

Introduction to the Juvenile Court Process

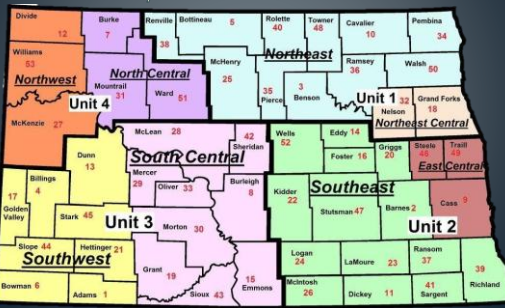
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Juvenile Court Mission Statement:

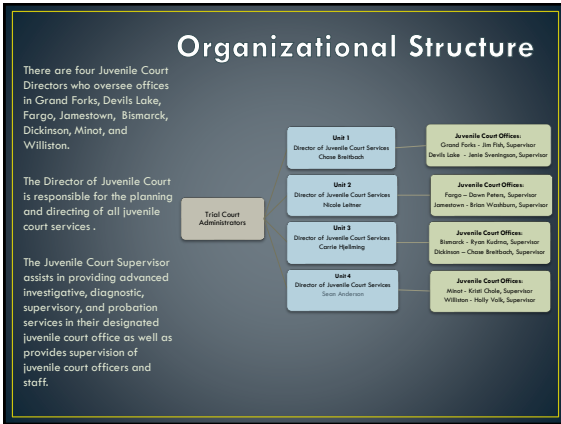
- The Juvenile Court protects the best interests of children and addresses the unique characteristics and needs of children that come before the court as delinquent or children in need of protection.
- Following the principles of Balanced and Restorative Justice, the mission of the North Dakota Juvenile Court is to promote public safety, hold juvenile offenders accountable, and increase the capacity of juveniles to contribute productively to their community. The courts empower victims, encourage community participation, and support parental responsibility.

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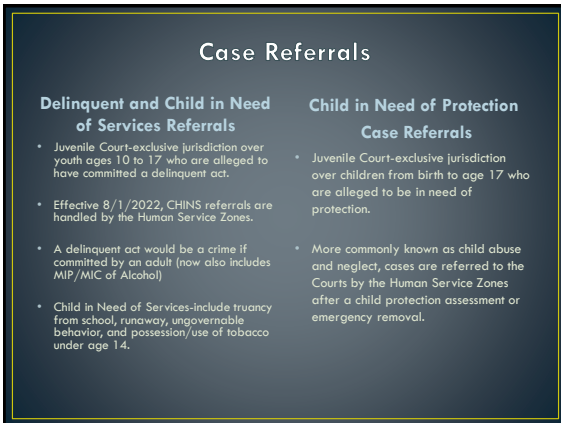
The Juvenile Court in North Dakota is recognized as an extension of the District Court. There are nine Juvenile Court offices in the state organized within the eight judicial districts and they generally cover more than one county.



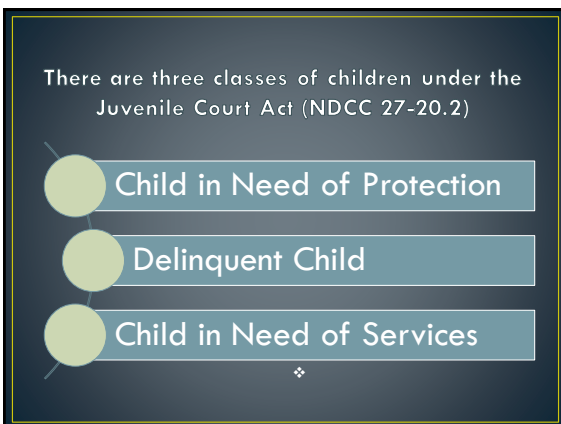
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DELINQUENT CHILD (NDCC 27-20.4)

- A delinquent child means a child who has committed a delinquent act and is in need of treatment or rehabilitation. A delinquency action focuses directly on the criminal activity of the child as alleged in the petition.
- 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.
- Recent Statute change limits certain misdemeanor offenses committed on school grounds from being referred to the Court without the school having attempted interventions.

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Child in Need of Protection (NDCC 27-20.3)

- Is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for the child's physical, mental, or emotional health, or morals, and the deprivation is not due primarily to the lack of financial means of the child's parents, guardian, or other custodian;
- Has been placed for care or adoption in violation of law;
- Has been abandoned by the child's parents, guardian, or other custodian;
- Is without proper parental care, control, or education as required by law, or other care and control necessary for the child's well-being because of the physical, mental, emotional, or other illness or disability of the child's parent or parents, and that such lack of care is not due to a willful act of commission or act of omission by the child's parents, and care is requested by a parent;
- Is in need of treatment and whose parents, guardian, or other custodian have refused to participate in treatment as ordered by the juvenile court;
- Was subject to prenatal exposure to chronic or severe use of alcohol or any controlled substance as defined in chapter 19-03.1 in a manner not lawfully prescribed by a practitioner;
- Is present in an environment subjecting the child to exposure to a controlled substance, chemical substance, or drug paraphernalia as prohibited by section 19-03.1-22.2;
- Is a victim of human trafficking.

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Child in Need of Services (NDCC 27-20.3)

- Truancy-more than 3 days during school year and subject to compulsory attendance
- Ungovernable/unruly/runaway-Is habitually disobedient of the reasonable and lawful commands of the child's parent or guardian, or who is willfully in a situation dangerous or injurious to the health, safety, or morals of the child or others;
- Has committed an offense applicable only to a child (except tobacco use/possession if 14 years or older)
- Possession/use of tobacco under age 14 ("electronic smoking devices" and "alternative nicotine products" are included)

*Minor in Possession/Consumption of Alcohol is now a delinquent act (Infraction)

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Juvenile proceedings have three general phases:

- ❖ Are the allegations of the petition true?
- ❖ Is there a need to do something about it? (need for treatment/rehabilitation-delinquent cases)
- ❖ If the child is found to be delinquent or a child in need of protection, what should the court do (disposition)?

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SHELTER CARE HEARING

- “Shelter care” means temporary care of a child in physically unrestricted facilities. NDCC 27-20.3 (9) This may mean foster care, group home, or residential care placements.
- A shelter care hearing is held after the juvenile court officer or Law enforcement officer has issued an order for temporary custody of a child. *Hearings must be held within 96 hours from when placed in shelter care.*
 - See Rule 2 NDRJP and NDCC 27-20.3 (10).
- Purpose-to determine whether there is probable cause to believe the child is in need of protection and if continued shelter care is necessary.
- If further court intervention is necessary, a petition can be filed.

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During a shelter care hearing the judge will:

- Identify the nature of the proceeding
- Identify which parties and others are in attendance
- Determine if the Indian Child Welfare Act (ICWA) 25 USC §1902 applies and if it does, whether the Tribe was notified of this proceeding, and whether they have sent a representative to the hearing.
- Advise the respondents of their right to counsel
- Determine whether the parents will be represented by counsel, and if they are, whether it be by privately retained counsel or court appointed counsel
- Advise respondents of the nature and purpose of the proceedings
- Identify if there is probable cause to believe the child is a child in need of protection
- Identify if there are special circumstances that require placement in shelter care:
 - to protect person or property of the child or others, or
 - because the child may abscond or be removed from the jurisdiction of the court, or
 - the child has no parent, guardian, or custodian or other eligible person able to provide supervision and care for the child

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Necessary findings for issuing a shelter care order (what the state must prove):

- ✓ The court has jurisdiction over the parties and the subject matter
- ✓ The name and date of birth of the child
- ✓ The date the child was first taken into shelter care
- ✓ Whether there is probable cause to believe the child is in need of protection
- ✓ Whether there is probable cause to believe that continued shelter care is required and why
- ✓ What is contrary to the welfare of the child to be returned to the parental home at this time
- ✓ That it is in the best interest of the child to be placed in shelter care;
- ✓ That reasonable/active efforts were made to prevent removal of the child from the parental home
- ✓ That reasonable/active efforts were taken to place siblings together (only important if the detained child has siblings that have also been placed out of the home)
- ✓ If child is separated from siblings by placement in detention that reasonable efforts have been made to provide for frequent visitation/interaction between siblings
- ✓ Whether the Indian Child Welfare Act applies

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Length of Shelter Care Order

- 60 days from when first placed in shelter care (30 days ICWA).
- Petitioner has 30 days from first placement to file a petition. *The child must be released from shelter care if a petition is not filed within those 30 days (N.D.C.C. 27-20.3-08).*
- The shelter care order may be extended at subsequent proceedings if the matter is contested and continued shelter care is requested and appropriate. See NDRJP 2.

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INITIAL APPEARANCES

This is the first time the parties will appear in court to respond to the petition. The court needs to make sure the parties know and understand:

- What the allegations are;
- What the possible outcome may be if those allegations are proved or admitted;
- What their rights are as respondents in this case (if they don't have an attorney, do they want one?);
- That they have the option of admitting or denying the allegations;
- That they know the consequences of admitting the allegations.
- *Finally, the court must receive a response to the allegations of the petition – do the respondents admit or deny? If they deny, then schedule a pretrial conference. If they admit, then either proceed to disposition or continue the case for a later dispositional hearing.*

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During an Initial Appearance the judge will:

- Identify the proceedings, the nature of the proceedings, and the parties who are present.
- Advise the respondents of the allegations, their rights, the possible outcomes of the proceedings, and their right to either admit or deny the allegations as well as the consequences of an admission or denial.
- Elicit a response (admission or denial) from the respondents.

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PRETRIAL CONFERENCE

- The function of a pretrial conference is to determine if the parties intend to go to trial; how much time needs to be set aside for trial; to decide any pretrial matters and motions; to dispose of cases in which settlement has been reached. The general function of this hearing is to determine whether the case can be resolved at the time, or if it needs to be set for trial. Any pretrial motions should be resolved at this time.
- Not all Juvenile Courts use pretrial hearings in their scheduling

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ADJUDICATION HEARING ON A PETITION

- The adjudication hearing determines if the allegations of the petition have been proved. This is also the term used whenever a respondent party admits to the allegations, whether it is at an initial appearance, pretrial conference, or on the day of trial.
- Must be held within 30 days after the initial appearance (Rule 2 ND Rules of Juvenile Procedure). May be continued by the Court for good cause
- Burden of proof is clear and convincing evidence for CHIPS cases and beyond a reasonable doubt for delinquency.

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DISPOSITIONAL HEARINGS

- After the child has been found to be delinquent or a child in need of protection, the court then moves into the dispositional phase of the proceedings.
- The parties may or may not be in agreement about disposition. The court may receive evidence from any party relating to the appropriate disposition.
- The important consideration here is not punishment but treatment and rehabilitation (delinquent child) and what is in the best interest of a child in need of protection

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Dispositional options in CHIPS cases (N.D.C.C. 27-20.3-15):

- 1) Child remains with parent/guardian subject to the court's conditions, limitations, or supervision;
- 2) Require a parent/legal guardian to participate in the treatment ordered for the child;
- 3) Establish a Guardianship
- 4) Temporary legal and physical custody can be given to:
 - Agency licensed and authorized to provide care for children;
 - Director of human service zone

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PERMANENCY HEARINGS

- If the custodial agency believes that reunification of the family and termination of the dispositional order is not appropriate at the time the order is expiring, the petitioner can file a motion to extend the original dispositional order. The hearing is called a permanency hearing.
- Must be held every 365 days a child is in foster care
- Specific findings needed regarding efforts to finalize the permanency plan

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REVIEW HEARINGS

- Any party can motion to have a review hearing in a juvenile case.

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TERMINATION OF PARENTAL RIGHTS HEARINGS (27-20.3-20)

- The purpose of a termination hearing is to end the relationship between parent(s) and child(ren). This is a very serious and complicated proceeding; the rights of all parties are generally given great merit because of the finality of the outcome. The court will enforce strict compliance with procedural standards and will analyze the evidence very carefully in a termination hearing.
- In order for a termination of parental rights (often called TPR) to be granted, there must be clear and convincing evidence (beyond a reasonable doubt for ICWA TPR case) to prove the child is in need of protection, and:
 - ✓ the deprivation is likely to continue or will not be remedied, and the child will suffer serious physical, mental, moral, or emotional harm because of this; or
 - ✓ the child has been in foster care for at least 450 out the previous 660 nights; or
 - ✓ the parents' consent to the termination.
- A termination can also be granted if the child has been 'abandoned' by the parents or it may be the case where the child has been subjected to "aggravated circumstances", i.e. extreme forms of abuse or neglect.

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ND Formal Case Filings						
YEAR	CHIPS	GRD	TPR	CFC	DEL	CHINS
• 2019	1,049	255	217	29	818	75
• 2020	863	295	259	28	648	78
• 2021	902	252	210	33	728	43
*effective (8/1/22-CHINS cases can no longer be petitioned)						
• 2022	888	225	250	27	980	N/A
• 2023	702	250	219	33	943	N/A

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Dual Status Initiative

- Children and youth who come into contact with both the child welfare and juvenile justice (delinquency) systems



- They may have different types of contact or legal statuses within these systems including:
 - Dual identification
 - Dual involvement
 - Dual adjudication

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Target Population for Dual Status Program

A Youth...

- (1) Who is involved in an open CPS Assessment or who has been identified as a victim of a CPS determination (CHINS case)
- And*
- (2) Who has an Unruly/Delinquent referral (CHIPS case)

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Identification

Client data from both CMS (Juvenile Court) and FRAME (Child Welfare) will be compared to identify youth in the DSYI target population. Newly encountered youth from one system that match to client activity in the other system through the data matching process will be generated for future tracking on the "DSYI Identification List".



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Actions Following Identification Social Service Initiation

For a new CPS referral:

If a youth is determined to have a currently active delinquency or unruly case.

CPS worker contact the juvenile court/assigned court officer as part of the initial assessment within one week.

OR

If a youth is determined to have a previous delinquency or unruly case.

CPS worker will contact the juvenile court to request a courtesy update on the youth.

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FCE Meetings can...

- Reduce the number of children entering foster care.
- Increase the number of children remaining safely in their own homes.
- For children that are removed, increasing the number placed with relatives.

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Guardian Ad Litem (GAL)

Who? How Assigned? What is their purpose?

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THANK YOU....

...any questions?

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