CHAPTER 27-05
DISTRICT COURTS

27-05-00.1. County courts abolished - Election of additional district court judges - Case file transition - Budget and property considerations.

1. Following the completion on January 1, 1995, of the terms of the judges of all county courts, the county court and office of judge of the county court in each county are abolished.
2. District court judgeships are established on January 2, 1995, in number equal to the number of county judges serving the county courts on January 1, 1991, or the number of county judges serving the county courts on January 1, 1994, whichever is the lesser number. The district court judgeships established pursuant to this subsection must be filled by election at the general election in 1994. All statutes relating to the district court apply to the district court judgeships established pursuant to this subsection, except as otherwise provided by this section.
3. The supreme court shall designate by rule, prior to January 1, 1994, the judicial district for each additional district court judgeship established pursuant to subsection 2. The judicial district designated by the supreme court for each district court judgeship established pursuant to subsection 2 is the area of election for that office at the general election in 1994. The supreme court shall designate, prior to January 1, 1994, staggered terms for each district court judgeship established pursuant to subsection 2 in a manner that results in approximately one-third of those offices with initial terms of two years, one-third with initial terms of four years, and one-third with initial terms of six years. Any judge elected pursuant to subsection 2 shall take office on January 2, 1995, and shall hold office until completion of the designated initial term or until a successor is elected and has qualified. Subsequent to these initial terms, a judge elected to a judgeship established by subsection 2 shall hold office for the term provided in section 27-05-02.
4. All case files, untried cases, or any other unfinished business of each county court abolished pursuant to subsection 1 must be considered case files, untried cases, and other unfinished business of the district court of the judicial district in which that county is located.
5. Beginning in 1992, the budget for the district courts submitted to the legislative assembly pursuant to section 27-01-01.1 and to the director of the budget for informational purposes pursuant to section 54-44.1-13 must include all salaries and expenses for the district court judgeships established pursuant to subsection 2. Any equipment, furnishings, and law libraries in the control and custody of the county courts on January 1, 1991, and any property acquired by county courts from that date until January 1, 1995, must be transferred on January 2, 1995, to the custody and control of the district court of the county in which each county court is located until the state court administrator determines that these items are no longer needed by the district court. Upon that determination, custody and control of the property must revert to the county.

27-05-01. Judicial districts - Number of judges.

The judicial districts in this state and the number of judges in each of the judicial districts are as designated by rule of the supreme court.

27-05-02. Election and term of office of district judges.

There must be elected in each judicial district of this state the number of judges for such district provided for by law. Any judge so elected shall hold office for six years or until that judge's successor is elected and has qualified.

27-05-02.1. Vacancy in office of district judge - Transfer of judgeships - Hearing.

1. Notwithstanding section 44-02-03, when a vacancy occurs in the office of district court judge, the supreme court shall determine, within ninety days of receiving notice of the vacancy from the governor and in consultation with the judges and attorneys in the affected judicial district, whether that office is necessary for effective judicial administration or whether the district judgeship may be transferred to another location to fulfill a need for judicial services. The supreme court may, consistent with that determination, order that:
   a. The vacancy be filled in the manner provided pursuant to chapter 27-25;
   b. The vacant office be transferred to a judicial district in which an additional judge is necessary for effective judicial administration, and that the vacancy be filled in the manner provided pursuant to chapter 27-25 with respect to that judicial district; or
   c. The vacant office be abolished with or without transfer of a district judgeship as provided in subsection 3.
2. For purposes of subsection 1, a vacancy is also only deemed to have occurred in the office of district judge if the judge in the affected office declares the intention not to seek re-election or if a judge fails to timely file a petition for candidacy with the secretary of state pursuant to section 16.1-11-06. The secretary of state shall immediately notify the supreme court if a judge fails to timely file a petition. The supreme court may establish by rule procedures for providing notice of the intention not to seek re-election. The supreme court, within ninety days of receiving notice of a judge's intention not to seek re-election or within twenty-one days of receiving notice that a judge has failed to timely file a petition for candidacy, shall determine whether the office is necessary for effective judicial administration. The supreme court shall consult with the judges and attorneys of the affected judicial district in making the determination. The supreme court, consistent with that determination, may order any disposition available under subsection 1. The supreme court shall notify the secretary of state of its determination.
3. The supreme court may transfer a district judgeship to any location in which a judge is necessary for effective judicial administration.
4. The supreme court shall notify the governor of its determinations made pursuant to this section.

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

The annual salary of each district judge is one hundred thirty-nine thousand six hundred seventy-nine dollars through June 30, 2016, and one hundred forty-three thousand eight hundred sixty-nine dollars thereafter. Each district judge is entitled to travel expenses, including mileage and subsistence while engaged in the discharge of official duties outside the city in which the judge's chambers are located. The salary and expenses are payable monthly in the manner provided by law. A presiding judge of a judicial district is entitled to receive an additional four thousand thirty-five dollars per annum through June 30, 2016, and four thousand one hundred fifty-six dollars thereafter.

27-05-03.1. Retirement for mental or physical disability of supreme court judges and district court judges.

Whenever a judge of the supreme court or a judge of the district court of this state who is not a member of the public employees retirement system becomes unable, because of mental or physical disability, to perform the judicial duties of the office during the remainder of the term for which that judge has been elected or appointed and makes a written application to the chief justice or acting chief justice of the supreme court for retirement, setting forth the nature and extent of such disability, the supreme court judges and the district court judges shall make such investigation as they deem advisable. If two-thirds of the supreme court judges and the district court judges thereby determine that disability exists and that the performance of that judge's judicial duties is thereby substantially impaired and that the impairment will not likely be remedied, the chief justice or acting chief justice, by written order to be filed in the office of the secretary of state, shall thereupon direct the retirement of the judge. The order must specify the

effective date of the retirement and thereby create a vacancy in the office which must be filled by appointment as provided by law. A copy of the order must be transmitted to the office of management and budget. If the disability renders the judge unable to make or direct the making of the application, it may be made by a legally appointed guardian of the judge.

27-05-03.2. Judicial retirement salary payable to judge retired for mental or physical disability.

If a judge of the supreme court or a judge of the district court retires under the provisions of section 27-05-03.1, the judge shall receive the compensation allotted to the judge's office for the remainder of the judge's term and thereafter judicial retirement salary as provided for in subsection 3 of section 27-17-01, regardless of the judge's age or years of service at that time. The provisions of this section are applicable to those judges who retire pursuant to section 27-05-03.1 after January 1, 1973.

27-05-04. Expenses of district judges sitting with supreme court or in other districts - Allowance - Payment.

If a district judge is called to sit with the supreme court or is acting in any district court outside of the district judge's judicial district, that judge, when so called or so acting, is entitled to receive the actual and necessary expenses incurred by that judge as a result thereof.

27-05-05. Presiding judge of district - How determined - Term of office.

The district and county judges in judicial districts of this state having more than one district judge shall elect from among the district judges a presiding judge who shall serve for a period of three years beginning January 1, 1992. A presiding judge in districts having more than one district judge must be elected every three years. In the event of a vacancy, a presiding judge must be elected in the manner provided in this section to serve the remainder of the term.

27-05-06. Jurisdiction of district courts.

The district courts of this state have the general jurisdiction conferred upon the courts by the constitution, and in the exercise of that jurisdiction the courts have power to issue all writs, process, and commissions provided therein or by law or which may be necessary for the due execution of the powers with which the courts are vested. The courts have:

1. Common-law jurisdiction and authority within their respective judicial districts for the redress of all wrongs committed against the laws of this state affecting persons or property.
2. Power to hear and determine all civil actions and proceedings.
3. All the powers, according to the usages of courts of law and equity, necessary to the full and complete jurisdiction of the causes and parties and the full and complete administration of justice, and to carrying into effect the courts' judgments, orders, and other determinations, subject to a re-examination by the supreme court as provided by law.
4. Jurisdiction of appeals from all final judgments of municipal judges and from the determinations of inferior officers, boards, or tribunals, in the cases and pursuant to the regulations as may be prescribed by law.
5. Disputed property line proceedings pursuant to section 11-20-14.1.
6. Power to hear and determine all actions and proceedings arising from the enforcement of county home rule charter ordinances.

27-05-07. Purposes for which district courts always open - When and where issues of fact triable.

Superseded by N.D.R.Civ.P., Rule 77.

27-05-08. Chambers - Residence.

1. The locations of the chambers of the district judges in each of the respective districts shall be as determined by rule of the supreme court.

2. Each district judge shall reside within the district where the judge's chambers are located, and, for the purposes of this section, the chief justice of the supreme court shall designate the respective chambers within the district to which each district judge is assigned.

27-05-08.1. Terms of district court to be fixed by supreme court.
Repealed by S.L. 1981, ch. 316, § 2.

27-05-09. First judicial district - General terms.
Repealed by S.L. 1947, ch. 229, § 2.

27-05-10. Second judicial district - General terms.
Repealed by S.L. 1947, ch. 229, § 2.

27-05-11. Third judicial district - General terms.
Repealed by S.L. 1947, ch. 229, § 2.

27-05-12. Fourth judicial district - General terms.
Repealed by S.L. 1947, ch. 229, § 2.

27-05-13. Fifth judicial district - General terms.
Repealed by S.L. 1947, ch. 229, § 2.

27-05-14. Sixth judicial district - General terms.
Repealed by S.L. 1947, ch. 229, § 2.

27-05-15. Terms for naturalization.
Repealed by S.L. 1981, ch. 316, § 2.

27-05-16. District judges may call special terms and may summon juries thereto.
Repealed by S.L. 1981, ch. 316, § 2.

27-05-17. General provisions concerning terms.
Repealed by S.L. 1981, ch. 316, § 2.

27-05-18. District judges prohibited from holding consecutive jury terms - Exception.
Repealed by S.L. 1995, ch. 295, § 1.

27-05-19. Effect where first day of term falls on legal holiday.
Repealed by S.L. 1981, ch. 316, § 2.

27-05-20. Acts of district judge are acts of court.
Repealed by S.L. 1981, ch. 316, § 2.

27-05-21. District judges to have statewide jurisdiction - Exception.
Repealed by S.L. 1981, ch. 316, § 2.

27-05-22. District judges to act only within their districts - Exceptions.

No judge of a district court of this state may hear or determine any action, special proceeding, motion, or application, or make any order, or give any judgment, in any action or proceeding pending or about to be commenced in a judicial district other than the one for which that judge was elected, except:

1. Upon the written request of a judge of such other district;

2. When, upon the application of either party to such action or proceeding and upon due notice to the opposite party, if that party has appeared and is entitled to such notice, it shall be made to appear by affidavit to the satisfaction of such judge that the judges of such other district are absent from their district, incapacitated, or disqualified to act therein. Such application may be made only to a judge of a district adjoining that in which such action or proceeding is pending or about to be commenced, and upon the hearing thereof counter affidavits may be used;
3. When designated by the supreme court to act in such other district in the place and stead of a district judge thereof who has been disqualified by the filing of an affidavit of prejudice; or
4. A motion upon notice may be heard by a judge of a district court in which the action or proceeding is not pending in the cases provided by law only, either in the district in which the action or proceeding is pending or in an adjoining district, but such motion when heard by the judge of the district in which the action or proceeding is pending can be heard only in such district.

27-05-23. Judgments or orders improperly given in matters pending outside judge's district - Voidable - Vacating.

No order or judgment given in any action or proceeding by a judge of a district court of this state contrary to the limitations of the preceding section is void for that reason, but such order or judgment must be vacated by the supreme court upon appeal, if the order or judgment is appealable, or by any judge of the district in which such action or proceeding is pending if an application for that purpose is made to such judge within thirty days from the time such order was made or such judgment was given.

27-05-24. Ex parte applications may be heard and default judgments may be given.

Ex parte application may be made, heard, and determined in the district court, and judgment by default may be given therein at any place within this state.

27-05-25. How business of district courts assigned judges and regulated - Several cases triable at same time.

In judicial districts of this state having more than one judge, the business of the court must be divided between or among the judges and otherwise regulated as the supreme court by order shall direct. Each of such judges may try court or jury cases separately during the same term and at the same time.

27-05-26. Change of venue.

A change of venue may be taken from one judge to another in the same district or in another district, or from one county to another, or from one district to another in the manner provided by law.

27-05-27. Motions before trial judge.

Superseded by N.D.R.Ct. 3.3.

27-05-28. Orders without notice.

Any order of the district court made without notice to the adverse party may be vacated or modified without notice by the judge who made it or the same may be vacated or modified on notice in the manner in which other motions are made.

27-05-29. District judges may assign additional duties to juvenile supervisors - Authority of supreme court.

Repealed by S.L. 2007, ch. 274, § 36.

27-05-30. Judicial referees.

1. The presiding judge of a judicial district, on behalf of the judges of the district, may appoint one or more referees to serve on a full-time or part-time basis. A referee is entitled to receive a salary within the limits of legislative appropriation.
2. In accordance with rules of the supreme court, the presiding judge may assign a referee to preside in any case or proceeding provided for in chapter 12.1-31.2, title 14, sections 20.1-01-28 and 20.1-01-29, chapter 27-20, chapter 28-25, subsection 6 of section 50-09-08.6, and subsection 2 of section 50-09-14.
3. The supreme court may promulgate rules for the qualification of referees, the extent and assignment of authority by the presiding judge, procedure, and the conduct of the office, including regulations for training sessions and continuing education.

27-05-31. Magistrates - Appointment - Salary - Authority.

The presiding judge of a judicial district may appoint, subject to rules adopted by the supreme court, any qualified person, including a clerk of the district court, to serve as magistrate. A magistrate appointed pursuant to this section may be paid a salary as determined by the supreme court and has that authority performable by a district court judge as assigned by the presiding judge. The supreme court may adopt rules for the qualifications of magistrates, the extent and assignment of authority, and the conduct of the office, including rules relating to training sessions and continuing education.