

JUDICIAL BRANCH OF GOVERNMENT

CHAPTER 314

SENATE BILL NO. 2384
(Holmberg, Stenehjem)

SERVICE OF PROCESS BY UNITED STATES MARSHALS

AN ACT to repeal section 27-01-08 of the North Dakota Century Code, relating to the authority of federal marshals to serve process by mail.

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

SECTION 1. REPEAL. Section 27-01-08 of the 1979 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 11, 1981

CHAPTER 315

HOUSE BILL NO. 1410
(Representatives Kretschmar, Mushik, Richie)
(Senators H. Christensen, Fritzell, Hanson)

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.

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

SECTION 1. AMENDMENT. Section 27-02-02 of the 1979 Supplement to 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 commencing July 1, ~~1979~~ 1981, of ~~thirty-nine-thousand-two-hundred~~ forty-nine thousand nine hundred dollars and commencing on July 1, ~~1980~~ 1982, an annual salary of ~~forty-one-thousand-seven-hundred~~ fifty-three thousand nine hundred 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 1979 Supplement to 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 commencing July 1, ~~1979~~ 1981, of ~~thirty-six-thousand-seven-hundred~~ fifty-four thousand six hundred dollars and commencing on July 1, ~~1980~~ 1982, of ~~thirty-nine-thousand-one-hundred~~ fifty thousand six hundred 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.

Each district judge who has been appointed by the supreme court to act as presiding judge of a judicial district shall receive an additional one thousand two hundred dollars per annum.

Approved March 19, 1981

CHAPTER 316

SENATE BILL NO. 2383
(Stenehjem)

COURT ADMINISTRATION AND TERM REQUIREMENTS

AN ACT to amend and reenact section 27-02-05.1 of the North Dakota Century Code, relating to administration by the supreme court; and to repeal sections 27-02-06, 27-02-25, 27-05-08.1, 27-05-15, 27-05-16, 27-05-17, 27-05-19, 27-05-20, and 27-05-21 of the North Dakota Century Code, relating to the terms of supreme court and district court.

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

SECTION 1. AMENDMENT. Section 27-02-05.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-02-05.1. ADMINISTRATION BY SUPREME COURT. The supreme court shall have and exercise administrative supervision over all courts of this state and the judges, justices, or magistrates of such courts under such rules, and procedures, ~~and regulations~~ as it shall from time to time prescribe. The supreme court shall provide to the extent it deems necessary or desirable, rules ~~and regulations~~ for:

1. Administrative supervision by the supreme court of all courts.
2. ~~The--assignment--of--judges,--including--consenting--retired--justices--and--judges,--to--temporary--duty--in--any--of--the--courts.~~
- 3- Administrative practice and procedure in all courts, including the required filing by all courts of all reports deemed necessary by the supreme court. All judges, clerks of court, and other officers or employees of the courts and of offices related to and serving the courts shall comply with all administrative practice and procedure ~~regulations~~ rules promulgated by the supreme court.
3. Uniform financial accounting procedures to be followed by all judicial officers and employees designated to receive

and transmit fees, fines, costs, and other moneys. The court shall not establish any accounting procedures which conflict with those established by the state auditor for county agencies.

4. The transfer of any matter to any proper court when the jurisdiction of any court has been improvidently invoked.
5. Withdrawal of any case or other matter pending before any judge and to reassign said the proceeding or case to another judge, when, in the opinion of the supreme court, such the withdrawal and reassignment should be made in order to expedite and promote justice.
- ~~6. The times and places for holding court when, in the opinion of the supreme court, it is necessary to do so to expedite disposition of pending matters.~~

SECTION 2. REPEAL. Sections 27-02-06, 27-02-25, 27-05-08.1, 27-05-15, 27-05-16, 27-05-17, 27-05-19, 27-05-20, and 27-05-21 of the North Dakota Century Code are hereby repealed.

Approved March 19, 1981

CHAPTER 317

SENATE BILL NO. 2387
(Lashkowitz, Stenehjem)

SUPREME COURT RULEMAKING PROCEDURE
REQUIREMENTS

AN ACT to repeal sections 27-02-11, 27-02-12, 27-02-13, 27-02-14, and 27-02-15 of the North Dakota Century Code, relating to the rulemaking procedure of the supreme court.

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

* SECTION 1. REPEAL. Sections 27-02-11, 27-02-12, 27-02-13, 27-02-14, and 27-02-15 of the North Dakota Century Code are hereby repealed.

Approved March 11, 1981

* NOTE: Sections 27-02-11 and 27-02-13 were amended by sections 49 and 50 of House Bill No. 1061, chapter 320.

CHAPTER 318

SENATE BILL NO. 2067
(Legislative Council)
(Interim Judiciary "A" Committee)

CHANGE OF JUDGE FOR POSTJUDGMENT MOTIONS

AN ACT to amend and reenact section 27-05-27 and subsection 2 of section 29-15-21 of the North Dakota Century Code, relating to the hearing of postjudgment motions before the judge before whom the matter was originally heard, and the demand for a change of judge.

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

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

27-05-27. MOTIONS BEFORE TRIAL JUDGE. Any Except as provided by subsection 2 of section 29-15-21, any motion for a new trial, settlement of a proposed case, judgment non---obstante, notwithstanding the verdict, or vacation or modification of an order, judgment, or other proceeding, shall be presented and heard before the judge before whom the matter was heard, considered, or determined, unless for any reason such the judge is unable to act.

SECTION 2. AMENDMENT. Subsection 2 of section 29-15-21 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The demand is not operative unless it is filed with the clerk of the court at least three days before the matter is to be heard if upon a motion or upon arraignment, or ten days before the date the action or proceeding is scheduled for trial. In any event, no demand for a change of judge may be made after the judge sought to be disqualified has ruled upon any matter pertaining to the action or proceeding in which the demanding party was heard or had an opportunity to be heard. Any proceeding to modify an order for alimony, property division, or child support pursuant to section 14-05-24 or an order for child custody pursuant to section 14-05-22 shall be considered a proceeding separate from the original action and the fact that the judge sought to be disqualified made any ruling in the original action shall not bar a demand for a change of judge.

Approved March 18, 1981

CHAPTER 319

HOUSE BILL NO. 1060
(Legislative Council)
(Interim Judiciary "A" Committee)

COUNTY COURT REVISIONS

AN ACT to provide for a county court in each county, the sharing of the services of a county judge by two or more counties, magistrates, clerks of court, court reporting services, jurisdiction, and practice and procedure in the county court; to create and enact sections 27-01-01.1 and 30.1-02-06.1 of the North Dakota Century Code, providing for the assumption of the expenses of the district courts by the state and appeals under the Uniform Probate Code; to amend and reenact sections 11-11-12, 27-01-05, 27-05.1-05, 27-06-02, 27-06-06, 27-06-09, 27-09.1-14, 27-20-05, subsection 1 of section 27-20-07, sections 27-20-49, 29-07-01.1, and 29-32-05 of the North Dakota Century Code, relating to supplies and attendants for local courts, expenses of actions following a change of venue, family court budgets, salaries and expenses of district court reporters, transcripts in criminal actions, bailiffs of district courts, compensation of jurors, salaries of juvenile court personnel, costs involved in treatment and adjudication of juveniles, and payment of indigent defense expenses; to repeal chapters 27-07, 27-08, 27-18, 30-26, 33-01, 33-02, 33-03, 33-04, 33-05, 33-07, 33-08, 33-09, 33-10, 33-11, and 33-12 of the North Dakota Century Code, relating to the county courts, the county courts of increased jurisdiction, and the county justice courts; and to provide an effective date.

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

SECTION 1. TRANSFER OF CASES TO COUNTY COURT CALENDARS - DOCKETING OF JUDGMENTS. Following the completion of the terms of the present county judges, county justices, and judges of county courts with increased jurisdiction, all untried cases or any unfinished business on the calendars of the county justice courts and the county courts of increased jurisdiction shall be continued and placed on the calendar of the county court of the county, without prejudice, along with the untried cases or unfinished business of the present county courts, and shall be deemed to have been originally filed in the county court. Any judgments rendered in those courts prior to that date shall be deemed entered in the

records of the county court and shall be deemed judgments of the county court for all purposes.

SECTION 2. COUNTY COURTS ESTABLISHED IN ALL COUNTIES - ELECTION OF JUDGES. Following the completion of the terms of the present county judges, county justices, and judges of county courts with increased jurisdiction these offices and judgeships shall cease to exist and there shall be established in each county a county court pursuant to the provisions of this Act. Except in those counties which have entered into an agreement with another county pursuant to section 3 of this Act, at the general election in 1982 and every four years thereafter there shall be elected in each county a judge of the county court. The board of county commissioners of any county may authorize by resolution one or more additional judges for that county. In those counties which have entered into an agreement pursuant to section 3 of this Act, one or more judges of the county court shall be elected by the eligible voters of the counties entering into the agreement. Each candidate for the office of judge of the county court in a county which has entered into a multicounty agreement shall comply with the appropriate filing requirements in each county to be served by the position.

SECTION 3. MULTICOUNTY AGREEMENTS TO SHARE SERVICES OF JUDGES. The boards of county commissioners of any two or more counties may enter into an agreement to provide for the election of a single judge or any number of judges to serve the county courts of the several counties entering into the agreement. Any county entering into such an agreement shall retain its own county court which shall be located in the county seat and each action shall be venued in the county court of any county in which venue is proper under other provisions of law or rule of the supreme court. The agreement shall set forth the number of judges to be elected, the manner in which the salary and expenses of the judge or judges and any court reporters will be divided by the various counties, and the manner in which services will be provided to the various counties. Any such agreement must be entered into at least one hundred twenty days prior to the primary election in any year in which a general election is to be held, except a county in which no candidate is elected and qualified or in which a vacancy occurs may enter into an agreement with another county for the services of a judge at any time. Any agreement must remain effective for the duration of the term to which the county judge is to be elected, or, in the event of a vacancy which occurs after the agreement is entered into, until the vacancy is filled by election and the person elected takes office.

SECTION 4. VACANCIES. Any vacancy in the office of county judge shall be filled by the board of county commissioners pursuant to section 44-02-04, except that in those counties which have entered into a multicounty agreement pursuant to section 3 of this Act, any appointment to fill a vacancy must be approved by a majority of the members of each of the boards of county commissioners of the counties which are party to the agreement.

SECTION 5. SALARIES OF JUDGES OF COUNTY COURTS - AMOUNT AND PAYMENT. A county judge of a county court of this state shall receive the same salary being paid judges of the county courts of increased jurisdiction on December 31, 1982. The salary of judges serving more than one county pursuant to section 3 of this Act shall be based on the combined population of the counties served by the judge. Such salary shall be payable by the county or counties 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.

SECTION 6. JUDGES TO BE LEARNED IN THE LAW. Judges of county courts shall be learned in the law.

SECTION 7. JUDGE OF COUNTY COURT NOT TO ACT AS ATTORNEY - REMOVAL FOR VIOLATION. A judge of a county court shall not act as attorney or counselor at law during his term of office. Any judge who willfully violates the provisions of this section shall be subject to removal from office.

SECTION 8. MAGISTRATES - APPOINTMENT - SALARY - AUTHORITY. In those counties which have entered into an agreement to share the services of a judge pursuant to section 3 of this Act and in which the person serving as county judge does not reside, the county judge, subject to confirmation by the board of county commissioners, shall appoint any qualified person, including the clerk of district court, to serve as magistrate. An appointed magistrate shall be paid a salary as fixed by the board of county commissioners and shall have such authority performable by the county judge as assigned by the county judge. The supreme court may promulgate rules for the qualifications of magistrates, the extent and assignment of authority by county judges, and the conduct of the office, including regulations for training sessions and regulations for continuing education.

SECTION 9. CUSTODY OF RECORDS OF COUNTY COURTS. The judge of a county court shall have the care and custody of all the records of the court which relate to actions or proceedings within its civil and criminal jurisdiction. The judge may destroy the following records:

1. All papers contained in marriage files, except the original marriage license, if the license is at least five years old.
2. All mental health or insanity files more than twenty years old as determined by the date of the last paper filed. However, no patient's file shall be destroyed unless he has been dead six years. The judge's investigation shall determine if the patient is alive or his date of death.

The clerk of court shall record the destruction and destruction date in the file's index.

3. All receipts, canceled checks, or vouchers filed in support of any report and account rendered by any personal representative, executor, administrator, conservator, or guardian if the filing date of the report and account is at least six years old. When these are destroyed, the clerk of court shall make a record of the destruction and the destruction date in the margin or elsewhere on the report and account affected.

SECTION 10. CLERK OF COUNTY COURT - SALARY. In those counties with a population of less than twenty-five thousand inhabitants, the clerk of the district court shall be clerk of the county court and shall receive no additional salary from the county for services performed as clerk of the county court. In those counties having a population of twenty-five thousand inhabitants or more, the county judge may appoint a clerk of the county court who shall serve as the clerk for all purposes. Any clerk so appointed shall receive as full compensation for services the salary as may be fixed by the county commissioners, which shall be paid monthly by the county in the same manner as the salaries of other county officers are paid.

SECTION 11. DUTIES OF CLERK OF COUNTY COURT. The clerk of a county court, or the clerk of the district court, or his deputy, in a county in which the clerk of the district court is ex officio clerk of the county court, shall perform all the duties devolved upon him as such clerk in all actions and proceedings commenced in the county court in the same manner as the clerk of the district court is required to perform his duties, so far as the provisions of this code relating to the clerk of the district court are applicable.

SECTION 12. FEES TO BE CHARGED BY THE CLERK OF COUNTY COURT. The clerk of a county court shall charge and collect the same fees as are prescribed in section 11-17-04, except that the clerk shall charge and collect the following fees:

1. For filing a petition for letters testamentary, of administration, of guardianship, or proceedings in heirship, twenty dollars.
2. For applications in joint tenancy to determine estate tax, ten dollars.
3. For filing of civil action in the county court, ten dollars, and from time to time thereafter the clerk may require additional deposits to be made to cover the fees as they accumulate.
4. For default judgments in civil actions, including all fees prior to execution, five dollars.

5. For a certified abstract or transcript of any judgment in any civil action, one dollar.

Upon the entry of judgment in any civil action, the clerk shall refund to the proper party the amount of all moneys deposited with him in excess of the legal fees accrued in the action.

SECTION 13. CLERK TO KEEP FEE BOOK - MONTHLY REPORT TO COUNTY AUDITOR. The clerk of the county court shall keep as a public record in his office a book, to be provided by the county, in which he shall enter all money received by him as fees for services rendered as clerk. Within three days after the close of each calendar month and also at the close of his term of office, the clerk shall file a statement under oath with the county auditor showing the amount of fees which he has received since the date of his last report, and within three days thereafter, he shall deposit with the county treasurer the total sum of such fees, except such fees as he is expressly authorized to retain.

SECTION 14. JUDGE OF COUNTY COURT RESPONSIBLE FOR ACTS OF CLERK. The judge of a county court shall be responsible for all the acts of and for all the fees collected by any clerk of the court who may be appointed by him.

SECTION 15. JUDGE OF COUNTY COURT MAY REQUIRE CLERK TO GIVE HIM A BOND. The judge of a county court may require the clerk of court appointed by him to give a bond conditioned for a faithful performance of all duties as clerk and for the accounting for and the payment to the county treasurer of all the fees and other moneys collected by the clerk by virtue of his office.

SECTION 16. COURT REPORTING SERVICES - ELECTRONIC COURT REPORTING - APPOINTMENT, TERM, METHOD OF QUALIFYING, AND COMPENSATION OF COURT REPORTERS. The judge of a county court shall provide for court reporting services by an electronic court reporting system or the appointment of a court reporter. Any court reporter so appointed shall hold office and discharge the duties thereof in person until the order of appointment is revoked or until another person is appointed to the office. A reporter appointed by a judge serving more than one county pursuant to section 3 shall serve as the reporter for the judge in each county served by the appointing judge. The reporter shall qualify in the same manner as the reporter of a district court and the reporter's duties shall be governed by the provisions of law relating to the duties of the reporter of a district court. The reporter shall receive such compensation as may be fixed by the judge and approved by the county commissioners except that the salary of a court reporter appointed by a judge serving more than one county shall be fixed and paid in the manner provided by the agreement entered into by the various counties. The fees for transcripts shall be the same as those paid to district court reporters.

SECTION 17. BAILIFFS OF COUNTY COURTS - APPOINTMENT, TERMS, POWERS, COMPENSATION. The judge of a county court 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.

SECTION 18. JURISDICTION OF COUNTY COURTS. A county court of any county of this state shall have jurisdiction in the following types of cases:

1. Civil cases with not more than ten thousand dollars in controversy.
2. Criminal misdemeanor, infraction, and noncriminal traffic cases.
3. Small claims cases.
4. Probate, guardianship, and other testamentary cases, including trusts and contested matters, pursuant to title 30.1.
5. Preliminary hearings and arraignments in felony criminal cases.
6. Commitment proceedings pursuant to chapter 25-03.1.
7. Any other cases, except proceedings conducted pursuant to chapter 27-20, as assigned by the presiding district judge of the judicial district in which the county is located; provided, however, that any party is entitled to have any matter assigned pursuant to this subsection heard by a district judge if a written request therefor is filed with the presiding district judge within three days after receiving notice of the assignment, and, provided further, that the trial of a criminal matter may not be assigned to a county judge who presided at the preliminary hearing except where a preliminary hearing has been waived.

SECTION 19. APPELLATE JURISDICTION OF COUNTY COURTS. County courts shall have concurrent jurisdiction with the district courts in appeals from all final judgments entered in municipal court. An appeal to the district court or county court transfers the action to that court for trial anew. That trial shall be conducted in accordance with procedures provided in rules promulgated by the supreme court.

SECTION 20. WHEN JURY TO BE CALLED. A jury may be called at any time at the discretion of the county judge.

SECTION 21. GENERAL POWERS OF JUDGE OF COUNTY COURT. The judge of a county court, in any action or proceeding which lawfully can be instituted before him, shall possess the same power and

authority which a judge of a district court possesses in a similar action or proceeding instituted before him in a like manner.

SECTION 22. GENERAL LAWS AND RULES OF PRACTICE OF DISTRICT COURTS GOVERNING COUNTY COURTS. The provisions of law and rules of practice and procedure applicable to the district courts in civil and criminal actions, including those relating to selection of jurors, issuance and service of process, pleading, adjournments of court, place of trial, trial of actions, taxation of costs, issuance of execution, granting of new trials, preparation of statements of the case, and appeals to the supreme court, and the use of provisional remedies, insofar as such provisions of law and rules of practice and procedure are applicable, shall apply to county courts.

SECTION 23. CHANGE OF PLACE OF TRIAL OF CIVIL ACTIONS MAY BE ORDERED BY COURT. A county court may change the place of trial of a civil action pending therein:

1. If the county designated in the summons and complaint as the place of trial thereof is not the proper county;
2. If there is reason to believe that an impartial trial of such action cannot be had in the county in which the action presently is pending; or
3. If the convenience of the witnesses and the ends of justice would be promoted by such change.

SECTION 24. DEMAND FOR CHANGE OF JUDGE. Any party to a civil or criminal action or proceeding pending in any county court may obtain a change of judge pursuant to the provisions of section 29-15-21, except that either a district judge or a county judge may be appointed to act in place of the disqualified judge.

SECTION 25. DOCKETING JUDGMENT - TRANSCRIPT TO OTHER COUNTIES - LIEN ON REAL PROPERTY. On filing a judgment roll upon a judgment which, in whole or in part, directs the payment of money, the clerk of the county court in which such judgment was rendered shall docket the same in a book to be known as the "judgment docket". Such judgment may be docketed in any other county upon filing with the clerk of the county court of such county a transcript of the original judgment docket. The judgment shall be a lien on all the real property, except the homestead, of every person against whom any such judgment is rendered, which he may have in any county in which such judgment is docketed at the time of docketing or which he thereafter shall acquire in such county, for ten years from the time of docketing the same in the county in which it was rendered. All provisions of law applicable to the district courts pertaining to the filing, docketing, or renewal of a judgment shall apply to county courts.

SECTION 26. JUDGE MAY ISSUE WARRANT OF ARREST AND FIX BAIL. A judge of a county court may issue a warrant of arrest for any

person against whom an information has been filed and shall fix the amount of bail to be required of the accused.

SECTION 27. NECESSITY OF PRELIMINARY EXAMINATION IN COUNTY COURTS. No preliminary examination shall be necessary before trial in criminal misdemeanor cases or noncriminal traffic cases in county court.

SECTION 28. DEFENDANTS IN CRIMINAL ACTIONS OR PROCEEDINGS TO BE BOUND OVER TO COUNTY COURT. In a criminal action or proceeding for a criminal offense over which a county court has jurisdiction, the examining magistrate before whom the preliminary examination is held, if it appears from the examination that a public offense has been committed and that there is reasonable cause to believe the accused guilty of the offense, shall admit the accused to bail and shall bind him over to district court or commit him for trial before the county court, whichever is appropriate.

SECTION 29. PROCEDURE WHEN DEFENDANT IN CRIMINAL ACTION IS IMPROPERLY BOUND OVER TO COUNTY COURT. If any person accused of a criminal offense is admitted to bail and bound over or committed for trial to a county court for a crime over which the county court does not have jurisdiction, the action or proceedings therein shall not abate, nor shall the court lose jurisdiction thereof, but the court shall certify the matter to the district court of the county, and the action or proceedings shall be tried in the district court with the same effect as if originally commenced therein.

SECTION 30. CRIMINAL ACTIONS OR PROCEEDINGS IN DISTRICT COURT TRANSFERABLE TO COUNTY COURT. If any person accused of a criminal offense is bound over to a district court for an offense over which a county court has jurisdiction, or if, at any time, it shall appear by evidence or otherwise to the judge of a district court that a criminal offense with which a person is or should be charged is triable in a county court, the district court judge may certify the case and all related proceedings to the county court for trial, determination, and adjudication. All papers and files related to the case shall be transferred by the clerk of the district court to the county court without any further order or certificate. Any case or related proceeding so certified and transferred shall be tried in the county court with the same effect as if originally commenced there.

SECTION 31. COURT MAY RECEIVE PLEA OF GUILTY AND PASS JUDGMENT. A county court may receive a plea of guilty and may pass judgment at any time.

SECTION 32. DEFENDANTS IN CRIMINAL ACTIONS ENTITLED TO JURY TRIAL - WHEN TO BE INFORMED THEREOF - WAIVER. Except as otherwise provided by law, a defendant in a criminal action in a county court shall be entitled to a trial by jury, and when the defendant is arraigned he shall be informed by the court of this right. If the defendant waives the right to a jury trial, an entry to that effect shall be made on the court minutes.

SECTION 33. DEFENDANT IN CRIMINAL ACTION WAIVING JURY TRIAL MAY BE TRIED BY COURT. If a defendant in a criminal action in a county court waives a trial by jury, the defendant may be tried by the court without a jury. The court shall give prior notice of the trial to the state's attorney of the county.

SECTION 34. PROCEDURE PERMITTING PLEADING OF CROSS-CLAIMS OR COUNTERCLAIMS IN EXCESS OF JURISDICTION OF COUNTY COURTS. In all civil actions instituted in a county court a defendant shall have the right to plead a cross-claim or a counterclaim, compulsory or permissive, in excess of the jurisdiction of the court. When the amount in controversy measured by the value of the relief sought in either a cross-claim or counterclaim exceeds ten thousand dollars or asks for affirmative equitable relief, the county court shall proceed no further with a determination of the rights of the parties provided that the pleading in excess of jurisdiction is accompanied by a motion requesting that the case be transferred to the district court of the same county as the court from which the transfer is requested. The movant shall tender, with his motion, a filing fee of fifteen dollars which shall be paid to the clerk of the district court in event the motion is granted. In the absence of a motion the cross-claim or counterclaim must be stricken and the case must proceed as though no counterclaim or cross-claim had been pleaded.

When the transfer of a case from the county court to the district court has been ordered pursuant to this section, the clerk of the county court shall certify to the district court all of the original pleadings and other papers and documents pertaining to the case accompanied by a certified copy of the order of transfer and an itemized certificate of transmittal. Upon receipt of a certificate and order, the district court shall have the jurisdiction to proceed with the case as though it had been originally commenced in the district court including the power to permit or direct appropriate amendments of pleadings.

SECTION 35. 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 an 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 36. AMENDMENT. Section 11-11-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-11-12. BOARD OF COUNTY COMMISSIONERS TO PROVIDE COURTS WITH SUPPLIES AND ATTENDANTS. The board of county commissioners shall provide the county courts ~~which are held within the county~~ with attendants, fuel, lights, and stationery suitable for the

transaction of business. If the board neglects to perform its duty, the court may order the sheriff to do so, and the expense incurred by him in carrying the order into effect, when certified by the court, shall be a county charge.

SECTION 37. Section 27-01-01.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

27-01-01.1. BUDGETING AND FINANCING OF THE SUPREME COURT AND DISTRICT COURTS. The state court administrator shall submit a comprehensive budget for the supreme court and the district courts to the legislative assembly. An informational copy of the budget shall be delivered to the state budget officer pursuant to section 54-44.1-13. The budget for the district courts shall include all salary and expenses for the district courts, including the juvenile courts, and their employees except the clerks of district courts and their deputies and employees, whose salaries and expenses shall be paid by the counties. Each county shall provide the district court in that county with adequate chamber, court, and law library quarters, and lights and fuel. Any equipment, furnishings, and law libraries in the control and custody of the district court on January 1, 1980, and any such property acquired from that date until the effective date of the Act, shall continue to be in district court's custody and control until the state court administrator determines such items are no longer needed by the court. Upon that determination custody and control of the property shall revert back to the county. Each district court law library maintained by the state shall be available for use by the county court in that county.

SECTION 38. AMENDMENT. Section 27-01-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-01-05. EXPENSES ON CHANGE OF VENUE. In all actions or proceedings in county court, including criminal actions, where a change of venue ~~is had or made~~ occurs by the order of any court or of any judge pursuant to law, except in cases where ~~such~~ the change is made because ~~such~~ the action was not brought in the proper county, the county in which ~~such~~ the action was commenced shall pay to the county in which the ~~same~~ action is tried the following expenses arising out of ~~such~~ the change of venue:

1. The fees of the clerk which are a lawful charge against the county~~;~~.
2. The per diem fees allowed by law to the petit jurors actually in attendance ~~upon said court;~~.
3. All lawful charges for boarding the jurors~~;~~.
4. The legal fees of all witnesses in any criminal case or proceeding which are a lawful charge against the county~~;~~.

5. The fees allowed by law to the court reporter ~~in attendance upon said court~~ which are a lawful charge against the county.
6. All lawful charges and fees for subpoenaing witnesses in any criminal case or proceeding which are a proper charge against the county.
7. All other lawful costs, fees, and disbursements which are a lawful charge against the county.

The fees of the jurors are to be estimated for each day and part of a day, not less than half a day, occupied in trying or disposing of any such action, ~~but no~~. No costs shall be paid to the county to which a change of venue is had which are not properly chargeable against the county from which the proceeding was transferred.

SECTION 39. AMENDMENT. Section 27-05.1-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-05.1-05. BUDGET. The presiding judge shall submit a budget to the state court administrator setting forth the amount of funds a family court will require in the carrying out of the purposes of this chapter, ~~at the time the order establishing such court is issued, and.~~ The budget is to be submitted on or before the first day of July of each year thereafter, ~~to the county commissioners of the respective county or counties wherein a family court has been established.~~

SECTION 40. AMENDMENT. Section 27-06-02 of the 1979 Supplement to 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 an annual salary commencing July 1, 1979, ~~not to exceed twenty thousand eight hundred dollars and commencing on July 1, 1980, an annual salary not to exceed twenty two thousand one hundred dollars,~~ within the limits of legislative appropriations, payable in equal monthly installments by the counties ~~constituting the judicial district in which such reporter is employed. Such~~ state. The 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 seen 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~~ The allowance 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~~ state. 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~~ the claim ~~shall have been~~ is first approved by the district judge.

SECTION 41. AMENDMENT. Section 27-06-06 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-06-06. TRANSCRIPT IN CRIMINAL ACTION PREPARED AT EXPENSE OF COUNTY STATE - FILING AND USE OF TRANSCRIPT. A judge of a district court in which a criminal action or proceeding has been tried, on his own motion or on ~~the~~ application of the defendant or the state's attorney of the county, may order a transcript of the original shorthand notes of the action or proceeding, or of any part thereof, to be made by the reporter at county state expense whenever there is reasonable cause therefor. ~~Such~~ The transcript, when prepared, shall consist of one copy to be filed in the office of the clerk of court, one copy for each party separately represented, and, if parole or probation be granted, one copy to the state parole and probation department. ~~For the preparation of such--transcript,--the~~ The court reporter shall receive compensation for preparation of the transcript in accordance with the provisions of section 27-06-08.

SECTION 42. AMENDMENT. Section 27-06-09 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-06-09. BAILIFFS OF DISTRICT COURTS - APPOINTMENT - SALARY. The district court at each term thereof shall appoint a sufficient number of competent bailiffs to wait on the jury and the court during the term. Such bailiffs shall be paid by the county state for their services an amount ~~which shall~~ equal to the compensation and mileage ~~which is~~ provided for district court jurors ~~for required attendance--at--sessions--of--the--district--or--county--court~~ under the ~~provisions of~~ section 27-09.1-14.

SECTION 43. AMENDMENT. Section 27-09.1-14 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-09.1-14. MILEAGE AND COMPENSATION OF JURORS. A juror shall be paid mileage at the rate of fifteen cents per mile for his travel expenses, ~~--payable by the county,~~ for each mile actually and necessarily traveled each way. A juror shall be compensated at the rate of twenty-five dollars for each day of required attendance at

~~sessions of the district or county court, ten dollars for each day of required attendance at sessions of county justice court, and ten dollars for each day of required attendance at sessions of a coroner's inquest, all payable by the county. The mileage and compensation of jurors shall be paid by the state for jurors at sessions of the district court and paid by the county for jurors at sessions of the county court. Jurors at coroner's inquests shall be paid by the county.~~

SECTION 44. AMENDMENT. Section 27-20-05 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-20-05. JUVENILE COURT PERSONNEL.

1. The court may appoint one or more juvenile supervisors who shall serve at the pleasure of the court. Juvenile supervisors have the powers and duties stated in section 27-20-06. If more than one juvenile supervisor is appointed, one may be designated by the court as the chief juvenile supervisor or director of court services, who shall be responsible for the administration of juvenile court services under the direction of the court.
2. Each juvenile supervisor shall receive as full compensation for his services an annual salary as may be fixed from time to time by the judge who appointed him, or by his successor. Such salary shall ~~not exceed twenty-two thousand four hundred dollars and commencing on July 1, 1980, an annual salary not to exceed twenty-three thousand eight hundred dollars~~ be within the limits of legislative appropriations and payable in equal monthly installments by the state. In addition, the juvenile supervisor shall be paid reasonable travel expenses for mileage and subsistence necessarily incurred in the discharge of his duties, in accordance with the amount allowed to ~~county officials~~ other state employees.
3. In addition to referees authorized by section 27-20-07, a judge of the juvenile court, in his discretion ~~and subject to approval of the board of county commissioners of the county or counties affected,~~ may also provide for the employment of probation officers, clerical and other specialized personnel under the direction and supervision of the judge, to assist the court and juvenile supervisors in carrying out the provisions of this chapter. Personnel so employed shall receive as full compensation for their services such amount as may be fixed and approved from time to time by the judge of the juvenile court assisted, ~~subject to approval of the board of county commissioners of the county or counties affected~~ within the limits of legislative appropriations, together with reasonable travel expenses, in the manner and subject to the limitations ~~and apportionment~~ applicable to juvenile

supervisors. Detention center facilities and personnel shall be funded by the county.

4. All salaries, per diem, and other compensation payable to juvenile court personnel, ~~other than the judge, the cost of providing suitable quarters for conducting official business,~~ all necessary books, forms, stationery, office supplies and equipment, postage, telephone, travel, and other necessary expenses incurred in carrying out the provisions of this chapter shall be borne by the ~~counties affected and may be apportioned among them by the judge. Such compensation and expenses shall be paid monthly by the county treasurer of the respective counties affected upon properly certified claims and upon approval of the judge as other claims against the county are allowed and paid state,~~ except for suitable quarters for conducting official business and lights and fuel which shall be funded by the county and except as provided by subsection 1 of section 27-20-49.

SECTION 45. AMENDMENT. Subsection 1 of section 27-20-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The judge may appoint one or more persons to serve at the pleasure of the judge as referees on a full- or part-time basis. A referee shall be a member of the bar. ~~His compensation shall be fixed by the judge with the approval of the board of county commissioners of each county affected and paid as provided in subsection 4 of section 27-20-05,~~ and shall be paid a salary within the limits of legislative appropriations.

SECTION 46. AMENDMENT. Section 27-20-49 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-20-49. COSTS AND EXPENSES FOR CARE OF CHILD.

1. The following expenses shall be a charge upon the funds of the county upon certification thereof by the court:
- a. The cost of medical and other examinations and treatment, including any necessary transportation, of a child ordered by the court.
 - b. The cost of care and support of a child committed by the court to the legal custody of a public agency other than an institution for delinquent children, or to a private agency or individual other than a parent.
2. The following expenses shall be expenses of the state:

- e- a. Reasonable compensation for services and related expenses of counsel appointed by the court for a party.
 - d- b. Reasonable compensation for a guardian ad litem.
 - e- c. The expense of service of summons, notices, subpoenas, travel expense of witnesses, ~~transportation--of--the~~ child, and other like expenses incurred in the proceedings under this chapter.
- 2- 3. If, after due notice to the parents or other persons legally obligated to care for and support the child, and after affording them an opportunity to be heard, the court finds that they are financially able to pay all or part of the costs and expenses stated in ~~subdivisions a, b, c, and d--of~~ subsection 1, and subdivisions a and b of subsection 2, the court may order them to pay the same and prescribe the manner of payment. Unless otherwise ordered payment shall be made to the clerk of the juvenile court for remittance to the person to whom compensation is due, or if the costs and expenses have been paid by the county or the state to the county treasurer of the county or to the state treasurer.

SECTION 47. AMENDMENT. Section 29-07-01.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-07-01.1. PAYMENT OF EXPENSES FOR DEFENSE OF INDIGENTS. Lawyers appointed to represent needy persons shall be compensated at a reasonable rate to be determined by the court. Expenses necessary for the adequate defense of a needy person, when approved by the judge, shall be paid by the county wherein the alleged offense took place if the action is prosecuted in county court, and by the state if the action is prosecuted in district court. The state shall also pay the defense expenses in any felony action prosecuted in county court pursuant to subsection 7 of section 18 of this Act. A defendant with appointed counsel shall pay to the county or state such sums as the court shall direct. The state's attorney of the county wherein the action was prosecuted shall seek recovery of any such sums any time he determines the person for whom counsel was appointed may have funds to repay the county or state within six years of the date such amount was paid on his behalf.

SECTION 48. AMENDMENT. Section 29-32-05 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-32-05. INABILITY TO PAY COSTS. If the applicant is unable to pay court costs and expenses of representation, including stenographic, printing, and legal services, these costs and expenses, except in cases of misdemeanors and infractions exempted under the federal supreme court decisions and violations of

municipal ordinances, shall be made available to the applicant in the preparation of the application, in the trial court, and on review. Costs and expenses made available to the applicant shall, upon approval by the judge, be paid by the state where the application was made to a district court, or by the county in which the criminal action was venued, where the application was made to a county court.

SECTION 49. Section 30.1-02-06.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

30.1-02-06.1. (1-308) APPEALS. Appellate review, including the right to appellate review, interlocutory appeal, provisions as to time, manner, notice, appeal bond, stays, scope of review, record on appeal, briefs, arguments, and power of the appellate court, is governed by the rules applicable to the appeals to the supreme court in equity cases from the district court, except that in proceedings where jury trial has been had as a matter of right, the rules applicable to the scope of review in jury cases apply.

SECTION 50. LEGISLATIVE INTENT. It is the intent of the legislative assembly that counties implement the provisions of section 3 of this Act in consultation with the North Dakota association of counties and any other group the board of county commissioners deems appropriate.

* SECTION 51. REPEAL. Chapters 27-07, 27-08, 27-18, 30-26, 33-01, 33-02, 33-03, 33-04, 33-05, 33-07, 33-08, 33-09, 33-10, 33-11, and 33-12 of the North Dakota Century Code are hereby repealed.

SECTION 52. EFFECTIVE DATE. Sections 1, 4, 5, 7 through 35, 49, and 51 of this Act shall be effective on January 1, 1983.

Approved April 6, 1981

* NOTE: Section 27-07-23 was amended by section 1 of Senate Bill No. 2313, chapter 346. Section 27-08-08 was amended by section 1 of House Bill No. 1653, chapter 321, and by section 2 of Senate Bill No. 2377, chapter 137. Section 30-26-26 was also repealed by section 66 of House Bill No. 1069, chapter 91. Section 33-01-21 was amended by section 19 of House Bill No. 1069, chapter 91. Chapter 33-05 was also repealed by section 2 of House Bill No. 1064, chapter 350, and section 33-05-01 was amended by section 20 of House Bill No. 1069, chapter 91. Section 33-12-19 was amended by section 21 of House Bill No. 1069, chapter 91.

CHAPTER 320

HOUSE BILL NO. 1061
(Legislative Council)
(Interim Judiciary "A" Committee)

COUNTY COURT STATUTORY REFERENCES

AN ACT to amend and reenact sections 4-16-09, 4-30-54, 11-03-08, 11-05-16, 11-08-06, 11-08-07, subsection 1 of section 11-08-08, sections 11-08-11, 11-08-13, 11-08-14, 11-09-22, 11-10-02, subsection 8 of section 11-10-06, subsections 2 and 4 of section 11-10-10, sections 11-11-10, 11-15-10, subsection 2 of section 11-17-01, subsection 18 of section 11-17-04, subsection 1 of section 11-17-08, sections 11-19-08, 11-19-13, 11-19-14, 11-19-15, 11-30-16, 12-45-01, 12-46-13, 12-51-07, 12-53-05, 12-53-13, 12-60-13.1, 12.1-01-04, 14-03-09, 15-22-06, 18-02-09, 19-01-12, 23-05-06, 23-07.1-08, 23-07.1-09, 23-07.1-10, 24-06-05, 24-07-22, 24-07-24, 24-07-25, 24-07-28, subsections 2 and 8 of section 25-03.1-02, sections 25-03.1-03, 25-03.1-29, 27-01-01, 27-02-11, 27-02-13, subsection 4 of section 27-05-06, sections 27-06-08, 27-08.1-01, 27-08.1-03, 27-08.1-08, 27-08.2-01, 27-15-01, 27-15-02, 27-15-10, subsection 2 of section 27-23-01, sections 27-23-02, 28-20-19, 28-20-22, 28-26-07, 28-26-19, 29-01-01, subsection 4 of section 29-01-09, sections 29-01-14, 29-01-15, 29-02-13, 29-05-31, 29-07-06, 29-10.1-38, 29-22-01, 29-22-02, subsection 6 of section 30.1-01-06, sections 31-01-16, 31-01-18, 31-01-19, 31-09-05, 31-09-06, 31-09-07, 32-22-18, 32-24-01, 32-29-05, 33-06-01, 33-06-03, 33-06-04, 36-01-17, 36-01-18, 36-11-10, 36-11-11, 39-06-16, subsection 7 of section 39-06.1-03, sections 40-13-02, 40-18-01, 40-18-03, 40-18-14, 40-18-19, 42-01-07, 42-03-01, 42-03-03, 44-05-01, 44-08-09, 44-09-01, 44-11-12, 46-04-01, 46-04-05, 47-19-14, and 47-19-37 of the North Dakota Century Code, changing references in the North Dakota Century Code to county court of increased jurisdiction, county judges with increased jurisdiction, county justice court, and county justices to county court and county judge, and to require that certain district court expenses be paid by the state; to repeal sections 27-20-05.1 and 28-26-03 of the North Dakota Century Code, relating to county juvenile supervisors and costs on appeal from a county justice; and to provide an effective date.

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

SECTION 1. AMENDMENT. Section 4-16-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-16-09. CHARGES ENTERED AS TAXES - NOTICE REQUIRED - APPEARANCE - APPEAL TO DISTRICT COURT - COLLECTION. Before the board of township supervisors charges the amounts spent for gopher extermination as taxes against a parcel of land as provided in section 4-16-08, the board shall give the owner thereof at least twenty days' notice by mail of the time when and the place at which such amount will be so charged. The landowner shall have the right to appear and show cause why such amount shall not be charged as taxes. If the landowner ~~shall feel~~ feels aggrieved by the decision of the board of township supervisors, he may appeal to the district court, and the appeal shall be perfected and prosecuted as in the ~~ease of same manner as~~ appeals from justice municipal courts. The county auditor shall enter the amounts upon the tax roll of the county against the land on which the work has been done, and the county treasurer shall collect such amounts in the same manner as taxes are collected, and shall place the same to the credit of the respective townships.

SECTION 2. AMENDMENT. Section 4-30-54 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-54. STATE'S ATTORNEY'S ENDORSEMENT TO COMPLAINT UNNECESSARY UPON VIOLATION OF CHAPTER. It shall be unnecessary to have the endorsement of the state's attorney to a complaint made for a violation of the provisions of this chapter, but when the ~~justice of the peace or other~~ court before whom a complaint is made shall be satisfied of the truthfulness of such complaint, ~~he~~ it shall issue a warrant thereon.

SECTION 3. AMENDMENT. Section 11-03-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-03-08. BOARD OF COUNTY COMMISSIONERS TO APPOINT COUNTY OFFICERS - EXCEPTION. The board of county commissioners appointed by the governor, after the members thereof have qualified, shall appoint all the county officers of the newly organized county. Such officers, after having qualified, shall hold their offices until the first general election thereafter and until their successors are elected and qualified. All county ~~justices~~ judges and constables in office within the boundaries of a county organized under this chapter shall continue to hold such offices in the new county during the remainder of their terms and shall give bonds to the new county in the same amount and in the same manner as to the original county.

SECTION 4. AMENDMENT. Section 11-05-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-05-16. JUDICIAL ACTIONS AND PROCEEDINGS TRANSFERRED TO COURTS OF ADJOINING COUNTY. All actions or suits of every nature which have been filed or which are pending in any of the courts of the petitioning county on the first day of January following the governor's proclamation shall be transferred to the courts of the adjoining county or counties in accordance with the provisions of this section:

1. All such actions or suits filed or pending in the district court of the petitioning county shall be transferred by the clerk of such court to the clerk of the district court of the adjoining county.
2. All ~~probate--proceedings--or--other~~ actions pending in the county court of the petitioning county shall be transferred to the county court of the adjoining county and shall be heard, tried, and determined by that court as though originally filed therein.
3. ~~All--actions--pending--in--the--court--of--a--county--justice--of--the--petitioning--county--shall--be--transferred--to--and--tried--by--the--county--justice--of--the--adjoining--county--whose--office--is--located--in--or--nearest--to--the--courthouse--of--the--adjoining--county.--The--county--justices--of--the--petitioning--county--within--ten--days--after--the--first--day--of--January--following--the--governor's--proclamation--shall--deliver--their--dockets--and--all--other--books--and--records--of--their--offices--to--the--clerk--of--the--district--court--of--the--adjoining--county--.~~

If the petitioning county is joined to two or more adjoining counties, the judge of the court in which any action or proceeding is pending in the petitioning county may direct to which of the adjoining counties the action or proceeding shall be transferred.

SECTION 5. AMENDMENT. Section 11-08-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-08-06. OFFICERS IN COUNTY ADOPTING CONSOLIDATED OFFICE FORM OF GOVERNMENT. In addition to the board of county commissioners provided for by this title, the following shall be the officers in a county which has adopted the county consolidated office form of government:

1. One county auditor who shall be ex officio ~~county-judge,~~ register of deeds, and clerk of the district court.
2. One state's attorney.
3. One sheriff.
4. One county treasurer, except such office with its attendant powers and duties may be combined with and conferred upon the county auditor by the board of county

commissioners but no added compensation shall be paid the county auditor in said capacity.

5. One county superintendent of schools.
6. One coroner.
7. One county ~~justice~~ judge, except that the board of county commissioners of any two or more counties may enter into an agreement to provide for election of a judge or judges to serve the county courts of the counties entering into the agreement.
8. Four constables.

SECTION 6. AMENDMENT. Section 11-08-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-08-07. APPOINTIVE OFFICERS - COUNTY COMMISSIONERS ELECTED - TERMS OF OFFICE - HOW VACANCY FILLED. Each county officer mentioned in section 11-08-06, except the members of the board of county commissioners, who shall be elected in the manner provided in section 11-11-02, and the county judge, who shall be elected in the manner and method prescribed by general statute, shall be appointed by the board of county commissioners and shall hold office for a term of four years, except as otherwise provided in this chapter, and until his successor is duly appointed and qualified. Any vacancy resulting from any cause shall be filled by the board of county commissioners.

SECTION 7. AMENDMENT. Subsection 1 of section 11-08-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. On or before the fifteenth day of January, the sheriff, state's attorney, county superintendent of schools, coroner, ~~county--justice,~~ and four constables shall be appointed, and such officers shall qualify within ten days thereafter.

SECTION 8. AMENDMENT. Section 11-08-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-08-11. POWERS AND DUTIES OF COUNTY AUDITOR. The county auditor, in addition to the duties and powers conferred by law on that officer, shall perform the duties and functions and exercise the powers conferred on the register of deeds, and the clerk of the district court,--and-the-county-judge-respectively. He shall be the chief administrative officer of the county. The board of county commissioners may delegate to the county auditor such duties of an administrative or executive nature as are not specifically conferred by law upon other officers. Such delegated duties shall be exercised by the county auditor under the supervision of the board of county commissioners.

SECTION 9. AMENDMENT. Section 11-08-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-08-13. POWERS AND DUTIES OF OTHER OFFICERS. The sheriff, state's attorney, county superintendent of schools, coroner, ~~county justice,~~ and constables appointed under the provisions of this chapter shall perform the duties and exercise the powers conferred by law upon such officers respectively.

SECTION 10. AMENDMENT. Section 11-08-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-08-14. DEPUTIES AND EMPLOYEES - APPOINTMENT - COMPENSATION - TERMS. Subject to the approval of the board of county commissioners, the county auditor may appoint a deputy auditor, a deputy register of deeds, and a deputy clerk of the district court, ~~and a clerk of the county court.~~ The compensation of any such deputy appointed pursuant to this section shall be fixed by the board of county commissioners. The same person may be appointed to serve as deputy in two or more offices. Subject to the approval of the board of county commissioners, the county auditor may employ such clerks, stenographers, and other county employees as may be required to perform the duties of the several offices under his direction. The compensation of the employees shall be fixed by the board of county commissioners. Any deputy or employee shall serve at the pleasure of the county auditor and may be appointed or employed to serve on a part-time basis.

SECTION 11. AMENDMENT. Section 11-09-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-22. COUNTY JUDGE - ~~ELECTION OR APPOINTMENT~~ - DUTIES. In counties adopting either the short form of county managership or the county manager form of government, the county judge shall be elected in the manner and method prescribed by general statute. ~~In counties adopting a short form of county managership, the county manager, with the approval of the board of county commissioners, shall appoint a county judge.~~ The county judge shall perform the functions imposed on the office by general statute.

SECTION 12. AMENDMENT. Section 11-10-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-10-02. NUMBER AND ELECTION OF OFFICERS. Each organized county, unless it has adopted one of the optional forms of county government, provided by the code, shall have the following officers:

1. One county auditor.
2. One register of deeds.
3. One clerk of the district court.
4. One state's attorney.

5. One sheriff.
6. One county judge, except that the board of county commissioners of any two or more counties may enter into an agreement to provide for election of a judge or judges to serve the county courts of the counties entering the agreement.
7. One county treasurer.
8. One coroner.
9. One county superintendent of schools.
- ~~10. One or more county justices as provided in chapter 27-18.~~
- ~~11.~~ Four constables.
- ~~12.~~ 11. One public administrator.
- ~~13.~~ 12. A board of county commissioners consisting of three or five members as provided in this title.

~~in counties having a population of more than six thousand and not more than fifteen thousand, the county judge shall be an ex officio clerk of the district court, and in~~ In counties having a population of six thousand or less, the register of deeds shall be ex officio clerk of the district court ~~and county judge.~~ In counties having a population of twenty-five thousand inhabitants or more, the county judge may appoint a clerk of county court. In counties with a population of less than twenty-five thousand inhabitants, the clerk of district court shall be clerk of county court. The required officers shall be chosen by the qualified electors of the respective counties at the general election in each even-numbered year, except the register of deeds, county auditor, treasurer, sheriff, state's attorney, county judge, and clerk of the district court, who shall be chosen in 1966 and every four years thereafter, the members of the board of county commissioners, who shall be chosen in the manner prescribed in section 11-11-02, the public administrator, who shall be chosen in the manner prescribed in section 11-21-01, ~~the county justice, who shall be chosen in the manner prescribed in section 27-18-01,~~ the county coroner, who shall be chosen in the manner prescribed in section 11-19.1-03, and the constables, who shall be appointed by the board of county commissioners.

SECTION 13. AMENDMENT. Subsection 8 of section 11-10-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

8. A county ~~justice~~ judge, ten thousand dollars.

* SECTION 14. AMENDMENT. Subsections 2 and 4 of section 11-10-10 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- * NOTE: Subsections 2 and 4 of section 11-10-10 were also amended by section 1 of House Bill No. 1504, chapter 138.

2. The county treasurer, county superintendent of schools, register of deeds, ~~county-judge~~, county auditor, clerk of district court, and state's attorney each shall receive the following annual salary, payable monthly, for official services rendered:
 - a. Eleven thousand nine hundred dollars in counties having a population of less than eight thousand.
 - b. Twelve thousand two hundred ninety dollars in counties having a population exceeding eight thousand plus additional compensation of one hundred dollars per year for each one thousand additional population or major fraction thereof over eight thousand. However, in counties where the population consists of more than twenty-five percent Indians who have not severed tribal relations, the county commissioners may adjust the salaries provided for herein within the limitations contained in this subdivision.
 - c. State's attorneys in counties having a population exceeding thirty-five thousand, or in other counties where the board of county commissioners has determined by resolution that the state's attorney shall be full time and shall not be an attorney or counsel for any party except the state or county, shall receive a salary of twenty thousand to twenty-seven thousand nine hundred dollars, to be determined by resolution of the board of county commissioners.

4. ~~In---counties---having---a---county---court---of---increased jurisdiction, the~~ The salaries of the judges of county courts ~~of---increased---jurisdiction~~ shall be as set out in section ~~27-08-08~~ 5 of House Bill No. 1060. The county superintendent of schools shall receive for any trips necessarily made within his county in the performance of school district reorganization duties the same mileage as he receives under the provisions of section 11-10-15. The board of county commissioners of any county may, by resolution, increase the salary of any full-time county official by an amount not to exceed thirty percent above the salary provided in this section or section 27-08-08, if, in the judgment of such board, by reason of duties performed, the official merits the increase. The salary of a county official shall not be reduced during his or her term of office. Any county official performing duties on less than a full-time basis may be paid a reduced salary set by the board of county commissioners. In the event the county has for its employees, a group insurance program for hospital benefits, medical benefits, or life insurance, or a group retirement program, financed in part or entirely by the county, such benefits may be in addition to the salaries payable to county officials.

SECTION 15. AMENDMENT. Section 11-11-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-11-10. POWER OF BOARD TO PRESERVE ORDER - FINES - COLLECTION. The board of county commissioners shall have power to preserve order when sitting as a board and may punish contempts by fines of not more than five dollars or by imprisonment in the county jail for not more than twenty-four hours. The board may enforce obedience to its orders by attachment or other compulsory process, and when fines are assessed by it, they may be collected before any county ~~justice~~ judge having jurisdiction, and, within ten days after they are collected, shall be paid into the treasury of the county to be added to the state school fund.

SECTION 16. AMENDMENT. Section 11-15-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-15-10. FEES IN COUNTY ~~AND-JUSTICE'S~~ COURT. The sheriff shall collect the same fees for the performance of his duties in county ~~and-county-justice's~~ court as are allowed for similar services in the district court. Such fees shall be taxed against the proper party.

SECTION 17. AMENDMENT. Subsection 2 of section 11-17-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Act as clerk of the district court and attend each session thereof, ~~and attend the judge of the district court in chambers when requested to do so;--provided,--that in counties having a county court of increased jurisdiction and the county judge is ex-officio clerk of the district court, there may be appointed by such judge a deputy clerk of court when authorized by the board of county commissioners, who shall fix the salary and provide the amount of bond to be furnished.--Such deputy clerk of court shall, when requested by the county judge, attend sessions of the district court and attend the judge of the district court in chambers, and perform such other duties as may be assigned such deputy by the judge of the county court, and act as clerk of county court as required by law.~~

SECTION 18. AMENDMENT. Subsection 18 of section 11-17-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18. For filing and docketing a transcript of a judgment from a ~~justice's~~ county court or from any other county, two dollars.

SECTION 19. AMENDMENT. Subsection 1 of section 11-17-08 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The clerks of the district and county courts ~~and of county courts having increased jurisdiction~~ are hereby authorized to remove from the files in their offices, and to destroy:
 - a. All records in civil actions in which judgment has not been entered and nothing has been filed of record for more than thirty years.
 - b. All records, except the original pleadings, transcripts of testimony, and stipulations signed by the parties or their attorneys, in civil actions in which:
 - (1) Judgment has been entered and nothing has been filed of record for more than ten years if the judgment was not renewed or twenty years if the judgment was renewed.
 - (2) Judgment has been satisfied for more than twenty years.
 - (3) The action has been dismissed for more than twenty years.

SECTION 20. AMENDMENT. Section 11-19-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-19-08. SUBPOENAS FOR WITNESSES - FEES - CONTEMPTS. The coroner may issue subpoenas within his county for witnesses, returnable forthwith or at such time and place as he shall direct. Witnesses before a coroner's jury shall be allowed the same fees as are allowed witnesses in ~~a case before a county justice court~~. The coroner has the same authority as a county ~~justice~~ judge in a criminal case to enforce the attendance of witnesses and to punish them and jurors for contempt in disobeying his process.

SECTION 21. AMENDMENT. Section 11-19-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-19-13. CORONER MAY ORDER ARREST. If the person charged by the jury with the commission of a crime is present, the coroner may order his arrest by an officer or by any other person present, and then he shall make a warrant requiring the officer or other person to take him before a county ~~justice~~ judge. If the person charged is not present and the coroner believes he can be arrested, the coroner may issue a warrant to the sheriff and constables of the county requiring them to arrest the person and take him before a county ~~justice~~ judge.

SECTION 22. AMENDMENT. Section 11-19-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-19-14. WARRANT RETURNABLE TO A COUNTY ~~JUSTICE~~ JUDGE. The warrant of the coroner shall be of equal authority with that of a

county ~~justice~~ judge. When the person charged is brought before the county ~~justice~~ judge, the same proceedings shall be had as in other ~~cases-under-complaint-in~~ criminal actions proceedings.

SECTION 23. AMENDMENT. Section 11-19-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-19-15. WARRANT OF CORONER TO RECITE VERDICT AND IS FOUNDATION FOR PROCEEDINGS OF ~~JUSTICE~~ JUDGE. The warrant of the coroner shall recite substantially the transactions before him and the verdict of the jury leading to the arrest. Such warrant shall be sufficient foundation for the proceedings of the county ~~justice~~ judge.

SECTION 24. AMENDMENT. Section 11-30-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-30-16. ACTIONS TRANSFERRED TO COURTS OF ADJOINING COUNTY. All actions or suits of every nature that have been filed or are pending in any of the courts of the unorganized county on January first following the governor's proclamation, or that thereafter may arise or be instituted, shall be transferred, brought, and tried in the courts of the adjoining organized county to which the unorganized county is attached. Actions pending in a county ~~justice~~ court in the unorganized county shall be transferred to and tried before the county ~~justice~~ judge in the adjoining organized county whose office is located nearest to the courthouse of said unorganized county.

SECTION 25. AMENDMENT. Section 12-45-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-45-01. INQUEST REQUIRED. If a person confined in the penitentiary or the North Dakota industrial school dies, the warden or superintendent immediately shall notify the coroner of Burleigh or Morton County, as the case may be, or when there is a vacancy in the office, or the coroner is absent or unable to act, the county ~~justice~~ judge of the county. Such coroner or county ~~justice~~ judge so notified immediately shall take possession of the body of said deceased and remove the same from the penitentiary or North Dakota industrial school and retain said body for at least twenty-four hours, and shall hold an inquest thereon and inquire carefully into the cause of said deceased's death, in the manner provided by law in cases of persons supposed to have died by unlawful means. No officer or employee of the penitentiary or North Dakota industrial school shall be placed or permitted to serve on the jury at the inquest.

* SECTION 26. AMENDMENT. Section 12-46-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-46-13. WHO MAY BE SENT TO STATE INDUSTRIAL SCHOOL - COURT PROCEDURE. Whenever a person under the age of eighteen years is found guilty in any district or county court ~~or county court with~~

* NOTE: Section 12-46-13 was also amended by section 1 of Senate Bill No. 2389, chapter 328.

~~increased-jurisdiction~~ of a crime or public offense, other than murder, the court instead of entering judgment against such person, if in its judgment the accused is a proper subject therefor, may direct an order entered in the minutes of the court that the person be committed to the state industrial school until the person attains the age of eighteen years. If the person so committed is of the age that he will not have been committed for at least two years before he attains the age of eighteen years, the court may extend the commitment beyond the date he attains the age of eighteen years, but the entire commitment shall not exceed a period of two years.

* SECTION 27. AMENDMENT. Section 12-51-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-51-07. PRISONERS ELIGIBLE FOR COMMITMENT TO STATE FARM - COMMITMENT THERETO DEEMED A CONVICTION OF MISDEMEANOR. The judges of the district courts, and ~~of the~~ county courts ~~with-increased jurisdiction,~~ may commit to the state farm, so far as the capacity of the farm shall permit, all male persons who otherwise would be committed to the county jail or to the penitentiary for violation of any criminal law of this state, where the sentence is not less than thirty days nor more than one year provided that no person shall be committed to the state farm who:

1. Has at any time been convicted of a sexual offense;
2. Has served a sentence or portion thereof in a penitentiary upon conviction of a felony; or
3. Has a history of moral or sexual degeneration.

A person committed to the state farm shall not be deemed to have been convicted of a felony, but shall be deemed to have been convicted of a misdemeanor.

SECTION 28. AMENDMENT. Section 12-53-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-53-05. RULES FOR PROBATION AND PAROLE FROM COUNTY JAIL. The supreme court may adopt rules for the district and county courts ~~and--the--county--courts--with-increased-jurisdiction~~ relating to the systems of probation and parole from county jails.

SECTION 29. AMENDMENT. Section 12-53-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-53-13. IMPOSITION OF SENTENCE SUSPENDED - WHEN AUTHORIZED. When a defendant has been found guilty of a crime, whether or not for the first time, the court having jurisdiction thereof, ~~including a-county-justice,~~ upon application or its own motion may, in its discretion, suspend the imposing of the sentence and may direct that such suspension continue for a definite period of time, upon such terms and conditions as it may determine. Such period shall not exceed five years, except that in cases where the defendant has been

* NOTE: Section 12-51-07 was also amended by section 1 of House Bill No. 1085, chapter 152

found guilty of abandonment or nonsupport of his wife or children, the period may be continued for as long as responsibility for support continues.

SECTION 30. AMENDMENT. Section 12-60-13.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-60-13.1. COUNTY AND CITY OFFICIALS TO FURNISH CRIME STATISTICS TO SUPERINTENDENT. In an effort to assist in controlling crime in the state through the use of reliable statistics relating to crimes and criminal activity, the superintendent, with the approval of the attorney general, may call upon and obtain from the clerks of district courts, county courts, ~~county--justice--courts,~~ municipal courts, sheriffs, police departments, and state's attorneys all information that he may deem necessary in ascertaining the condition of crimes and criminal activity in North Dakota. It shall be the duty of the said officials to furnish any such information so requested by the superintendent on whatever forms or in whatever manner he may prescribe.

SECTION 31. AMENDMENT. Section 12.1-01-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12.1-01-04. GENERAL DEFINITIONS. As used in this title, unless a different meaning plainly is required:

1. "Act" or "action" means a bodily movement, whether voluntary or involuntary.
2. "Acted", "acts", and "actions" include, where relevant, "omitted to act" and "omissions to act".
3. "Actor" includes, where relevant, a person guilty of an omission.
4. "Bodily injury" means any impairment of physical condition, including physical pain.
5. "Court" means any of the following courts: the supreme court, a district court, a county court ~~with--increased jurisdiction,--a--county--justice,~~ and where relevant, a municipal court ~~and-a-county-court.~~
6. "Dangerous weapon" means, but is not limited to, any switchblade or gravity knife, machete, scimitar, stiletto, sword, or dagger; any billy, blackjack, sap, bludgeon, cudgel, metal knuckles, or sand club; any slungshot; any bow and arrow, crossbow, or spear; any weapon which will expel, or is readily capable of expelling, a projectile by the action of a spring, compressed air, or compressed gas including any such weapon, loaded or unloaded, commonly referred to as a b.b. gun, air rifle, or CO² gun; and any

projector of a bomb or any object containing or capable of producing and emitting any noxious liquid, gas, or substance.

7. "Destructive device" means any explosive, incendiary or poison gas bomb, grenade, mine, rocket, missile, or similar device.
8. "Explosive" means gunpowders, powders used for blasting, all forms of high explosives, blasting materials, fuses (other than electric circuit breakers), detonators and other detonating agents, smokeless powders, and any chemical compounds, mechanical mixture, or other ingredients in such proportions, quantities, or packing that ignition by fire, by friction, by concussion, by percussion, or by detonation of the compound, or material, or any part thereof may cause an explosion.
9. Repealed by S.L. 1975, ch. 116, § 33.
10. "Firearm" means any weapon which will expel, or is readily capable of expelling, a projectile by the action of an explosive and includes any such weapon, loaded or unloaded, commonly referred to as a pistol, revolver, rifle, gun, machine gun, shotgun, bazooka, or cannon.
11. "Force" means physical action.
12. "Government" means:
 - a. The government of this state or any political subdivision of this state;
 - b. Any agency, subdivision, or department of the foregoing, including the executive, legislative, and judicial branches;
 - c. Any corporation or other entity established by law to carry on any governmental function; and
 - d. Any commission, corporation, or agency established by statute, compact, or contract between or among governments for the execution of intergovernmental programs.
13. "Governmental function" includes any activity which one or more public servants are legally authorized to undertake on behalf of government.
14. "Harm" means loss, disadvantage, or injury to the person affected, and includes loss, disadvantage, or injury to any other person in whose welfare he is interested.
15. "Included offense" means an offense:

- a. Which is established by proof of the same or less than all the facts required to establish commission of the offense charged;
 - b. Which consists of criminal facilitation of or an attempt or solicitation to commit the offense charged; or
 - c. Which differed from the offense charged only in that it constitutes a less serious harm or risk of harm to the same person, property, or public interest, or because a lesser degree of culpability suffices to establish its commission.
16. "Includes" should be read as if the phrase "but is not limited to" were also set forth.
17. ~~"Judge"-includes-a-county-justice-~~
- ~~18-~~ 18. "Law enforcement officer" or "peace officer" means a public servant authorized by law or by a government agency or branch to enforce the law and to conduct or engage in investigations or prosecutions for violations of law.
- ~~19-~~ 18. "Local" means of or pertaining to any political subdivision of the state.
- ~~20-~~ 19. Repealed by S.L. 1975, ch. 116, § 33.
- ~~21-~~ 20. "Offense" means conduct for which a term of imprisonment or a fine is authorized by statute after conviction.
- ~~22-~~ 21. "Official action" includes a decision, opinion, recommendation, vote, or other exercise of discretion by any governmental agency.
- ~~23-~~ 22. "Official proceeding" means a proceeding heard or which may be heard before any government agency or branch or public servant authorized to take evidence under oath, including any referee, hearing examiner, commissioner, notary, or other person taking testimony or a deposition in connection with any such proceeding.
- ~~24-~~ 23. "Omission" means a failure to act.
- ~~25-~~ 24. As used in this title and in sections outside this title which define offenses, "person" includes, where relevant, a corporation, partnership, unincorporated association, or other legal entity. When used to designate a party whose property may be the subject of action constituting an offense, the word "person" includes a government which may lawfully own property in this state.
- ~~26-~~ 25. "Property" includes both real and personal property.

- 27- 26. "Public servant" as used in this title and in any statute outside this title which defines an offense means any officer or employee of government, including law enforcement officers, whether elected or appointed, and any person participating in the performance of a governmental function, but the term does not include witnesses.
- 28- 27. "Serious bodily injury" means bodily injury which creates a substantial risk of death or which causes serious permanent disfigurement, unconsciousness, extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ.
- 29- 28. "Signature" includes any name, mark, or sign written or affixed with intent to authenticate any instrument or writing.
- 30- 29. "Thing of value" or "thing of pecuniary value" means a thing of value in the form of money, tangible or intangible property, commercial interests, or anything else the primary significance of which is economic gain to the recipient.
- 31- 30. "Writing" includes printing, typewriting, and copying.
- 32- 31. "Political subdivision" as used in this title and in any statute outside this title which defines an offense means a county, city, school district, township, and any other local governmental entity created by law.

Words used in the singular include the plural, and the plural the singular. Words in the masculine gender include the feminine and neuter genders. Words used in the present tense include the future tense, but exclude the past tense.

SECTION 32. AMENDMENT. Section 14-03-09 of the 1977 Pocket Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

14-03-09. WHO MAY SOLEMNIZE MARRIAGES. Marriages may be solemnized by all judges of courts of record ~~and--by--all--county~~ justices within their respective jurisdictions, by ordained ministers of the gospel and priests of every church, by ministers of the gospel licensed by regular church bodies or denominations and serving as pastors of churches, and by any person authorized by the forms and usages of any church or religious denomination or organization organized or possessing a certificate of authority pursuant to the North Dakota Nonprofit Corporation Act.

SECTION 33. AMENDMENT. Section 15-22-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-22-06. DEPUTIES - APPOINTMENT - SALARY. In counties in which fifty or more teachers are under his supervision, the county superintendent of schools may appoint an office deputy for whose acts as such deputy he shall be responsible. The salary of the deputy shall be fixed by the board of county commissioners. In counties in which sixty or more teachers are under the supervision of the county superintendent, he shall be allowed one field deputy and an additional field deputy for each additional one hundred teachers or major fraction thereof under his supervision. The field deputies shall assist the county superintendent in visiting schools and in the general supervision of the educational work of the county. They shall possess the educational qualifications required of the county superintendent and shall receive a salary equal to eighty percent of the county superintendent's salary. In counties ~~where--the--county--court--has--increased--jurisdiction--and~~ where the county has a population exceeding forty thousand, the number and salary of deputies, clerks, and assistants for the county superintendent of schools shall be fixed from time to time by resolution of the board of county commissioners according to the volume of business of the office.

SECTION 34. AMENDMENT. Section 18-02-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-02-09. POWERS OF RANGERS, WARDENS, AND DEPUTIES.

- a- 1. Forest rangers, fire wardens, emergency fire wardens and other duly appointed deputies shall take prompt action against the spread and illegal setting of forest fires. They shall have the power of sheriffs to arrest, without warrant, for violations of the statutes relating to such fires. They may execute and serve all warrants and processes issued by any county ~~justice~~ or municipal judge, or by any court having jurisdiction in the same manner as any constable may serve and execute such processes, and to arrest any person detected in the actual violation, or whom such officer has reasonable cause to believe guilty of a violation of any of the provisions of the statutes relating to forest fires, and to take such person before any court in the county where the offense was committed and make proper complaint.
- b- 2. They shall have the authority to call upon any able-bodied citizen to assist in fighting such fires in such manner as they may direct.
- e- 3. All such forest rangers, fire wardens, emergency fire wardens and other duly appointed deputies may in the performance of their official duty go on the lands of any person or corporation to fight forest fires, and in doing so may set back fires, dig trenches, cut and plow firelines or carry on all other activities customary in the fighting of forest fires, without incurring liability to anyone.

SECTION 35. AMENDMENT. Section 19-01-12 of the 1979 Interim Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-01-12. SEIZURE OF UNLAWFUL PRODUCTS - SEARCH WARRANT. A search warrant may be issued by any judge, including a county justice, or municipal judge, whenever probable cause is shown by affidavit or deposition under oath that any article, product, composition, or thing is being kept or is present upon certain premises which shall be particularly described or is in possession of any person who shall be named in the affidavit or deposition, and that such article, product, composition, or thing, is not in compliance with, or is being used or possessed contrary to, any applicable provision of this title or of any rule, regulation, standard, tolerance, or definition issued pursuant thereto. The search warrant shall be in substantially the form described in the North Dakota Rules of Criminal Procedure. It shall particularly describe the premises or the person who has possession of such article and shall be signed by the judge with the name of his office, and shall be directed to any peace officer of the county or to the department or any of its agents. The warrant shall command the peace officer or agent of the department to search the persons or places named and to seize all and any products, articles, compositions, or things of the kind described therein which may be held in violation of any applicable provision of this title, and to bring such products, articles, compositions, or things before the judge.

SECTION 36. AMENDMENT. Section 23-05-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-05-06. REMOVAL OF NUISANCE - COMPLAINT TO JUSTICE COUNTY JUDGE - WHEN WARRANT ISSUED. Whenever a local board of health deems it necessary for the preservation of the public health to enter any building within its jurisdiction to examine, destroy, remove, or prevent any nuisance, source of filth, or cause of sickness and is refused entrance into such building, any member of the board may make complaint under oath to a county justice judge within the jurisdiction of the board, stating the facts in the case so far as he has knowledge thereof. The justice judge thereupon shall issue a warrant directed to the sheriff or other peace officer commanding him to destroy, remove, or prevent, between the hours of sunrise and sunset, the nuisance, source of filth, or cause of sickness, under the direction of such members of the local board of health as accompany him.

SECTION 37. AMENDMENT. Section 23-07.1-08 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-07.1-08. HEARING - ORDER. Unless waived by the alleged tubercular person, a hearing shall be held by ~~a--law-trained--county justice--or--a-judge-of-a-county-court-of-increased-jurisdiction~~ the county judge of the county in which the alleged tubercular person

resides within one hundred twenty hours, exclusive of weekends and holidays, after the date of the state health officer's temporary order. The court may consider all relevant evidence, including the results of a physical examination made pursuant to section 23-07.1-06, and the state health officer and the alleged tubercular person shall be afforded an opportunity to testify, to present and cross-examine witnesses, and to be represented by counsel. Upon the request of the state health officer, the state's attorney of the county wherein the hearing is held shall represent the state health officer without additional compensation.

If, upon completion of the hearing, the court finds that the allegation that the person has active, infectious tuberculosis in a communicable and contagious stage has not been sustained by clear and convincing evidence, the court shall dismiss the case and order that the alleged tubercular be discharged if he had been in custody prior to the hearing. If the court finds that the allegation has been sustained by clear and convincing evidence, the court shall issue an order which shall:

1. State its findings that the person does have active, infectious tuberculosis in a communicable and contagious stage and is dangerous to public health; and
2. Authorize the medical facility specified in the order to receive and keep such person in its facility for necessary and appropriate care, treatment, quarantine, and isolation for so long as the disease remains in a communicable and contagious stage and the danger to public health exists.

SECTION 38. AMENDMENT. Section 23-07.1-09 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-07.1-09. APPEAL TO DISTRICT COURT - HABEAS CORPUS - HEARING. An appeal from an order of the ~~county-justice-or~~ judge of a county court ~~with-increased-jurisdiction~~ authorizing a specified medical facility to receive a person for care, treatment, quarantine and isolation may be taken to the district court of the county. In such a proceeding, the state's attorney of the county wherein the appeal is taken, without additional compensation, shall represent the state health officer. The clerk of court of the county in which the appeal is taken shall notify the state's attorney of the filing of such appeal. The hearing shall be limited to a review of the procedures, findings, and conclusions of the lower court. All persons placed in the custody of the state health officer under the provisions of this chapter for care, treatment, quarantine and isolation shall be entitled to the benefit of the writ of habeas corpus and a determination as to whether a person in such custody has active, infectious tuberculosis in a communicable and contagious stage and is dangerous to public health shall be made at the hearing. If the court shall decide that the person does have active, infectious tuberculosis and is dangerous to public health, such decision shall not preclude a subsequent application for a writ

or the issuing of a writ upon a subsequent application, if it shall be alleged that such person shall have been restored to health.

SECTION 39. AMENDMENT. Section 23-07.1-10 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-07.1-10. DISCHARGE - RELEASE. All orders of the state health officer or of a ~~county justice or~~ judge of a county court ~~with--increased-jurisdiction~~ authorizing the reception and retention in custody for care, treatment, quarantine and isolation of persons having active and infectious tuberculosis endangering public health shall be effective only during the continuation of such condition and any person who is cured or who no longer has tuberculosis in a communicable and contagious stage shall be discharged immediately from custody. Such discharge shall be made by the state health officer or his designee, under the guidelines of the state health council. The person in charge of a medical facility may also release any person admitted to the medical facility under the provisions of this chapter at such times and under such conditions as deemed advisable after consultation with the state health officer or his designee.

SECTION 40. AMENDMENT. Section 24-06-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-06-05. OVERSEER RESPONSIBLE FOR MACHINERY. Each overseer of highways shall be responsible personally for the proper use and care of all implements while in his charge, or in use in his district, and any overseer of highways, or other person who, through negligence or willfully shall injure or damage such implements or permit them to be injured, shall be liable for such damage to such township, in an action to be brought by the chairman of the board of township supervisors before any county ~~justice~~ judge in ~~said~~ the township or any adjoining township.

SECTION 41. AMENDMENT. Section 24-07-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-07-22. APPEALS - WHEN AND WHERE TAKEN. Any person who ~~shall-feel-himself~~ feels aggrieved by any determination or award of damages made by the board having jurisdiction, either in laying out, altering, or discontinuing, or in refusing to lay out, alter, or discontinue, any highway or cartway, within thirty days after the filing of such determination or award of damages, as provided in this chapter, may appeal therefrom. If the amount of damages claimed by appellant does not exceed one hundred dollars, ~~such~~ the appeal shall be taken to the county ~~justice~~ judge. If the damages claimed exceed one hundred dollars, the appeal shall be taken to the district court.

SECTION 42. AMENDMENT. Section 24-07-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-07-24. APPEALS - FILING - APPROVAL OF UNDERTAKING - SERVICE. If the appeal is taken to a county justice judge, the notice of appeal and undertaking shall be filed with him and the undertaking must be approved by him. If the appeal is taken to the district court, the notice of appeal and undertaking shall be filed with the clerk of such court and the undertaking must be approved by the judge thereof or by the county auditor. In either case, the notice of appeal shall be served upon some member of the board by which the determination was made.

SECTION 43. AMENDMENT. Section 24-07-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-07-25. TRIAL IN COUNTY JUSTICE COURT. In county justice court, the appeal shall be tried by a jury. The county justice judge shall give notice in writing to the appellant and the board from which the appeal was taken, of the time and place of trial at least six days before the day of trial.

SECTION 44. AMENDMENT. Section 24-07-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-07-28. JUDGMENT - COPY FILED - PAYMENT OF COSTS. When judgment shall have been entered upon an appeal taken as provided in this chapter, the county justice judge or the clerk of the district court, as the case may be, shall file with the county auditor or clerk of the township a certified copy of such judgment.

SECTION 45. AMENDMENT. Subsections 2 and 8 of section 25-03.1-02 of the 1979 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. "Court" means, except where otherwise indicated, the county court ~~of increased jurisdiction or the county justice court~~ of the county wherein the respondent resides. ~~Only the county justice courts wherein a licensed attorney presides may exercise jurisdiction under this chapter.~~
8. "Magistrate" means the judge of the appropriate county court ~~of increased jurisdiction or the appropriate county justice.~~

SECTION 46. AMENDMENT. Section 25-03.1-03 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03.1-03. JURISDICTION. The county courts ~~of increased jurisdiction and the county justice courts~~ shall both have original and exclusive jurisdiction over the proceedings governed by this chapter, ~~which jurisdiction is exclusively vested in these courts,~~ except as provided in this section. They shall have concurrent jurisdiction with the juvenile court for the commitment of juveniles for treatment or evaluation. ~~For the limited purpose of proceedings~~

~~under this chapter the supreme court shall designate the county justice courts as courts of record.~~

SECTION 47. AMENDMENT. Section 25-03.1-29 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03.1-29. APPEAL. The respondent shall have the right to an expedited appeal from an order of involuntary commitment or alternative treatment, a continuing treatment order, an order denying a petition for discharge, or an order of transfer. Upon entry of an appealable order, the court shall notify the respondent of the right of appeal and the right to counsel. The notice of appeal must be filed within thirty days after the order has been entered. Such appeal shall be to the ~~district~~ supreme court and the hearing shall be commenced within fourteen days of filing of the notice of appeal. The hearing shall be limited to a review of the procedures, findings, and conclusions of the lower court.

Pending appeal, the order appealed from shall remain in effect, unless the ~~district~~ supreme court determines otherwise. The respondent shall not be denied the opportunity to be present at the appeal hearing, and the court conducting the appeal may issue such interim order as will assure this opportunity to the respondent while protecting the interest sought to be served by the order appealed from.

SECTION 48. AMENDMENT. Section 27-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-01-01. COURTS COMPOSING JUDICIAL SYSTEM OF STATE - THOSE CONSTITUTING COURTS OF RECORD. The following are the courts of justice of this state:

1. The supreme court;
2. The district courts;
3. The county courts; and
4. ~~The courts of county justices, and~~
5. Such other courts as are or may be created by law for cities.

Of these the supreme court and the district and county courts are courts of record.

* SECTION 49. AMENDMENT. Section 27-02-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-02-11. NOTICE OF INTENTION TO PROMULGATE RULE - REQUIREMENT - METHOD OF GIVING - HEARING INTERESTED PARTIES. No new rule shall be promulgated by the supreme court under the provisions

- * NOTE: Section 27-02-11 was repealed by section 1 of Senate Bill No. 2387, chapter 317.

of sections 27-02-07 and 27-02-08 until such court first shall have given notice of its intention to do so by filing such proposed rule in the office of the clerk of the supreme court and by causing a certified copy thereof to be filed in the office of the clerk of the district court of each county in the state and by mailing to each district judge, judge of the county court ~~of-increased-jurisdiction~~ and to each attorney who has been currently licensed to practice law in this state a copy of such proposed rule together with a notice stating that such proposed rule has been filed in the office of the clerk of the supreme court and that a certified copy thereof has been filed in the office of the clerk of the district court of each county in the state; and stating also the time when and the place where the supreme court will afford any person interested an opportunity to appear and be heard with reference to the adoption of the same. Such notice and copy of the proposed new rule shall be so mailed not less than thirty days before the date fixed for such hearing; after such hearing has been held the court shall make such order as it shall deem just and proper. It may order that the rule be adopted as proposed; it may order that the proposed rule shall not be adopted; it may make any amendments or changes in the rule which in its judgment is desirable to accomplish the purpose sought to be furthered by the rule and adopt the rule as so changed without further notice.

* SECTION 50. AMENDMENT. Section 27-02-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-02-13. MEANS OF PUTTING INTO EFFECT RULES OR AMENDMENTS TO RULES ADOPTED BY SUPREME COURT. No new rule or amendment promulgated under the provisions of sections 27-02-07 and 27-02-08 shall become effective until the supreme court shall have:

1. Made an order in writing adopting the same;
2. Caused the same to be signed by the chief justice and attested by the clerk of the supreme court under the seal of such court;
3. Filed the same in the office of the clerk of the supreme court and caused a certified copy thereof and of the order adopting the same to be filed in the office of the clerk of the district court of each county in the state. The clerk of the district court of each county shall enter each rule so filed at length in the records of his office.

The clerk of the supreme court shall file proof of the filing of a certified copy of such rule and of the order adopting the same in the office of the clerk of the district court of each county with the original record relating to such rule; and such clerk shall mail a copy of any rule adopted by the supreme court under the provisions of sections 27-02-07 and 27-02-08 and of the order adopting the same to each judge of the district court and to each judge of the county court ~~of-increased-jurisdiction~~ within eight days after such rule has been adopted.

* NOTE: Section 27-02-13 was repealed by section 1 of Senate Bill No. 2387, chapter 317.

All rules so adopted by the supreme court shall be published in the official reports of the cases decided by the supreme court of North Dakota. The court may make such additional publication of any rule as it may deem desirable.

SECTION 51. AMENDMENT. Subsection 4 of section 27-05-06 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Jurisdiction of appeals from all final judgments of ~~county justices--and~~ municipal judges, ~~from---all---judgments, decrees,--or--orders-of-the-county-courts-made-under-their prebate--jurisdiction,~~ and from the determinations of inferior officers, boards, or tribunals, in such cases and pursuant to such regulations as may be prescribed by law.

SECTION 52. AMENDMENT. Section 27-06-08 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-06-08. FEES FOR TRANSCRIPTS. For the preparation of a transcript, a court reporter shall be entitled to receive compensation at the rate of one dollar ~~ten~~ ninety cents per page for the original, thirty-five cents per page for the first copy, and fifteen cents per page for each additional copy or at rates which may be set by the supreme court by rule or special order specifically superseding the rates herein provided. A page shall consist of not less than twenty-five lines written on paper at least eight and one-half inches by eleven inches [21.59 centimeters by 27.94 centimeters] in size, prepared for binding on the left side, with margins of not more than one and three-fourths inch [44.45 millimeters] on the left nor three-eighths inch [9.53 millimeters] on the right. Type shall be standard pica with ten letters to the inch [2.54 centimeters]. Questions and answers shall each begin a new line. Indentations for speakers or paragraphs shall not be more than ten spaces from the left margin. Pages shall be numbered consecutively. Transcripts shall be indexed as to witnesses and exhibits. The reporter's compensation shall be paid by the party requesting the transcript or by the county ~~chargeable with the costs of the action,~~ or state as ordered by the court when the transcript is ordered prepared by the judge at ~~such county's~~ county or state expense.

SECTION 53. AMENDMENT. Section 27-08.1-01 of the 1979 Supplement to 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 ~~five-hundred-dollars where-the-action-is-commenced-in-the-offices-of-a-county-justice-and one thousand 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 54. AMENDMENT. Section 27-08.1-03 of the 1979 Supplement to 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 - EXAMINATION OF DEBTOR. 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 ~~five-hundred-dollars-where-the-action-was-commenced-in-the-office-of-the-county-justice,-and one thousand 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 ~~five hundred-dollars-in-county-justice-court,-and one thousand 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. After the court has found that money is owing by any party to the proceeding, the court may, in the presence of the prevailing party, inquire of the debtor as to plans for payment of the debt. The court may examine the debtor concerning the property owned by the debtor, at the hearing, as would be made under the provisions of chapter 28-25. The examination may be made without first having issued an execution against the property of the debtor and without further notice as otherwise provided in chapter 28-25. 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.

* NOTE: Section 27-08.1-03 was also amended by section 2 of House Bill No. 1645, chapter 322.

SECTION 55. AMENDMENT. Section 27-08.1-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-08.1-08. REFEREES, APPOINTMENT - TERM - METHOD OF QUALIFYING - POWERS AND DUTIES - COMPENSATION. The board of county commissioners may authorize a judge of a county court ~~of-increased jurisdiction~~ to appoint a referee of the small claims court who shall hold office at the pleasure of ~~said the judge~~. ~~Such~~ The referee shall qualify in the same manner as other civil officers and his duties and powers in the conduct of trials in the small claims court shall be governed by the provisions of rule 53 (c) North Dakota Rules of Civil Procedure insofar as such provisions are not in conflict with the provisions of this chapter. The referee appointed shall be a person versed in the law. The board of county commissioners shall determine the salary or fee of said referee.

SECTION 56. AMENDMENT. Section 27-08.2-01 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-08.2-01. CREATION OF COUNTY JUDICIAL COORDINATING COUNCIL. The judge of the county court ~~with--increased--jurisdiction--of--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 57. AMENDMENT. Section 27-15-01 of the 1979 Supplement to 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.

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 58. AMENDMENT. Section 27-15-02 of the 1979 Supplement to 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 court,~~ 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 59. AMENDMENT. Section 27-15-10 of the 1979 Supplement to 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 ~~district or county court with increased jurisdiction, district, and, or justice of the~~ supreme ~~court,~~ court, 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.

SECTION 60. AMENDMENT. Subsection 2 of section 27-23-01 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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.

SECTION 61. AMENDMENT. Section 27-23-02 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-23-02. 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 July 1, 1975 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 or the term of office ends 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 62. AMENDMENT. Section 28-20-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-20-19. DOCKETING OF ~~JUSTICE'S~~ COUNTY COURT JUDGMENTS - EFFECT. A certified abstract of a judgment rendered by a county ~~justice judge~~ may be filed in the office of the clerk of the district court of the county in which the judgment was rendered, and ~~such the clerk thereupon must will then enter such the judgment in the judgment book and upon the judgment docket, and from the time of the docketing thereof, it becomes a judgment of the district court, for purposes of execution, and a lien upon real property owned by the debtor, and a certified transcript of the docket of such the judgment may be filed, and the judgment docketed accordingly, in any other county with like effect in every respect as if the judgment had been rendered in the district court where such judgment is filed.~~

SECTION 63. AMENDMENT. Section 28-20-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-20-22. AFFIDAVIT OF RENEWAL - WHERE FILED - ENTRY. If the judgment was rendered in a district court of this state, or was entered upon a transcript or abstract from a county court ~~with~~

~~increased-jurisdiction, or upon an abstract of a judgment of a justice of the peace,~~ the affidavit for renewal shall be filed with the clerk of the district court where such judgment was first docketed. If the judgment filed and docketed was a foreign judgment, the affidavit for renewal may be filed with the clerk of any district court where the same has been docketed. The clerk of the district court immediately shall enter the affidavit for renewal at length in the judgment book in the same manner and with the same effect as the original judgment, and he shall enter in his judgment docket, after a statement of the original judgment, the fact of renewal, the date of renewal, and the amount for which the judgment is renewed. A copy of the affidavit of renewal and the docket entries thereon, certified by the clerk of the district court wherein the same is filed, may be filed and docketed in any other county of the state in which a transcript of the original judgment was filed.

SECTION 64. AMENDMENT. Section 28-26-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-26-07. WHEN COSTS ALLOWED TO PLAINTIFF. Costs shall be allowed of course to the plaintiff upon a recovery in the following cases:

1. In an action for the recovery of real property or when a claim of title to real property arises on the pleadings or is certified by the court to have come in question at the trial;
2. In an action to recover the possession of personal property;
3. ~~In any action of which a justice's court has no jurisdiction, and~~
4. ~~In an action for the recovery of money when the plaintiff shall recover fifty dollars.~~

SECTION 65. AMENDMENT. Section 28-26-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-26-19. TAXING COSTS. In all actions, motions, and proceedings in the supreme, district, or county, ~~or justice's~~ courts, the costs of the parties shall be taxed and entered on record separately.

SECTION 66. AMENDMENT. Section 29-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-01-01. HOW CRIMES PROSECUTED - EXCEPTIONS. Every public offense must be prosecuted by information or indictment unless it is one in which:

1. A proceeding is had for the removal of a civil officer of the state or an officer of some political subdivision thereof;
2. There is a breach of military discipline arising in the militia, when in actual service, and in the land and naval forces in time of war or public danger, or which this state may keep, with the consent of Congress, in time of peace; or
3. Trial may be had in ~~justice, police,~~ municipal or county court.

SECTION 67. AMENDMENT. Subsection 4 of section 29-01-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Upon a judgment of a ~~justice's~~ municipal court, or such other court as is or may be created by law for cities, or a county court ~~exercising--increased--jurisdiction--as provided in section 111 of the constitution,~~ in a case in which such judgment may be lawfully given without the intervention of a jury; or

SECTION 68. AMENDMENT. Section 29-01-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-01-14. WHO ARE MAGISTRATES. The following officers are magistrates:

1. The judges of the supreme court, with authority to act as such throughout the state;
2. The judges of the district courts, with authority to act as such throughout the judicial districts for which they respectively are elected; and
3. As limited by law directing the place of exercising their jurisdiction and authority, county ~~justices,~~ judges, or any qualified person appointed by the county judge pursuant to section 8 of House Bill No. 1060, municipal judges, and small claims court referees who are licensed to practice law and authorized by the county commissioners in case of an emergency and, ~~when authorized by law, the judges of the county courts, including these with increased jurisdiction,~~ each with authority to act as magistrate throughout the county or the city for which he is elected or appointed.

SECTION 69. AMENDMENT. Section 29-01-15 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-01-15. JURISDICTION OF ~~JUSTICES~~, MUNICIPAL JUDGES, SMALL CLAIMS COURT REFEREES, AND COUNTY COURTS. Any ~~county--justice~~, municipal judge, or judge of the county court mentioned in section 29-01-14, subsection 3, may:

1. Act as committing magistrate, provided that this subsection shall not apply to municipal judges who are not attorneys currently licensed under chapter 27-11.
2. Hear, try, and determine misdemeanors and infractions when jurisdiction has been conferred by the Constitution and this and other laws.
3. Adjudge and impose the punishment prescribed by law, upon conviction, in all cases within his jurisdiction to hear, try, and determine.
4. Grant temporary protection orders under the particular circumstances and for the limited duration set forth in section 14-07.1-08.

A small claims court referee authorized pursuant to subsection 3 of section 29-01-14 may act as a committing magistrate. Any person appointed by the county judge pursuant to section 8 of House Bill No. 1060 shall have the authority to act to the extent allowed by rules promulgated by the supreme court.

SECTION 70. AMENDMENT. Section 29-02-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-02-13. ACCUSED COMMITTED - HOW DISCHARGED - UNDERTAKING TRANSMITTED TO DISTRICT COURT. If a person complained of for threatening to commit an offense against the person or property of another is committed for not giving security, he, upon giving the same, may be discharged by any ~~county-justice-police-magistrate~~, municipal judge or judge of the county court of the county or political subdivision who is authorized to act as a committing magistrate, or by the judge of the district court of the county. Any undertaking so accepted must be transmitted by the acting magistrate to the district court of the county for disposition at the next term.

SECTION 71. AMENDMENT. Section 29-05-31 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-05-31. UNIFORM TRAFFIC COMPLAINT AND SUMMONS. There is hereby established a uniform complaint and summons which may be used in cases involving violations of statutes or ordinances relating to the operation or use of motor vehicles. Whenever the complaint and summons established by this section is used, the provisions of rule 5 of the North Dakota Rules of Criminal Procedure relating to arrests without warrants shall not apply, and the magistrates or state's attorneys shall not be required to make another complaint of

the offense charged in the uniform complaint and summons. The uniform complaint and summons established herein shall be in substantially the following form:

State of North Dakota) In _____ Court,
County of _____) ss Before Hon. _____;

The undersigned, being duly sworn, upon his oath deposes and says that, on the _____ day of _____ 19____

First Name Middle Name Last Name Street City State
did unlawfully operate a motor vehicle upon a public highway,
namely _____ N E S W of _____ and did then
Location City
and there commit the following offense: _____
MPH in _____
MPH Zone _____

All in violation of the Sec. _____ of the N.D. Century Code as amended and against the peace and dignity of the state of N.D.

Officer _____ LET A WARRANT ISSUE HEREIN Sworn to and
subscribed before me this _____ day of _____ 19____.
Judge State's Attorney

DESCRIPTION OF DEFENDANT AND VEHICLE
Mo. _____ Day _____ Yr. _____ Race _____ Sex _____ Wt. _____ Ht. _____
Birth date
Hair _____ Dr. Lic: State _____ No. _____ Motor Vehicle:
PSC
Make _____ Reg. No. _____ State _____ Year _____ ICC No. _____

CLAIMED CONDITIONS OF THE VIOLATION
SLIPPERY SURFACE
Rain _____ Snow _____ Ice
DARKNESS
Night _____ Fog _____ Snow
OTHER TRAFFIC PRESENT
Cross _____ Oncoming _____ Pedestrian
Same direction
IN ACCIDENT
Ped. _____ Vehicle _____ Intersection
Right angle _____ Head on _____ Rear end
Ran off road _____ Other _____

Area: _____ School _____ Rural _____ Business
Industrial _____ Residential
Highway: _____ 2 Lane _____ 4 Lane _____ 4 Lane Divided

Type

Gravel

Dirt

OFFENSE CONTRIBUTED MATERIALLY TO ACCIDENT

Yes No

THE STATE OF NORTH DAKOTA TO THE ABOVE-NAMED DEFENDANT

You are hereby summoned to appear at the time and place designated below to answer to the charge above indicated to be made against you

Appearance

Before: ~~Municipal Judge-County-Justice~~-County Ct. _____ A.M./P.M.

Location	Month	Day	Year	Time
		Dated this	_____	day of _____ 19 _____
				Officer _____

PROMISE TO APPEAR

I hereby consent and promise to appear at the time and place specified in the above summons, the receipt of a copy of which is hereby acknowledged, and I expressly waive earlier hearing.

Dated this _____ day of _____ 19 _____
Defendant _____

SECTION 72. AMENDMENT. Section 29-07-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-07-06. CHANGE OF PLACE OF HEARING - PROCEDURE. Whenever a person accused of a public offense is brought before a ~~police~~ ~~magistrate~~ municipal judge for examination, and, at any time before such examination is commenced, he files with such ~~police--magistrate~~ municipal judge his affidavit stating that by reason of the bias or prejudice of said ~~police-magistrate~~ municipal judge he believes he cannot have a fair or impartial examination before him, such ~~police~~ ~~magistrate~~ municipal judge must transfer said action, and all the papers therein, including a certified copy of his docket entries, to a county ~~justice~~ judge for the same county. The state's attorney, or his assistant, in the same manner and for the same reasons as the defendant, may obtain a transfer of such action from the ~~police~~ ~~magistrate~~ municipal judge before whom the action was commenced, or from the county ~~justice~~ judge to whom it has been transferred on the application of the state, in which event it shall be transferred to the next nearest county ~~justice~~ judge. The place of examination cannot be changed more than once by each party under this section.

SECTION 73. AMENDMENT. Section 29-10.1-38 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-10.1-38. TRANSCRIPT DEMAND - WAIVER OF TRANSCRIPT AND PRELIMINARY EXAMINATION, WHEN. Within five days after his first appearance before a magistrate, a person against whom an indictment

has been found and presented may make a written demand to the district judge for a copy of the transcript of the testimony given before the grand jury as it relates to him and the charges against him. Upon receipt of such written demand, the judge shall issue an appropriate order. If the judge for any reason determines that a copy of a transcript of the testimony cannot be obtained, the person indicted shall be entitled, but not otherwise, to a preliminary examination, as provided by the statutes or rules of criminal procedure for persons otherwise charged with a crime. Under such conditions the preliminary examination shall be had before a judge of a county court, ~~if it has increased jurisdiction~~, or a district judge, of the county in which the crime was committed or is triable. Failure to make such demand within the time prescribed constitutes a waiver of the right to the transcript or to a preliminary examination.

SECTION 74. AMENDMENT. Section 29-22-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-22-01. RETIREMENT OF JURORS. After hearing the charge, the jurors shall retire for deliberation to a room which must be provided for them by the board of county commissioners. Such room must be supplied with ~~suitable furniture~~, heat, light, and other conveniences. If a room is not provided by such board, the court may order the sheriff to provide one and the expenses incurred in complying with such order, when certified by the court, are a charge against the county.

SECTION 75. AMENDMENT. Section 29-22-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-22-02. CUSTODY OF JURORS. The jurors shall retire in charge of one or more officers who must be sworn to keep them together in some private and convenient place until they have rendered their verdict. Such officer or officers shall furnish food and other necessities to the jurors, at the expense of the county for county court and at the expense of the state for district court, as directed by the court, and shall not speak to nor communicate with such jurors or any of them nor permit any other person so to do except by order of the court. Men and women jurors may retire, when rest or sleep or propriety requires it, to separate rooms.

SECTION 76. AMENDMENT. Subsection 6 of section 30.1-01-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. "Court" means the court having jurisdiction in matters relating to the affairs of decedents. This court in this state is known as the county court ~~ex-county-court-of increased jurisdiction~~.

SECTION 77. AMENDMENT. Section 31-01-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

31-01-16. COMPENSATION AND MILEAGE AND TRAVEL EXPENSE OF WITNESS - COUNTY TO PAY FEES EXCEPT FOR DISTRICT COURT FEES IN CRIMINAL ACTION. A witness in a civil or criminal case is entitled to receive:

1. A sum of fifteen dollars for each day necessarily in attendance before the district or county court or before any other court, board, or tribunal, except municipal court.
2. A sum for mileage and travel expense reimbursement equal to the reimbursement rates provided for state employees in sections 44-08-04 and 54-06-09.

In all criminal cases such witness fees and expenses on the part of the state shall be paid out of the county treasury of the proper county except that district court witness fees and expenses shall be paid by the state. In no event shall prisoners be compensated as witnesses under the provisions of this section.

SECTION 78. AMENDMENT. Section 31-01-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

31-01-18. EXPENSES OF WITNESS PAID BY COUNTY OR STATE UPON COURT ORDER IN CRIMINAL ACTION. When a person, as a witness in a criminal action, attends before a magistrate, grand jury, or court, upon a subpoena or in pursuance of an undertaking and it appears that he:

1. Has come from a place outside the county; or
2. Is poor and unable to pay the expenses of such attendance,

the court, if the attendance of the witness is upon a trial, by order upon its minutes, or in any other case, the judge, by a written order, may direct the county treasurer in county court cases to pay the witness a reasonable sum to be specified in the order for the necessary expenses of his attendance. Upon the production of the order or a certified copy thereof, the county treasurer must pay ~~such~~ the witness the sum specified therein out of the county treasury. Where the order is issued by the district court the witness shall be paid by the state.

SECTION 79. AMENDMENT. Section 31-01-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

31-01-19. WITNESS FOR INDIGENT DEFENDANTS SUBPOENAED AND PAID BY COUNTY OR STATE UNDER COURT ORDER IN CRIMINAL ACTION. If it appears to the court before which a criminal action is about to be tried that the defendant is unable to pay the witnesses in his behalf, such court shall make an order, to be entered in the minutes, that such witnesses as may be deemed reasonable, naming them, be subpoenaed to attend at such trial at the expense of the county or the state, whichever is liable to pay the costs of the

prosecution of such action, and such witnesses shall be paid accordingly.

SECTION 80. AMENDMENT. Section 31-09-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

31-09-05. CERTIFIED TRANSCRIPT OF ~~JUSTICE'S~~ JUDGE'S RECORD ADMISSIBLE IN COURTS OF COUNTY. A transcript of the docket record of a county justice judge in an action or proceeding, when certified by ~~such justice~~ the judge or his successor in office, shall be evidence to prove the facts contained in ~~such~~ that transcript in any action or other proceeding in the county wherein ~~such~~ the record was made.

SECTION 81. AMENDMENT. Section 31-09-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

31-09-06. CERTIFIED TRANSCRIPT OF ~~JUSTICE'S~~ COUNTY JUDGE'S RECORD ADMISSIBLE IN COURTS OF OTHER COUNTIES. A transcript of the docket record of a county justice judge in an action or proceeding, when certified by such justice judge or his successor in office, may be read in evidence in another county if there is attached thereto a certificate of the clerk of the district court of the county in which such record was made, under the seal of the court, to the effect that the person certifying such transcript was at the date thereof a county justice judge of the county, and in addition, if such docket record was made by another, that such other at the time of the making of the same was a county justice judge of the county.

SECTION 82. AMENDMENT. Section 31-09-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

31-09-07. CLERK OF COURT - CERTIFICATE TO OFFICIAL ACTS OF ~~JUSTICE~~ JUDGE. The bond and oath of office of a county justice judge when filed in the office of the clerk of the district court for the county are sufficient authority for the clerk to certify to the official acts and signature of the county justice judge.

SECTION 83. AMENDMENT. Section 32-22-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-22-18. INFORMAL COMMITMENT FROM COUNTY ~~JUSTICE~~ JUDGE. If the person is committed to prison, or is in custody of an officer on a criminal charge, by virtue of a warrant of commitment of a county justice judge, such person must not be discharged on the ground of any mere defect of form in the warrant of commitment.

SECTION 84. AMENDMENT. Section 32-24-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-24-01. WHEN QUESTION MAY BE CERTIFIED. Where any cause is at issue, civil or criminal, in any district court or county court ~~with--increased-jurisdiction~~ in this state and the issue of the same will depend principally or wholly on the construction of the law

applicable thereto, and such construction or interpretation is in doubt and vital, or of great moment in the cause, the judge of any such court, on the application of the attorney for the plaintiff or defendant in a civil cause, and upon the application of the attorneys for the plaintiff and defendant in a criminal cause, may halt all proceedings until such question shall have been certified to the supreme court and by it determined.

SECTION 85. AMENDMENT. Section 32-29-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-29-05. ATTENDANCE OF WITNESSES BEFORE ARBITRATORS COMPELLED. Witnesses may be compelled to appear before such arbitrators by subpoena to be issued by any county ~~justice~~ judge, in the same manner and with like effect, and subject to the same penalties for disobedience, as in cases of trials before county ~~justices~~ judges.

SECTION 86. AMENDMENT. Section 33-06-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

33-06-01. WHEN FORCIBLE DETAINER MAINTAINABLE. An action of forcible detainer to recover the possession of real estate is maintainable in the proper county ~~justice~~ court when:

1. A party, by force, intimidation, fraud, or stealth, has entered upon the prior actual possession of real property of another and detains the same.
2. A party, after entering peaceably upon real property, turns out by force, threats, or menacing conduct the party in possession.
3. A party, by force or by menaces and threats of violence, unlawfully holds and keeps the possession of any real property, whether the same was acquired peaceably or otherwise.
4. A lessee, in person or by subtenant, holds over after the termination of his lease or expiration of his term, or fails to pay his rent for three days after the same shall be due.
5. A party continues in possession after a sale of the real property under mortgage, execution, order, or any judicial process and after the expiration of the time fixed by law for redemption, or after the execution and delivery of a deed, or after the cancellation and termination of any contract for deed, bond for deed, or other instrument for the future conveyance of real estate or equity therein.
6. A party continues wrongfully in possession after a judgment in partition or after a sale under an order or decree of a county court.

SECTION 87. AMENDMENT. Section 33-06-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

33-06-03. LEGAL REPRESENTATIVES MAY BRING FORCIBLE DETAINER ACTIONS. Executors and administrators may bring actions of forcible detainer in the county ~~justice~~ courts in the same manner as their testators and intestates, as the case may be.

SECTION 88. AMENDMENT. Section 33-06-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

33-06-04. FORCIBLE DETAINER ACTIONS NOT JOINABLE WITH OTHER ACTIONS - EXCEPTION - WHEN COUNTERCLAIMS ONLY INTERPOSABLE. An action of forcible detainer cannot be brought in a county ~~justice~~ court in connection with any other action, except for rents and profits accrued or for damages arising by reason of the defendant's possession. No counterclaim can be interposed in such action, except as a setoff to a demand made for damages or for rents and profits.

SECTION 89. AMENDMENT. Section 36-01-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-01-17. BOARD, MEMBERS, AND AGENTS TO HAVE SAME POWERS AS COUNTY ~~JUSTICE~~ JUDGE IN EXAMINATIONS. The state livestock sanitary board, and any member or duly authorized agent thereof, may examine or cause to be examined under oath all persons believed to possess knowledge of material facts concerning the existence or dissemination, or the danger of dissemination, of disease among domestic animals. For this purpose, the board, and any member or authorized agent thereof, shall have all the powers vested by this code in county ~~justices~~ judges to take depositions, to compel witnesses to attend and testify, and to administer oaths. Such witnesses shall receive the same fees for attendance and travel as witnesses before the district courts, and said fees shall be paid by the board from moneys appropriated to it.

SECTION 90. AMENDMENT. Section 36-01-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-01-18. INSPECTION OF LIVESTOCK IN TRANSIT - EXECUTION OF ORDERS OF BOARD BY PEACE OFFICERS - POWERS OF OFFICERS - PENALTY. Authorized representatives of the state livestock sanitary board, for purposes of inspecting livestock in transit for health or ownership identification, may stop vehicles transporting livestock on public highways of this state. When signaled by such representative to stop, the operator of any vehicle shall stop the same and cause to be shown any health or identification forms which are required to be carried in transportation of livestock, and to permit such inspector to make an inspection of the livestock being transported if deemed by the inspector to be necessary. Failure to stop when so directed constitutes a class A misdemeanor. Any vehicle used for such purposes shall be clearly identified in

letters not smaller than three inches [7.62 centimeters] and is authorized to use a stop signal.

The state livestock sanitary board may call any sheriff, deputy sheriff, or constable to execute its orders, and such officers shall obey the orders of said board. Any peace officer may arrest and take before any county justice judge of the county any person found violating any of the provisions of this chapter, and such officers shall notify the state's attorney immediately of such arrest, and the state's attorney shall prosecute the person so offending.

SECTION 91. AMENDMENT. Section 36-11-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-11-10. TRESPASSING ANIMALS MAY BE DISTRAINED - NOTICE TO OWNER - SECURITY FOR RELEASE. The person suffering damages by reason of the trespass of any livestock may take up the offending animal or animals. He shall notify the owner, or the person in possession of the livestock at the time of the trespass, of the seizure of such animal or animals without unnecessary delay, if the owner or person in possession is known to him and is a resident of, and present within, the county in which the trespass occurred. He may retain such animal or animals in his custody until:

1. The damages sustained by reason of such trespass and the costs in the action to recover such damages have been paid; or
2. Good and sufficient security for the payment of such damages and costs is given, such security to be approved by a county justice judge of the county in which the livestock is taken up.

If the owner of the offending animal or animals elects to give security, he shall give to the person holding the livestock notice that security will be given and the date and hour when such security will be submitted to the county justice judge for approval. Such notice shall be given at least one day prior to the date set for the submission of the security to the justice judge. The cost of serving notices required under this section may be taxed as costs in the action. Where applicable, the provisions of section 36-11-07 may be raised as an affirmative defense in any proceedings under this section, and the owner or person entitled to possession of such livestock may apply to a court of competent jurisdiction for the return of the livestock. If the court shall find that such livestock have been wrongfully distrained, the person who causes such livestock to be wrongfully distrained shall be liable for all damages suffered by the owner or person entitled to possession of such livestock, together with the costs of the action and reasonable attorney's fees.

SECTION 92. AMENDMENT. Section 36-11-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-11-11. PROCEDURE WHEN SECURITY GIVEN. When security for the payment of damages and costs is approved by the county justice judge, ~~such--justice~~ the judge shall issue an order directed to the person holding the livestock ~~forthwith~~ to deliver such stock to the person entitled thereto, and the officer receiving such order shall take such livestock and deliver the same to such person. The cost of ~~such the~~ proceedings may be charged as a part of the costs in the action to determine the rights of the parties regarding the livestock distrained for the trespass.

SECTION 93. AMENDMENT. Section 39-06-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-16. LICENSE TO BE CARRIED AND EXHIBITED ON DEMAND. Every licensee shall have his operator's license or permit in his immediate possession at all times when operating a motor vehicle and shall display the same, upon demand of any district court, municipal court, a county justice court, a patrolman, peace officer, or a field deputy or inspector of the highway department. However, no person charged with violating this section shall be convicted or assessed any court costs if he produces in court, to the chief of police or in the office of the arresting officer an operator's license or permit theretofore issued to him and valid and not under suspension, revocation, or cancellation at the time of his arrest.

SECTION 94. AMENDMENT. Subsection 7 of section 39-06.1-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. As used in sections 39-06.1-02, 39-06.1-03, and 39-06.1-04, the word "official" means a district judge, a judge of a county court ~~with-increased-jurisdiction,-a~~ ~~county-justice~~, a municipal judge, or, when provided by statute, a person appointed by a district judge to serve as such official for all or a specified part of a judicial district.

SECTION 95. AMENDMENT. Section 40-13-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-13-02. BONDS OF MUNICIPAL OFFICIALS - REQUIREMENTS - APPROVALS - ADDITIONAL BONDS. The ~~treasurer~~, auditor, municipal judge, ~~county--justice~~, and assessor of each municipality, the city manager of any city, and such other officers as the governing body may direct, before entering upon the discharge of the duties of their respective offices, shall execute and deliver to the municipality their separate bonds payable to the municipality, conditioned for the honest and faithful performance of their official duties. Such bond shall be in an amount fixed by the governing body of the municipality. The bond of the ~~treasurer~~ ~~auditor~~ shall be set by resolution of the governing body of the municipality at a regular meeting in April of each year; in an amount at least equal to twenty-five percent of the average amount of money that has been subject to the ~~treasurer's~~ auditor's control

during the preceding fiscal year, as determined by the total of the daily balances of the ~~treasurer~~ auditor for the calendar year divided by the figure three hundred or the sum of two hundred fifty thousand dollars whichever is least. All official bonds shall be approved by the executive officer of the municipality and filed in the office of the city auditor. Such bonds shall conform to the provisions of law applicable to the bonds of state officers and employees except that no personal surety shall be accepted on any bond. No municipality shall pay the premium on any bond except a bond written in the state bonding fund or a bond procured to replace a bond canceled by the state bonding fund. The governing body at any time may require new and additional bonds of any officer.

SECTION 96. AMENDMENT. Section 40-18-01 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-18-01. JURISDICTION OF MUNICIPAL JUDGE. The municipal judge within a city having a population of three thousand or more shall be an attorney licensed to practice law in this state, unless no person so licensed is available in the city, and shall have exclusive jurisdiction of, and shall hear, try, and determine, all offenses against the ordinances of the city. The offices of county ~~justice judge~~ and municipal judge may not be held by the same person. In a city with a population of less than three thousand, the municipal judge may be, but need not be, an attorney licensed to practice law in this state, nor shall he be required to be a resident of the city in which he is to serve.

SECTION 97. AMENDMENT. Section 40-18-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-18-03. VACANCY IN OFFICE OF MUNICIPAL JUDGE - TEMPORARY ABSENCE OF MUNICIPAL JUDGE. If a vacancy exists in the office of municipal judge by death, resignation, or otherwise, it shall be filled by appointment by the executive officer, subject to confirmation by the governing body of the city ~~or village~~. An appointee shall qualify, and he shall hold office until the next city ~~or village~~ election, and until his successor is elected and qualified. ~~During the temporary absence, interest, disqualification, or disability of the municipal judge or temporary vacancy in the office of municipal judge, any county justice designated by the executive officer shall act as municipal judge until the municipal judge is available in the trial of causes triable before the municipal judge in any city within a county having a court of increased jurisdiction, the~~ The governing body of a city may appoint an alternate municipal judge to serve when the municipal judge is unable to serve due to temporary absence, interest, disqualification, or disability. Such alternate shall be compensated on a per diem basis at a rate set by the governing body, and shall possess, as nearly as is practicable, the qualifications of the regular municipal judge.

SECTION 98. AMENDMENT. Section 40-18-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-18-14. MUNICIPAL JUDGE MAY ENFORCE ORDERS AND JUDGMENTS. A municipal judge shall have the power to enforce due obedience to his orders and judgments. He may fine or imprison for civil contempt offered to him while holding court, or to process issued, or orders made by him, ~~in the same manner and to the same extent as is provided by the laws of this state in the case of a county justice.~~ When an act or omission constituting a contempt in a municipal court is not committed in the immediate view and presence of the municipal judge, an affidavit alleging the facts may be filed and a warrant of arrest thereupon may issue on which the person accused may be arrested and brought before the municipal judge immediately. Such person must be given a reasonable opportunity to employ counsel and excuse or defend against the alleged contempt. After hearing the allegations and proofs, the municipal judge may discharge him or adjudge him guilty and may punish by fine or imprisonment or both. The fine in any case shall not be more than one hundred dollars and the imprisonment shall not be more than one day.

* SECTION 99. AMENDMENT. Section 40-18-19 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-18-19. APPEALS FROM DETERMINATIONS OF MUNICIPAL JUDGE. An appeal may be taken to the district court or to the county court of ~~increased jurisdiction as provided for in section 27-08-21~~ from a judgment of conviction in a municipal judge's court ~~in the same form and manner as appeals are taken and perfected from a judgment of conviction of a defendant in county justice court, and in accordance with sections 33-12-34, 33-12-35, and 33-12-39, and shall be tried in the district court or county court of increased jurisdiction in accordance with sections 33-12-40 and 33-12-41, and bail shall be taken in accordance with sections 33-12-36 and 33-12-37, and witnesses may be placed under bond as provided for in section 33-12-38~~ in accordance with the North Dakota Rules of Criminal Procedure. An appeal to the district court or county court, when perfected, transfers the action to such court for trial anew. That trial shall be conducted in accordance with procedures provided by rules promulgated by the supreme court. On all appeals from a determination in a municipal judge's court, the appellate court shall take judicial notice of all of the ordinances of the city. No filing fee shall be required for the filing of an appeal from a judgment of conviction for the violation of a municipal ordinance.

SECTION 100. AMENDMENT. Section 42-01-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

42-01-07. PUBLIC NUISANCE - REMEDIES AGAINST. The remedies against a public nuisance are:

1. Indictment;

* NOTE: Section 40-18-19 was also amended by section 30 of House Bill No. 1069, chapter 91, and by section 1 of Senate Bill No. 2423, chapter 414.

2. Filing an information;
3. Bringing a criminal action before a county justice judge, who shall have authority to bind the defendant over to the district court;
4. A civil action; or
5. Abatement.

SECTION 101. AMENDMENT. Section 42-03-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

42-03-01. WHEN DOGS ARE A PUBLIC NUISANCE. Any dog that habitually molests persons traveling peaceably on the public road, or street, is a public nuisance. Upon complaint, in writing, made to a county justice or police-magistrate municipal judge, containing a description of such dog, and giving his name and that of his owner, if known, and, if not, so stating, and that such dog is a public nuisance, the justice county or police-magistrate municipal judge shall give notice to the owner of such dog that a complaint has been filed in his office that such dog has been molesting certain persons and that the owner shall take the necessary action to prevent the dog from any further violations of this chapter. If the justice county or police-magistrate municipal judge receives a further complaint regarding such dog after notice has been given to the owner that his dog has been molesting certain people, the county justice or police-magistrate municipal judge shall issue a summons, if such owner is known, commanding him to appear before the justice county or police-magistrate municipal judge at his office at a time therein stated, in the same manner as other justice county or police magistrate municipal judge court summonses.

SECTION 102. AMENDMENT. Section 42-03-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

42-03-03. HEARING - JUDGMENT - EXECUTION. On the day of hearing the justice county or police--magistrate municipal judge shall hear the evidence in the case, and, if he shall find therefrom that such dog is a public nuisance, he shall enter judgment accordingly, and thereupon shall order any peace officer to kill and bury the dog, which order the peace officer shall forthwith execute.

SECTION 103. AMENDMENT. Section 44-05-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-05-01. OFFICERS AUTHORIZED TO ADMINISTER OATHS. The following officers are authorized to administer oaths:

1. Each judge of the supreme court, each judge of the district court, the clerk of the supreme court, and his deputy.

2. Judge of the county court, clerk of the district court, clerk of the county court, county auditor, register of deeds, and the deputy of each such officer within his county.
3. Each county commissioner, ~~and~~ public administrator, ~~and county-justice,~~ within his county.
4. Notary public anywhere in the state, upon complying with the provisions of section 44-06-04.
5. Each city auditor, municipal judge, and township clerk, within his own city or township.
6. Each sheriff and his deputy within his county in the cases prescribed by law.
7. Other officers in the cases prescribed by law.

SECTION 104. AMENDMENT. Section 44-08-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-08-09. FEES PAID IN ADVANCE OR SECURITY GIVEN. The clerk of the supreme court, the clerk of each district court, the county judge, sheriff, ~~county-justice,~~ constable, or register of deeds, in all cases, may require the party for whom any service is to be rendered to pay the fees in advance of the rendition of such service, or to give security for the same, to be approved by the officer.

SECTION 105. AMENDMENT. Section 44-09-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-09-01. IMPEACHMENTS - REASONS - OFFICERS SUBJECT. The governor and other state and judicial officers of the state, except county judges, ~~county-justices,~~ and municipal judges, shall be subject to impeachment, and may be impeached for habitual drunkenness, crimes, corrupt conduct, malfeasance, or misdemeanor in office. The articles of impeachment may contain charges and specifications, or either, predicated upon or on account of any crime, corrupt conduct, malfeasance, or misdemeanor in office committed by the accused during any previous term of the same office.

SECTION 106. AMENDMENT. Section 44-11-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-11-12. POWERS OF COMMISSIONER - SUBPOENAS - SERVICE - FEES. Upon having taken and filed such oath, the commissioner shall have authority to issue subpoenas for persons and subpoenas duces tecum, and to administer oaths to witnesses the same as now is conferred upon county ~~justices~~ judges. Such subpoenas may be directed to any sheriff, constable, or chief of police, who immediately shall serve the same. Such officer shall be entitled,

for his services in serving the same, to such fees as now are allowed to constables for serving subpoenas in county justice court. Such fees shall be paid in the same manner as is provided in this chapter for witness fees and commissioner's fees. The procedure in taking the testimony shall be the same as is provided by law in the district court as to admissibility of testimony. Such commissioner, upon taking and filing his oath, shall have the same powers as now are conferred upon district judges and shall rule on, admit, or exclude testimony accordingly. He shall have the power to punish for contempt in the same manner as is provided by law for contempt in the district court.

SECTION 107. AMENDMENT. Section 46-04-01 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

46-04-01. OFFICIAL DISTRIBUTION OF STATE LAWS - SECRETARY OF STATE TO CONTROL. Each member of the legislative assembly for himself and each constitutional officer of the state and each judge of the supreme and district courts for the use of their respective offices and departments shall be entitled to receive from the state a copy of any publication of the laws of the state and of any compilation or codification thereof published under authority of the state. The district court in every county in the state shall be entitled to a copy of such publications. The codification of laws of the state received by each member of the legislative assembly is subject to section 54-03-23. The secretary of state shall designate other offices and agencies of the state that shall be entitled to receive copies of any such publication of the laws for the use of such state offices and agencies and also shall determine the number of copies of any publication to be received by any recipient in a distribution under the provisions of this section, if more than one copy shall be needed by such recipient for official use.

SECTION 108. AMENDMENT. Section 46-04-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

46-04-05. DISTRIBUTION OF SESSION LAWS, COMPILATIONS, AND CODIFICATIONS TO COUNTY OFFICERS. The board of county commissioners of each county, immediately after the publication of any session laws, codes, or compilations, shall cause a copy thereof to be furnished to the following county officers:

1. Auditor.
2. State's attorney.
3. Clerk of court.
4. Sheriff.
5. County judge.

~~6.--The-district-court-of-such-county-~~

If any of such offices legally have been combined in such county, only one copy of the session laws, codes, or compilations need be furnished for the offices so combined.

Provided, however, that such codifications and copies of the session laws shall remain the permanent property of the county.

SECTION 109. AMENDMENT. Section 47-19-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-19-14. ACKNOWLEDGMENT AND PROOF - LIMITED TO DISTRICT OF OFFICER. The proof or acknowledgment of an instrument may be made in this state within the judicial district, county, subdivision, or city for which the officer was elected or appointed, before:

1. A judge or clerk of a court of record;
2. A mayor of a city;
3. A register of deeds;
4. ~~A county justice;~~
5. A United States commissioner;
6. 5. A county auditor; or
7. 6. A township clerk or a city auditor.

SECTION 110. AMENDMENT. Section 47-19-37 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-19-37. ACKNOWLEDGMENT BEFORE ~~JUSTICE COUNTY JUDGE~~ - CERTIFICATE OF CLERK OF COURT. The certificate of proof or acknowledgment, if made before a county ~~justice judge~~ when used in any county other than that in which he resides, must be accompanied by a certificate under the hand and seal of the clerk of the district court of the county in which the ~~justice judge~~ resides, setting forth:

1. That such ~~justice judge~~, at the time of taking such proof or acknowledgment, was authorized to take the same;
2. That the clerk is acquainted with his handwriting; and
3. That the clerk believes that the signature to the original certificate is genuine.

SECTION 111. REPEAL. Section 28-26-03 of the North Dakota Century Code is hereby repealed.

SECTION 112. REPEAL. Section 27-20-05.1 of the 1979 Supplement to the North Dakota Century Code is hereby repealed.

SECTION 113. EFFECTIVE DATE. Sections 1 through 51, 53 through 73, 76, and 80 through 111 shall become effective on January 1, 1983.

Approved April 6, 1981

CHAPTER 321

HOUSE BILL NO. 1653
(Kretschmar)

(Approved by the Committee on Delayed Bills)

SALARIES OF COUNTY JUDGES

AN ACT to create and enact a new section to chapter 27-08 of the North Dakota Century Code, relating to the salaries of judges of county courts of increased jurisdiction; to amend and reenact section 27-08-08 of the North Dakota Century Code, relating to the salaries of judges of county courts of increased jurisdiction; and to provide a contingent effective date.

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

* SECTION 1. AMENDMENT. Section 27-08-08 of the 1979 Supplement to 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 AND PAYMENT. A county judge of a county court of this state having increased jurisdiction shall receive the following salary: twenty-one thousand dollars in counties having a population not exceeding ten thousand inhabitants; twenty-one thousand five hundred dollars in counties having a population exceeding ten thousand inhabitants but not exceeding eighteen thousand inhabitants; twenty-two thousand eight hundred dollars in counties having a population exceeding eighteen thousand inhabitants but not exceeding forty thousand inhabitants; and twenty-seven thousand six hundred 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. On July 1, ~~1979~~ 1981, the salary of each judge of a county court of increased jurisdiction shall be increased ~~six-and-one-half~~ nineteen percent over the total base salary and discretionary increase actually being paid such judge as of June 30, ~~1979~~ 1981, provided,

* NOTE: Section 27-08-08 was also amended by section 2 of Senate Bill No. 2377, chapter 137, and chapter 27-08 was repealed by section 51 of House Bill No. 1060, chapter 319.

however, that in no event shall the salary of a judge of a county court of increased jurisdiction exceed the salary then in effect for district court judges as provided in section 27-05-03. On July 1, 1980 1982, the salary of each judge of a county court of increased jurisdiction shall be increased six-and-one-half eight percent over the total base salary and discretionary increase actually being paid such judge as of June 30, 1980 1982, provided, however, that in no event shall the salary of a judge of a county court of increased jurisdiction exceed the salary then in effect for district court judges as provided in section 27-05-03.

SECTION 2. A new section to chapter 27-08 of the North Dakota Century Code is hereby created and enacted to read as follows:

SALARIES OF JUDGES OF COUNTY COURTS OF INCREASED JURISDICTION - AMOUNT. The salary of a judge of a county court of increased jurisdiction:

1. Shall be equal to a minimum of eighty-five percent of the salary being paid to district court judges pursuant to section 27-05-03;
2. May be increased by a county or counties to ninety percent of the salary being paid to district court judges pursuant to section 27-05-03; and
3. Is not affected by, and may not be adjusted pursuant to, subsection 4 of section 11-10-10.

SECTION 3. CONTINGENT EFFECTIVE DATE. If House Bill No. 1060 is approved by the forty-seventh legislative assembly, is not vetoed, and is not invalidated for any other reason, then section 2 of this Act is effective on December 31, 1982.

Approved April 6, 1981

CHAPTER 322

HOUSE BILL NO. 1645
(Zimbleman, Crabtree)

SMALL CLAIMS COURT HEARING AND AFFIDAVIT SERVICE

AN ACT to amend sections 27-08.1-02 and 27-08.1-03 of the North Dakota Century Code, relating to the commencement of and filing a counterclaim in a small claims action.

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

SECTION 1. AMENDMENT. Section 27-08.1-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-08.1-02. COMMENCEMENT OF ACTION - CLAIM AFFIDAVIT. Actions in the small claims court shall be commenced whenever any person executes and files with the court a claim affidavit, and serves ~~same~~ the affidavit on the defendant or mails it to him by certified mail along with an order for appearance setting a hearing. ~~Such~~ The hearing shall be not less than ~~five~~ ten days and not more than thirty days after the service or receipt of the order. The mailing, or personal service, may be made anywhere within the state.

* SECTION 2. AMENDMENT. Section 27-08.1-03 of the 1979 Supplement to 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 - EXAMINATION OF DEBTOR. 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 five hundred dollars where the action was commenced in the office of the county justice, and one thousand 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 or mailed to him by certified mail, not later than forty-eight hours before the hearing set for the appearance of the defendant. The compulsory counterclaim rule shall not apply to

* NOTE: Section 27-08.1-03 was also amended by section 54 of House Bill No. 1061, chapter 320.

counterclaims in excess of five hundred dollars in county justice court, and one thousand 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. After the court has found that money is owing by any party to the proceeding, the court may, in the presence of the prevailing party, inquire of the debtor as to plans for payment of the debt. The court may examine the debtor concerning the property owned by the debtor, at the hearing, as would be made under the provisions of chapter 28-25. The examination may be made without first having issued an execution against the property of the debtor and without further notice as otherwise provided in chapter 28-25. 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.

Approved March 19, 1981

CHAPTER 323

HOUSE BILL NO. 1425
(Conmy)JURY NAME SELECTION AND
RECORD PRESERVATION

AN ACT to create and enact a new subsection to section 27-09.1-06 of the North Dakota Century Code, relating to the master jury wheel; and to amend and reenact section 27-09.1-13 of the North Dakota Century Code, relating to the preservation of jury records.

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

SECTION 1. A new subsection to section 27-09.1-06 of the North Dakota Century Code is hereby created and enacted to read as follows:

As an alternative procedure to the provisions of subsection 1 of section 27-09.1-05, the jury commission for each county may randomly select names which represent a fair cross section of the population of the county for the master jury wheel directly from the source lists used to compile the master jury list (section 27-09.1-05). In compiling the master jury wheel, the jury commission shall avoid duplication of names.

SECTION 2. AMENDMENT. Section 27-09.1-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-09.1-13. PRESERVATION OF RECORDS. All records and papers compiled and maintained by the jury commissioner or the clerk in connection with selection and service of jurors shall be preserved by the clerk ~~for four years~~ after the master jury wheel used in their selection is emptied and refilled (section 27-09.1-06) ~~and for any longer period~~ as ordered by the supreme court.

Approved March 16, 1981

CHAPTER 324

HOUSE BILL NO. 1105
(Committee on Judiciary)
(At the request of the Supreme Court)

SUPPLEMENTAL RETIREMENT BENEFITS FOR JUDGES

AN ACT to create and enact section 27-17-01.1 of the North Dakota Century Code, relating to equal benefits for all judges of the same classification; and to provide for an appropriation.

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

SECTION 1. Section 27-17-01.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

27-17-01.1. SUPPLEMENTAL RETIREMENT BENEFITS.

1. Judges of the same classification who are disqualified from retirement benefits under section 27-17-01 by virtue of subsection 3 of section 27-17-01 are entitled to supplemental benefits which, when added to benefits under chapter 54-52, will be equal to benefits payable to judges who are not disqualified by virtue of subsection 3 of section 27-17-01.
2. Supplemental benefits pursuant to this section shall be vested upon election of a judge to assign one percent of his or her future salary to the judicial retirement fund.
3. The supreme court budget shall hereafter include sufficient sums, as determined actuarially, to permit the payment of benefits payable pursuant hereto.
4. Funds paid into the judicial retirement fund are hereby continuously appropriated for payment of benefits to retired judges or surviving spouses.

SECTION 2. LEGISLATIVE INTENT. It is hereby declared to be the intent of the legislative assembly in adopting this legislation that it shall be operative and effective only until it is amended, modified, or superseded, after a further interim study by the committee on public employees retirement programs of the legislative council. After such study the committee shall prepare all

legislation deemed necessary to reasonably accomplish the goals stated in the title hereof and present it to the forty-eighth legislative assembly for consideration.

SECTION 3. APPLICATION OF ACT. The provisions of this Act shall not apply to any termination, other than by death, during the period of July 1, 1981, to June 30, 1983, or to the provision of any benefit, other than a death benefit, for any termination of employment during that period. No member of the public employees retirement system shall earn or be entitled to any rights or interest, vested or otherwise, in the benefits provided by this Act, except as provided in this section, prior to July 1, 1983.

Approved April 1, 1981

CHAPTER 325

HOUSE BILL NO. 1107
(Committee on Judiciary)
(At the request of the Supreme Court)

RETIRED JUDGE SERVICE AND COMPENSATION

AN ACT to amend and reenact section 27-17-03, subsection 1 of section 27-24-01, and subsection 1 of section 27-24-04 of the North Dakota Century Code, relating to the services and compensation of retired justices and judges and the appointment and compensation of temporary judges; and declaring an emergency.

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

SECTION 1. AMENDMENT. Section 27-17-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-17-03. ~~DUTIES~~ SERVICES AND COMPENSATION OF RETIRED JUSTICES AND JUDGES.

1. Upon the retirement of a judge justice of the supreme court or a judge of the district court, the chief justice of the supreme court may appoint him the retired justice or judge to serve as a commissioner surrogate judge of that the supreme court to aid and assist the court in the performance of such judicial duties within the unified judicial system as may be assigned to him by the chief justice with his the retired justice's or judge's consent.
2. An appointment under this section does not become effective until the appointee subscribes and files in the office of the secretary of state an oath or affirmation substantially as follows: "I do solemnly swear (or affirm) that I will support the Constitutions of the United States and the state of North Dakota, and that I will faithfully discharge the duties of the office of surrogate judge of the state of North Dakota to the best of my ability."
3. Subject to subsection 4, a surrogate judge is entitled to receive compensation for services rendered for each day actually engaged in the performance of judicial duties in

an amount equal to five percent of the gross monthly salary of a regularly elected or appointed and qualified justice or judge of the court to which the services are rendered, or one-half of that daily compensation for services of one-half day or less.

4. A surrogate judge is not entitled to receive as compensation for services rendered in the performance of judicial duties during any calendar year a sum of money which when added to any judicial retirement benefits received by the surrogate judge for that year exceeds the annual salary of a justice or judge of the court from which the justice or judge retired. The compensation shall be paid upon the certificate of the surrogate judge showing that the services were performed for the number of days claimed in the certificate. Services of a surrogate judge under this section and receipt of compensation therefore do not reduce or otherwise affect the amount of any retirement benefits to which the judge otherwise would be entitled.
5. In addition to daily compensation, a surrogate judge is entitled to receive reimbursement for travel expenses necessarily incurred in the performance of judicial duties under the assignment, as regularly elected or appointed and qualified justices and judges are entitled to receive.
6. Any--such A retired judge--shall justice of the supreme court or a retired judge of the district court is also be eligible to serve as a referee master and to be compensated for services rendered in any civil case or other judicial proceeding when so designated by the court having power to appoint referees masters; he--may--also a retired justice or judge, when requested, is also eligible to serve as legal counsel and to be compensated for services rendered in the office of the attorney general, in any executive department, commission, or bureau of the state, and for any committee of the legislative assembly.

SECTION 2. AMENDMENT. Subsection 1 of section 27-24-01 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The supreme court may appoint any eligible person to serve as temporary judge in any court other than the supreme court, whenever the supreme court determines that the appointment is reasonably necessary and will promote the more efficient administration of justice. A person, except a retired justice of the supreme court or a retired judge of the district court, is eligible for appointment if the person is a resident of this state and has been engaged in the active practice of law in this state for a period of at least three years next preceding the appointment.

SECTION 3. AMENDMENT. Subsection 1 of section 27-24-04 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. A temporary judge appointed as provided in section 27-24-01 shall receive as compensation for each day of service in the performance of duties under the appointment an amount equal to five percent of the gross monthly salary of a regularly elected or appointed judge of the court in which the temporary judge is to serve, or one-half of that daily compensation for services of one-half day or less. ~~The--daily--compensation--of--any--temporary judge--who--is--receiving--retirement--benefits--from--a retirement-program-funded-in-all-or--part--by--the--state, excluding--federal--social--security--benefits,--shall--be reduced-by-an-amount-equal-to-five-percent--of--the--gross monthly--benefits--received--from--any--such--retirement program.~~ The compensation shall be paid upon the certificate of the temporary judge that the services were performed for the number of days shown in the certificate, and shall be paid in the same manner as the salaries of the regularly elected or appointed judges are paid.

SECTION 4. EMERGENCY. This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved March 2, 1981

CHAPTER 326

HOUSE BILL NO. 1473
(Richie)

COURT AUTHORITY OVER JUVENILE OFFENSE

AN ACT to amend and reenact sections 27-20-02 and 27-20-09 of the North Dakota Century Code, relating to the jurisdiction of adult court over traffic offenses committed by a child.

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

SECTION 1. AMENDMENT. Section 27-20-02 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-20-02. DEFINITIONS. As used in this chapter:

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.

2. ~~"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, and the crime does not fall under subdivision e of subsection 4 and is not a traffic offense as defined in subsection 10.~~

3. ~~"Delinquent child" means a child who has committed a delinquent act and is in need of treatment or rehabilitation.~~

4. ~~"Unruly child" means a child who~~

- a. ~~is habitually and without justification truant from school;~~

- b. ~~Is habitually disobedient of the reasonable and lawful commands of his parent, guardian, or other custodian and is ungovernable, or who is willfully in a situation dangerous or injurious to the health, safety, or morals of himself or others, or~~
- e. ~~Has committed an offense applicable only to a child, and~~
- d. ~~In any of the foregoing is in need of treatment or rehabilitation.~~
5. ~~"Deprived child" 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 his physical, mental, or emotional health, or morals, and the deprivation is not due primarily to the lack of financial means of his parents, guardian, or other custodian,~~
- b. ~~Has been placed for care or adoption in violation of law, or~~
- e. ~~Has been abandoned by his parents, guardian, or other custodian.~~
6. ~~"Shelter care" means temporary care of a child in physically unrestricted facilities.~~
7. ~~"Protective supervision" means supervision ordered by the court of children found to be deprived or unruly.~~
8. "Custodian" means a person, other than a parent or legal guardian, who stands in loco parentis to the child or a person to whom legal custody of the child has been given by order of a court.
9. ~~"Juvenile court" means the district court of this state.~~
10. ~~"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 negligent homicide in violation of section 12-1-16-03 and manslaughter resulting from the operation of a motor vehicle.~~
3. "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, and the crime does not fall

- under subdivision c of subsection 10 and is not a traffic offense as defined in subsection 9.
4. "Delinquent child" means a child who has committed a delinquent act and is in need of treatment or rehabilitation.
 5. "Deprived child" 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 one child's physical, mental, or emotional health, or morals, and the deprivation is not due primarily to the lack of financial means of one child's parents, guardian, or other custodian;
 - b. Has been placed for care or adoption in violation of law; or
 - c. Has been abandoned by one child's parents, guardian, or other custodian.
 6. "Juvenile court" means the district court of this state.
 7. "Protective supervision" means supervision ordered by the court of children found to be deprived or unruly.
 8. "Shelter care" means temporary care of a child in physically unrestricted facilities.
 9. "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 negligent homicide in violation of section 12.1-16-03 and manslaughter resulting from the operation of a motor vehicle.
 10. "Unruly child" means a child who:
 - a. Is habitually and without justification truant from school;
 - b. Is habitually disobedient of the reasonable and lawful commands of his parent, guardian, or other custodian and is ungovernable; or who is willfully in a situation dangerous or injurious to the health, safety, or morals of himself or others;
 - c. Has committed an offense applicable only to a child; or

- d. Has committed a noncriminal traffic offense without ever having been issued an operator's license or permit if one was required; and
- e. In any of the foregoing instances is in need of treatment or rehabilitation.

SECTION 2. AMENDMENT. Section 27-20-09 of the 1979 Supplement to 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 subject to the jurisdiction of the juvenile court, the court shall ~~forthwith~~ immediately 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~~ immediately to the juvenile court or to a place of detention designated by the juvenile court, or release ~~him~~ the defendant to the custody of ~~his~~ the defendant's parent, guardian, custodian, or other person legally responsible for ~~him~~ the defendant, 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.

Approved April 6, 1981

CHAPTER 327

HOUSE BILL NO. 1547
(Eagles)

JUVENILE COURT JURISDICTION

AN ACT to amend and reenact section 27-20-04, subsection 1 of section 27-20-16, and sections 27-20-28 and 27-20-35 of the North Dakota Century Code, relating to juvenile court concurrent jurisdiction of proceedings to treat or commit a mentally retarded or mentally ill child, place of detention, child investigation and report, and disposition of a mentally ill or retarded child; and providing for juvenile court concurrent jurisdiction of proceedings to treat or commit an alcohol or drug abusing child.

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

SECTION 1. AMENDMENT. Section 27-20-04 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-20-04. CONCURRENT JURISDICTION. The juvenile court has concurrent jurisdiction with the county courts of increased jurisdiction of proceedings to treat or commit a mentally retarded or mentally ill child or an alcohol or drug abusing child otherwise subject to the jurisdiction of the juvenile court.

SECTION 2. AMENDMENT. Subsection 1 of section 27-20-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. A child alleged to be delinquent or unruly may be detained only in:
 - a. A licensed foster home or a home approved by the court;
 - b. A facility operated by a licensed child welfare agency;
 - c. A detention home or center for delinquent or unruly children which is under the direction or supervision

of the court or other public authority or of a private agency approved by the court; or

- d. Any other suitable place or facility, including a medical facility for the treatment of mental illness, alcoholism, or drug addiction, designated or operated by the court. The child may be detained in a jail or other facility for the detention of adults only if the facility in subdivision c is not available, the detention is in a room separate and removed from those for adults, it appears to the satisfaction of the court or the juvenile supervisor that public safety and protection reasonably require detention, and it is so ordered.

SECTION 3. AMENDMENT. Section 27-20-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-20-28. INVESTIGATION AND REPORT.

1. If the allegations of a petition are admitted by a party or notice of a hearing under section 27-20-34 has been given, the court, prior to the hearing on need for treatment or rehabilitation and disposition, may direct that a social study and report in writing to the court be made by the juvenile supervisor or other person designated by the court, concerning the child, his family, his environment, and other matters relevant to disposition of the case. If the allegations of the petition are not admitted and notice of a hearing under section 27-20-34 has not been given, the court shall not direct the making of the study and report until after the court has heard the petition upon notice of hearing given pursuant to this chapter and the court has found that the child committed a delinquent act or is an unruly or deprived child.
2. During the pendency of any proceeding the court may order the child to be examined at a suitable place by a physician ~~or~~, psychologist, or certified addiction counselor and may also order medical or surgical treatment of a child who is suffering from a serious physical condition or illness, or alcohol or drug abuse, which in the opinion of a licensed physician requires prompt treatment, even if the parent, guardian, or other custodian has not been given notice of a hearing, is not available, or without good cause informs the court of his refusal to consent to the treatment.

SECTION 4. AMENDMENT. Section 27-20-35 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-20-35. DISPOSITION OF MENTALLY ILL OR, MENTALLY RETARDED, ALCOHOL, OR DRUG ABUSING CHILD.

1. If, at a dispositional hearing of a child found to be a delinquent or unruly child or at a hearing to transfer a child to another court under section 27-20-34, the evidence indicates that the child may be suffering from mental retardation or mental illness, or alcohol or drug abuse, the court before making a disposition shall commit the child for a period not exceeding sixty days to an appropriate institution, agency, or individual for study and report on the child's mental or physical condition.
2. If it appears from the study and report that the child is committable under the laws of this state as a mentally retarded or mentally ill child, the court shall order the child detained and direct that within ten days after the order the court resume proceedings in the juvenile court for the child's commitment to an appropriate institution or agency.
3. If it does not so appear or the child is found not to be committable, the court shall proceed to the disposition or transfer of the child as otherwise provided by this chapter.

Approved March 11, 1981

CHAPTER 328

SENATE BILL NO. 2389
(Senator Albers)
(Representative Vander Vorst)

JUVENILE COURT JURISDICTION

AN ACT to amend and reenact sections 12-46-13, 12.1-04-01, 12.1-32-13, 27-20-33, and 27-20-34 of the North Dakota Century Code, relating to transfer of juvenile jurisdiction to adult court.

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

* SECTION 1. AMENDMENT. Section 12-46-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-46-13. WHO MAY BE SENT TO STATE INDUSTRIAL SCHOOL - COURT PROCEDURE. Whenever a person under the age of eighteen years is found guilty in any district court or county court with increased jurisdiction of a crime or public offense, ~~other than murder, the court instead of entering judgment against such person, if in its judgment the accused is a proper subject therefor, may direct an order entered in the minutes of the court that may in its discretion order the person be first committed to the state industrial school, however the court shall order that the person be first committed to the state industrial school until the person attains the age of eighteen years. If the person so committed is of the age that he will not have been committed for at least two years before he attains the age of eighteen years, the court may extend the commitment beyond the date he attains the age of eighteen years, but the entire commitment shall not exceed a period of two years if the person is under 16 years of age. A person so committed attaining the age of eighteen years shall be transferred to a penal institution or detention facility to serve the balance of his sentence. A person so committed who attains the age of sixteen years may be transferred after the person has been given an administrative hearing to determine if the safety of other residents or the general public justifies the transfer. A person sentenced under this section shall have all the rights to sentence reduction for good and meritorious conduct and all the pardon and parole rights of an adult sentenced to a penal institution.~~

* NOTE: Section 12-46-13 was also amended by section 26 of House Bill No. 1061, chapter 320.

SECTION 2. AMENDMENT. Section 12.1-04-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12.1-04-01. JUVENILES. Persons under the age of seven years ~~shall be~~ are deemed incapable of commission of an offense defined by the constitution or statutes of this state. The prosecution of any person as an adult ~~shall be~~ is barred if the offense was committed when while the person was less than ~~sixteen~~ fourteen years of age.

SECTION 3. AMENDMENT. Section 12.1-32-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12.1-32-13. MINOR CONVICTED OF FELONY, SENTENCING. Whenever a minor is convicted of a felony, the sentencing court may, in its discretion, ~~sentence--the--person--so--convicted--to--a--county--jail--or~~ commit the person so convicted to the state industrial school as provided in this title. Provided, however, that a minor over the age of sixteen who is convicted of a felony may be sentenced to a penal institution or detention facility.

SECTION 4. AMENDMENT. Section 27-20-33 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-20-33. ORDER OF ADJUDICATION - NONCRIMINAL.

1. An order of disposition or other adjudication in a proceeding under this chapter is not a conviction of crime and does not impose any civil disability ordinarily resulting from a conviction or operate to disqualify the child in any civil service application or appointment. A child shall not be committed or transferred to a penal institution or other facility used primarily for the execution of sentences of persons convicted of a crime.
2. The disposition of a child and evidence adduced in a hearing in juvenile court may not be used against him in any proceeding in any court other than a juvenile court, whether before or after reaching majority, except for impeachment or in dispositional proceedings after conviction of a felony for the purposes of a presentence investigation and report.

SECTION 5. AMENDMENT. Section 27-20-34 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-20-34. TRANSFER TO OTHER COURTS.

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~~ sixteen or more years of age and requests the transfer; or
 - b.
 - (1) The child was ~~sixteen~~ fourteen 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~~ programs;
 - (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; and
 - (e) If the child is fourteen or fifteen years old, the child committed a delinquent act involving the infliction or threat of serious bodily harm.
2. The transfer terminates the jurisdiction of the juvenile court over the child with respect to the delinquent acts alleged in the petition.
 3. No child subject to the jurisdiction of the juvenile court, either before or after reaching eighteen years of age, shall be prosecuted for an offense previously committed unless the case has been transferred as provided in this section.
 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 except for impeachment.

5. If the case is not transferred the judge who conducted the hearing shall not over objection of an interested party preside at the hearing on the petition. If the case is transferred to a court of which the judge who conducted the hearing is also a judge he likewise is disqualified over objection from presiding in the prosecution.

Approved March 31, 1981

CHAPTER 329

HOUSE BILL NO. 1133
(Committee on Judiciary)
(At the request of the Social Service Board)

JUVENILE COURT DISPOSITION ORDERS

AN ACT to amend and reenact section 27-20-36 and subsection 2 of section 27-20-47 of the North Dakota Century Code, relating to limitations of time on orders of disposition made by the juvenile court.

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

SECTION 1. AMENDMENT. Section 27-20-36 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-20-36. LIMITATIONS OF TIME ON ORDERS OF DISPOSITION.

1. An order terminating parental rights is without limit as to duration.
2. An order of disposition committing a delinquent or unruly child to the state industrial school continues in force for two years, excluding any period of time the child is on parole from the institution, or until the child is sooner discharged by the institution. The court which made the order may extend its duration for additional two-year periods subject to like discharge, if:
 - a. A hearing is held upon motion of the institution, or on the court's own motion, prior to the expiration of the order;
 - b. Reasonable notice of the hearing and an opportunity to be heard are given to the child and the parent, guardian, or other custodian; and
 - c. The court finds that the extension is necessary for the treatment or rehabilitation of the child.
3. ~~Any--other-order-of-disposition-continues-in-force-for-not-more-than-two-years---~~ The An order of disposition pursuant

to which a child is placed in foster care continues in force for not more than eighteen months. Any other order of disposition continues in force for not more than two years.

4. Except as provided in subsection 1, the court may sooner terminate ~~its~~ an order of disposition or extend its duration for further periods. An order of extension may be made if:
 - a. A hearing is held prior to 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 that the extension is necessary to accomplish the purposes of the order extended; and
 - d. The extension does not exceed eighteen months from the expiration of an order limited by subsection 3 or two years from the expiration of ~~the--prior~~ any other limited order.
- 4- 5. Except as provided in subsection 2, the court may terminate an order of disposition or extension prior to its expiration, on or without an application of a party, if it appears to the court that the purposes of the order have been accomplished. If a party may be adversely affected by the order of termination the order may be made only after reasonable notice and opportunity to be heard have been given to him.
- 5- 6. 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.
- 6- 7. 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.

SECTION 2. AMENDMENT. Subsection 2 of section 27-20-47 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. If the child is not adopted within ~~two-years~~ eighteen months after the date of the order and a guardian or conservator of the child has not been appointed by the county court, the child shall be returned to the court for entry of further orders for the care, custody, and control of the child.

Approved March 2, 1981

CHAPTER 330

HOUSE BILL NO. 1411
(Representative Kretschmar)
(Senator Fritzell)

JUDICIAL NOMINATING COMMITTEE

AN ACT to create a judicial nominating committee to make nominations in the event of a vacancy in the position of supreme court justice or district judge.

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. "Candidate" means any person under consideration by the committee to fill a judicial vacancy.
2. "Chairman" means the chairman of the committee and includes any acting chairman.
3. "Committee" means the judicial nominating committee, consisting of six members in the event of a vacancy in the office of supreme court judge and nine members in the event of a vacancy in the office of a district court judge.
4. "Judge" means a justice of the supreme court or a judge of district court.
5. "Nominee" means any candidate selected by the committee for inclusion on the list of candidates submitted to the governor.
6. "Permanent member" means a person appointed to serve on the committee for all vacancies in the office of judge during that member's term.
7. "Temporary member" means a person appointed to serve on the committee only for the time necessary to fill a vacancy in the office of district judge in that member's district.

SECTION 2. CREATION AND COMPOSITION OF COMMITTEE - TERMS OF OFFICE - APPOINTMENT - VACANCIES.

1. A judicial nominating committee is hereby created to consist of six permanent members and three temporary members.
2. The governor, the chief justice, and the president of the state bar association each shall appoint two permanent members to the committee, one of whom is a judge or an attorney authorized to practice law in the state and one of whom is not a judge, former judge, or attorney. The term of each member shall be three years. Initially, as determined by lot, two members shall serve for two years, and two members shall serve for one year. At the end of the member's term, the appointing authority shall appoint a successor for a full three-year term. No member shall serve for more than two three-year terms. A vacancy shall be filled by the appointing authority for the remainder of the term. The governor shall designate one of the members as chairman of the committee.
3. Each appointing authority shall appoint an additional temporary member, from the judicial district having a vacancy, to serve on the committee for the time necessary to fill the vacancy. If two or more vacancies in the office of district judge occur in one district at the same time, the committee may submit a combined list to the governor.
4. The judicial nominating committee for vacancies in the office of supreme court judge shall be composed of the six permanent members. If two or more vacancies occur in the office of the supreme court judge at the same time, the committee may submit a combined list of candidates to the governor.
5. The executive director of the state bar association shall serve as nonvoting secretary of the committee.

SECTION 3. SUBMISSION OF NOMINEE LIST TO GOVERNOR. The committee shall submit to the governor a list of not fewer than two nor more than seven nominees for appointment within sixty days after receipt of written notice from the governor that a vacancy in the office of judge exists. No list of nominees submitted to the governor by the committee shall be valid unless concurred in by a majority of its members and certified by the chairman. If the committee fails to submit a list of at least two nominees within the time prescribed by this section, the governor may direct that the committee be reconvened or proceed according to subsection 3 of section 4 of this Act. If the committee fails to submit a list of at least two nominees to the governor within sixty days after receipt of written notice from the governor directing the committee

to reconvene, the governor shall proceed according to subsection 3 of section 4 of this Act.

SECTION 4. GOVERNOR TO APPOINT OR CALL SPECIAL ELECTION. Within thirty days after receipt of the list of nominees, the governor shall do any of the following:

1. Fill the vacancy by appointment from the list of nominees submitted by the committee. The appointment shall continue only until the next general election, when the office shall be filled by election for the remainder of the term.
2. Return the list of nominees and direct the committee to reconvene.
3. Call a special election to fill the vacancy for the remainder of the term.

If the governor determines to call a special election to fill the vacancy, the governor shall issue a writ of election to the auditors of the counties in the district in which the district vacancy occurs commanding them to notify the boards of election in the counties to hold a special election at a time designated by the governor. If the governor determines to call a special election within sixty days of the time of the next general election, the special election shall be held at the same time as the general election.

SECTION 5. POWERS AND DUTIES. The committee shall:

1. Seek out qualified judicial candidates and may solicit judicial candidate nominations from any citizen.
2. Make such inquiry into the qualifications of each candidate, including legal knowledge and ability, judicial temperament, experience, and moral character, as the committee deems appropriate in order to secure a list of the most highly qualified nominees.

SECTION 6. SUBMISSION OF NAMES BY CITIZENS - WITHDRAWAL. A person may submit a name of any qualified citizen for consideration as a candidate. Submission shall be in writing on forms provided by the committee. Any candidate may withdraw from consideration by written request to the chairman of the committee.

SECTION 7. COMMITTEE MEMBERS INELIGIBLE FOR VACANCY APPOINTMENT. No member of the committee shall be considered as a candidate or nominee during the member's term on the committee.

SECTION 8. EXPENSES OF COMMITTEE. Committee members shall be allowed expenses for travel, board, and lodging incurred in the performance of their duties as provided in sections 44-08-04 and 54-06-09.

SECTION 9. COMMITTEE BUDGET. The supreme court shall prepare and present to the legislative assembly a proposed biennial budget for the committee.

Approved March 31, 1981