the juvenile court unless that court directs the filing of a petition.

SECTION 3. AMENDMENT.) Subsections 1 and 4 of section 27-20-34 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. After a petition has been filed alleging delinquency based on conduct which is designated a crime or public offense under the laws, including local ordinances or resolutions of this state, the court before hearing the petition on its merits may transfer the offense for prosecution to the appropriate court having jurisdiction of the offense if:
 - a. The child is over seventeen or more years of age and requests the transfer; or
 - b.
 - (1) The child was sixteen or more years of age at the time of the alleged conduct;
 - (2) A hearing on whether the transfer should be made is held in conformity with sections 27-20-24, 27-20-26, and 27-20-27;
 - (3) Notice in writing of the time, place, and purpose of the hearing is given to the child and his parents, guardian, or other custodian at least three days before the hearing; and
 - (4) The court finds that there are reasonable grounds to believe that:
 - (a) The child committed the delinquent act alleged;
 - (b) The child is not amenable to treatment or rehabilitation as a juvenile through available facilities;
 - (c) The child is not treatable in an institution for the mentally retarded or mentally ill; and
 - (d) The interests of the community require that the child be placed under legal restraint or discipline.

4. Statements made by the child after being taken into custody and prior to a request under subdivision a of subsection 1, or the service of notice under subdivision b of subsection 1, or at the hearing under this section are not admissible against him over objection in the criminal proceedings following the transfer.

SECTION 4. AMENDMENT.) Subsection 5 of section 27-20-36 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. Except as provided in subsection 1, when the child attains the age of twenty years, all orders affecting him then in force terminate and he is discharged from further obligation or control.

SECTION 5.) Subsection 6 of section 27-20-36 of the North Dakota Century Code is hereby created and enacted to read as follows:

6. If an order of disposition is made with respect to a child under the age of ten years pursuant to which the child is removed from the care, custody, and control of his parent, guardian, or other custodian 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 27-20-44 and is in the best interest of the child. In that case the notice of the extension hearing must also 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 said child with a view to adoption. If the court determines that the child is adoptable and that 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 27-20-47.

Approved April 8, 1975

CHAPTER 281

HOUSE BILL NO. 1237
(Atkinson, Eagles)

COMPENSATION FOR JUVENILE SUPERVISORS

AN ACT to amend and reenact subsection 2 of section 27-20-05 of the North Dakota Century Code, relating to salaries of juvenile supervisors.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 2 of section 27-20-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Each juvenile supervisor shall receive as full compensation for his services such amount as may be fixed from time to time by the judge who appointed him, or by his successor, either upon a per diem basis not exceeding twenty-five dollars per day for the time actually and necessarily employed in the discharge of his duties, or upon a salary basis not exceeding eighteen thousand dollars per annum. In addition, the juvenile supervisor shall be paid the reasonable travel expenses for mileage and subsistence necessarily incurred in the discharge of his duties, in accordance with the amount allowed to county officials.

Approved March 25, 1975

CHAPTER 282

SENATE BILL NO. 2249
(Committee on Social Welfare)
(At the request of the Social Service Board)

IDENTITY OF PARENTS OF
OUT-OF-WEDLOCK CHILD

AN ACT to create and enact new subsections to section 27-20-45 of the North Dakota Century Code, relating to procedures by which the court may ascertain the identity of the parents of a child born out of wedlock; to amend and reenact subsection 2 of section 27-20-45 of the North Dakota Century Code, relating to efforts to identify the parents of a child born out of wedlock.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1.) Subsection 2 of section 27-20-45 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. If both of the natural parents of the child are not named in the petition either as petitioner or as respondent, the court shall cause inquiry to be made of the petitioner and other appropriate persons in an effort to identify an unnamed parent. The inquiry shall include, to the extent necessary and appropriate, the following:
 - a. Whether any man is presumed to be the father of the child under the Uniform Parentage Act;
 - b. Whether the natural mother of the child was cohabiting with a man at the time of conception or birth of the child;
 - c. Whether the natural mother of the child has received from any man support payments or promises of support with respect to the child or in connection with her pregnancy;
 - d. Whether any person has formally or informally acknowledged or declared his possible parentage of the child; and
 - e. Whether any person claims any right to custody of the child.

SECTION 2.) Three new subsections to section 27-20-45 are hereby created and enacted to read as follows:

The court shall add as respondent to the petition and cause to be served with a summons any person identified by the court as an unnamed parent, unless the person has relinquished parental rights, or parental rights have been previously terminated by a court.

If the court, after inquiry, is unable to identify an unnamed parent and no person has appeared in the proceeding claiming to be an unnamed parent of the child or to have any right of custody of the child, the court shall enter an order terminating all parental rights of the unnamed parent with reference to the child and the parent and child relationship.

Subject to the disposition of an appeal, upon the expiration of thirty days after an order terminating parental rights is issued under this Act, the order cannot be questioned by any person, including the petitioner, in any manner, or upon any ground, including fraud, misrepresentation, failure to give any required notice, or lack of jurisdiction of the parties or of the subject matter, unless the person retained custody of the child.

Approved March 19, 1975

CHAPTER 283

SENATE BILL NO. 2275
(Longmire, Freed)

COMMISSION ON JUDICIAL QUALIFICATIONS

AN ACT to provide for the creation of a commission on judicial qualifications for the discipline, censure, removal, and retirement of judges; to amend and reenact section 44-11-01 of the North Dakota Century Code, relating to the removal of certain officers by the governor; providing penalties; and providing an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. DEFINITIONS.) In this Act, unless the context or subject matter otherwise requires:

1. "Commission" means the commission on judicial qualifications.
2. "Judge" means a justice of the supreme court, a judge of the district court, a judge of a county court with increased jurisdiction, a judge of a county court without increased jurisdiction, a county justice, a judge of a municipal court, and, in the case provided in section 29-01-14, a small claims court referee.
3. "Chairman" means the chairman of the commission and includes any acting chairman.
4. "Master" means one or more judges, active or retired, or attorneys appointed by the supreme court upon the request of the commission; or one or more members of the commission designated by the commission to hold hearings and make findings of fact on issues of fact arising in proceedings under this Act.
5. "Counsel" means one or more attorneys appointed by the commission to gather and present evidence and act on its behalf in proceedings before a master or the commission or in the supreme court.
6. "Shall" is mandatory, but not jurisdictional, and "may" is permissive.

SECTION 2. CREATION AND COMPOSITION OF COMMISSION, TERMS OF OFFICE, APPOINTMENT, AND POWERS.) A commission on judicial

qualifications is hereby created to consist of one judge of the district court, one judge of the county court of increased jurisdiction, one lawyer who is licensed to practice law in this state, and four citizens who are not judges, retired judges, or lawyers. Members representing the district and county courts shall be appointed by their respective state associations and the lawyer member shall be appointed by the executive committee of the state bar association of North Dakota. The citizen members shall be appointed by the governor. An appointment not made within forty-five days after the effective date of this Act shall be made by the supreme court. The term of each member shall be three years. Initially, two members shall serve for three years, two members shall serve for two years, and three members shall serve for one year; as determined by lot. No member shall serve more than two full three-year terms. Membership terminates if a member ceases to hold the position that qualified him for appointment. A vacancy shall be filled by the appointing power for the remainder of the term. Any appointment to fill a vacancy not made within forty-five days after the vacancy occurs shall be made by the supreme court. The commission shall select one of its members as chairman.

The commission has the power to investigate complaints against any judge in the state and to conduct hearings concerning the discipline, removal, or retirement of any judge.

SECTION 3. OTHER POWERS.)

1. A judge is disqualified from acting as a judge, without loss of salary, while there is pending:
 - a. An indictment or an information charging him in the United States with a crime punishable as a felony under North Dakota or federal law; or
 - b. A recommendation submitted by the commission to the supreme court for his removal or retirement.
2. On recommendation of the commission or on its own motion, the supreme court may suspend a judge from office without salary when, in the United States, he pleads guilty or no contest or is found guilty of a crime punishable as a felony under North Dakota or federal law or of any other crime that involves moral turpitude under that law. If his conviction is reversed, suspension terminates, and he shall be paid his salary for the period of suspension. If he is suspended and his conviction becomes final, the supreme court shall remove him from office.
3. On recommendation of the commission, the supreme court may (a) retire a judge for disability that seriously interferes with the performance of his duties and is, or is likely to become, permanent; and (b) censure or remove a judge for action that

constitutes willful misconduct in office, willful failure to perform his duties as prescribed by law or by administrative rule or regulation of the supreme court, willful violation of provisions of the code of judicial conduct as adopted by the supreme court, or habitual intemperance. No proceedings hereunder shall be instituted for alleged acts occurring more than six years prior to receiving a complaint.

4. A judge retired by the supreme court shall be considered to have retired voluntarily. A judge removed by the supreme court is ineligible for judicial office, and pending further order of the court, he is suspended from practicing law in this state.
5. The supreme court shall make rules implementing this Act and providing for confidentiality of proceedings.
6. The procedure provided for herein may be used in addition to the impeachment proceedings provided for in the Constitution of the state as applicable to district and supreme court judges.
7. The commission may employ such officers, assistants, and other employees as it deems necessary for the performance of the duties and exercise of the powers conferred upon the commission and upon the masters; may arrange for and compensate medical and other experts and reporters; may arrange for attendance of witnesses, including witnesses not subject to subpoena; and may pay from funds available to it all expenses reasonably necessary for effectuating the purposes of this Act, whether or not specifically enumerated herein. The attorney general shall, if requested by the commission, act as its counsel generally or in any particular investigation or proceeding. The commission may employ special counsel from time to time whenever it deems necessary.
8. Each member of the commission and each master shall be allowed expenses for travel, board, and lodging incurred in the performance of his duties, as provided in 44-08-04 and 54-06-09.
9. No act of the commission shall be valid unless concurred in by a majority of its members.

SECTION 4. COOPERATION WITH, AND ASSISTANCE AND INFORMATION TO, COMMISSION.) State and local governmental bodies and departments, officers and employees thereof, and officials, officers, and employees of the courts of this state shall cooperate with and give reasonable assistance and information to the commission and any authorized representative thereof, in connection with any investigations or proceedings within the jurisdiction of the commission.

SECTION 5. DUTY OF SHERIFFS AND POLICE OFFICERS TO SERVE PROCESS AND EXECUTE ORDERS OF COMMISSION.) It shall be the duty of the sheriffs and police officers in the several counties and cities, upon request of the commission or its authorized representative, to serve process and execute all lawful orders of the commission.

SECTION 6. GENERAL POWERS OF COMMISSION OR MASTERS.) In the conduct of investigations and formal proceedings, the commission or the masters may:

1. Administer oaths;
2. Order and otherwise provide for the inspection of books and records; and
3. Issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents, and testimony relevant to any such investigation or formal proceeding.

The power to administer oaths, to issue subpoenas, or to make orders for or concerning the inspection of books and records may be exercised by a member of the commission or a master, unless the commission shall otherwise determine.

SECTION 7. PROCESS EXTENDS TO ALL PARTS OF STATE.) In any investigation or formal proceeding under this Act, process, wherever issued, extends to all parts of the state. A person is obliged to attend as a witness in any investigation or proceeding under this Act, and shall be punishable as provided in section 12.1-10-02 for failure to do so.

SECTION 8. PETITION FOR ORDER COMPELLING PERSON TO ATTEND OR TESTIFY OR PRODUCE WRITINGS OR THINGS - SERVICE OF ORDER TO APPEAR BEFORE COURT - ORDER TO APPEAR BEFORE COMMISSION OR MASTERS - CONTEMPT.) If any person refuses to attend, testify, or produce any writings or things required by subpoena, the commission or the masters may petition the district court for the county in which the hearing is pending for an order compelling a person to attend and testify or produce the writings or things required by the subpoena before the commission or the masters. The court shall order a person to appear before it at a specified time and place and then and there show cause why he has not attended or testified or produced the writings or things as required. A copy of the order shall be served upon him. If it appears to the court that the subpoena was regularly issued, the court shall order a person to appear before the commission or the masters at the time and place fixed in the order and testify or produce the required writings or things. Upon failure to obey the order, a person shall be punished as provided in section 12.1-10-02.

SECTION 9. DEPOSITION.) In any investigation or formal proceeding under this Act, the commission or the masters, pursuant to the North Dakota Rules of Civil Procedure, may order the deposition of a person residing within or without the state to be taken.

SECTION 10. FEES AND MILEAGE OF WITNESSES.) Each witness, other than an officer or employee of the state or a political subdivision or an officer or employee of a court of this state, shall receive for his attendance the same fees and all witnesses shall receive the same mileage allowed by law to a witness in a civil case. The amounts shall be paid by the commission from funds appropriated for the use of the commission.

SECTION 11. COSTS.) No award of costs shall be made in any proceeding before the commission, a master, or the supreme court.

SECTION 12. COMMISSION BUDGET.) The supreme court shall be responsible for preparing and presenting to the legislature a proposed biennial budget for the commission.

SECTION 13. AMENDMENT.) Section 44-11-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-11-01. WHAT OFFICERS REMOVABLE BY GOVERNOR - GROUNDS.) The governor may remove from office any county commissioner, clerk of the district court, sheriff, coroner, county auditor, register of deeds, state's attorney, county treasurer, superintendent of schools, county commissioner, surveyor, public administrator, city auditor, city treasurer, city commissioner, mayor, chief of police, deputy sheriff, or other police officer, or any custodian of public moneys, except the state treasurer, whenever it appears to him by competent evidence and after a hearing as provided in this chapter, that such officer has been guilty of misconduct, malfeasance, crime in office, neglect of duty in office, or of habitual drunkenness or gross incompetency.

SECTION 14. APPROPRIATION.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$20,000.00, or so much thereof as may be necessary, to the commission on judicial qualifications for the purposes provided by law for the biennium beginning July 1, 1975, and ending June 30, 1977.

Approved March 27, 1975