

JUDICIAL BRANCH OF GOVERNMENT

CHAPTER 226

HOUSE BILL NO. 1076

(Judiciary Committee)
(At the request of the Supreme Court)

AN ACT to amend and reenact sections 27-02.1-01, 27-0.1-02, 27-02.1-03, 27-02.1-04, 27-02.1-05, 27-02.1-06, 27-02.1-07, 27-02.1-08, and 27-02.1-09 of the North Dakota Century Code, relating to the temporary court of appeals; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 27-02.1-01 of the North Dakota Century Code is amended and reenacted as follows:

27-02.1-01. (Effective through January 1, 20162020) Temporary court of appeals established - Jurisdiction - Writ authority - Administration.

A temporary court of appeals is established to exercise appellate and original jurisdiction as delegated by the supreme court. Panels of the temporary court of appeals may issue original and remedial writs necessary to properly exercise jurisdiction in cases assigned to them. The panels of the temporary court of appeals are subject to administration by the supreme court pursuant to sections 3 and 8 of article VI of the Constitution of North Dakota.

SECTION 2. AMENDMENT. Section 27-02.1-02 of the North Dakota Century Code is amended and reenacted as follows:

27-02.1-02. (Effective through January 1, 20162020) Number, assignment, and compensation of judges.

1. The supreme court may provide for the assignment of active or retired district court judges, retired justices of the supreme court, and lawyers, to serve on three-judge panels of the temporary court of appeals if the chief justice certifies to the governor that the supreme court has disposed of two hundred fifty cases in the twelve months preceding September first of any year. Assignments may be made for a time certain, not to exceed one year from the date of assignment, or specifically for one or more cases on the docket of the supreme court.
2. An active or retired district court judge serving on the temporary court of appeals may not be assigned to hear cases in which the judge participated while serving on the district court. An active district court judge may not be assigned to hear cases that originated in the judicial district of the judge.

3. An active district court judge serving on the temporary court of appeals is not entitled to additional compensation, but is entitled to reimbursement for expenses as provided by sections 44-08-04 and 54-06-09.
4. Retired justices of the supreme court, retired district court judges, and lawyers serving as judges on panels of the temporary court of appeals are entitled to receive as compensation for each day of service in the performance of duties pursuant to the assignment an amount equal to five percent of the gross monthly salary as provided for a regularly elected or appointed justice of the supreme court, or one-half of the daily compensation for services of one-half day or less. The compensation must be paid upon certification by the judge that the services were performed for the number of days shown on the certificate and must be paid in the same manner as the salaries of the regularly elected or appointed judges are paid.

SECTION 3. AMENDMENT. Section 27-02.1-03 of the North Dakota Century Code is amended and reenacted as follows:

27-02.1-03. (Effective through January 1, 20162020) Assignment and reassignment of cases - Quorum for decision of cases - Authority in furtherance of jurisdiction.

1. Panels of the temporary court of appeals have jurisdiction to hear and to decide all cases assigned by the supreme court.
2. The supreme court may order reassignment of any case from a panel of the temporary court of appeals to the supreme court.
3. A majority of the three judges of a panel of the temporary court of appeals hearing a case is necessary to pronounce a decision.
4. When a judgment or order is reversed, modified, or confirmed by a panel of the temporary court of appeals, the reasons must be concisely stated in writing, signed by the judges concurring, filed in the office of the clerk of the supreme court, and preserved with the record of the case. Any judge concurring or dissenting may give the reasons for the judge's concurrence or dissent in writing over the judge's signature.

SECTION 4. AMENDMENT. Section 27-02.1-04 of the North Dakota Century Code is amended and reenacted as follows:

27-02.1-04. (Effective through January 1, 20162020) Administration - Employees and clerical assistance - Court of record - Place of sessions.

1. The clerk of the supreme court shall provide clerk services to panels of the temporary court of appeals.
2. Panels of the temporary court of appeals may hold court in any place the panel considers convenient and efficient for conducting its business.
3. All proceedings of the panels of the temporary court of appeals must be pursuant to the rules adopted by the supreme court.

SECTION 5. AMENDMENT. Section 27-02.1-05 of the North Dakota Century Code is amended and reenacted as follows:

27-02.1-05. (Effective through January 1, 2016~~2020~~) Chief judge.

The chief justice of the supreme court shall designate a chief judge of each panel of the temporary court of appeals who shall preside pursuant to rules of the supreme court.

SECTION 6. AMENDMENT. Section 27-02.1-06 of the North Dakota Century Code is amended and reenacted as follows:

27-02.1-06. (Effective through January 1, 2016~~2020~~) Review of decisions of panels.

Any party in interest who is aggrieved by a judgment or order of a panel of the temporary court of appeals may petition the supreme court for review of the judgment or order pursuant to rules of the supreme court. Upon the filing of a petition for review by the supreme court, the order or judgment and mandate of the panel of the temporary court of appeals is stayed pending action of the supreme court. The supreme court has discretion to grant or deny the petition.

SECTION 7. AMENDMENT. Section 27-02.1-07 of the North Dakota Century Code is amended and reenacted as follows:

27-02.1-07. (Effective through January 1, 2016~~2020~~) Right to appeal not created.

This chapter does not provide or create a right of appeal if that right is not otherwise provided by law. An appeal assigned to a panel of the temporary court of appeals fulfills the right of appeal provided by section 28-27-02.

SECTION 8. AMENDMENT. Section 27-02.1-08 of the North Dakota Century Code is amended and reenacted as follows:

27-02.1-08. (Effective through January 1, 2016~~2020~~) Unitary appeal - Filing of appeal - Filing fee.

All appeals must be treated as one appeal process under the jurisdiction of the supreme court. In any appeal there may be only one filing and one filing fee required. The filing fee is as prescribed by section 27-03-05.

SECTION 9. AMENDMENT. Section 27-02.1-09 of the North Dakota Century Code is amended and reenacted as follows:

27-02.1-09. (Effective through January 1, 2016~~2020~~) Publication of opinions.

Opinions of the panels of the temporary court of appeals may be published pursuant to rules of the supreme court.

Approved March 20, 2015

Filed March 20, 2015

CHAPTER 227

HOUSE BILL NO. 1166

(Representatives Maragos, K. Koppelman)
(Senators Hogue, Luick)

AN ACT to amend and reenact section 27-05-08 of the North Dakota Century Code, relating to district court chambers locations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 27-05-08 of the North Dakota Century Code is amended and reenacted as follows:

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. ~~However, not more than seventy percent of the chambers of the district judges may be located in cities with a population of more than ten thousand.~~
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.

Approved March 25, 2015
Filed March 25, 2015

CHAPTER 228

HOUSE BILL NO. 1141

(Representatives Larson, Beadle, Boschee, Hanson, Louser)

AN ACT to amend and reenact section 27-08.1-01 of the North Dakota Century Code, relating to inclusion of a dispute over disposition of earnest money or other money deposit arising from a contract to purchase real property within the jurisdiction and venue of small claims court proceedings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

27-08.1-01. Small claims court - Jurisdictional limits - Venue.

1. All judges of the district courts may exercise the jurisdiction conferred by this chapter, and while sitting in the exercise of that jurisdiction must be known and referred to as the "small claims court". The jurisdiction of this court is confined to cases for recovery of money, or the cancellation of any agreement involving material fraud, deception, misrepresentation, or false promise, when the value of the agreement or the amount claimed by the plaintiff or the defendant does not exceed fifteen thousand dollars.
2. The proceedings in this court must be commenced:
 - a. If the defendant is a corporation, limited liability company, or a partnership, in any county in which the defendant has a place of business or in any county in which the subject matter of the claim occurred.
 - b. If the claim is for collection of a check written without sufficient funds or without an account, in the county where the check was passed, or in the county of the defendant's residence or place of business.
 - c. If the defendant is an individual and the claim is for collection of an open account on which credit has been extended:
 - (1) In the county of the defendant's residence or place of business; or
 - (2) If the amount of the claim is less than one thousand dollars and is not from a telephone or mail order transaction, in the county where the transaction occurred or in the county of the defendant's residence or place of business.
 - d. If the defendant is an individual and the claim is not made under subdivision b or c, in the county of the defendant's residence.
 - e. If the defendant is an individual and the claim arose as the result of the defendant's lease of real property or as the result of a dispute over disposition of earnest money or other money deposit arising from a contract to purchase real property, in the county where the defendant

resides or in the county where the real property is located unless the plaintiff and the defendant consent in writing to a proceeding in a different county.

- f. If the plaintiff is a political subdivision and the claim is for a public utility debt, in the county in which the political subdivision is located.
3. Except for an action under subdivision c, e, or f of subsection 2, the defendant may elect to remove the action to a small claims court in the defendant's county of residence. A claim may not be filed by an assignee of that claim. A garnishment or attachment may not issue from this court until after judgment is entered.

Approved April 15, 2015

Filed April 15, 2015

CHAPTER 229

SENATE BILL NO. 2064

(Human Services Committee)

(At the request of the Department of Human Services)

AN ACT to amend and reenact subsection 15 of section 27-20-02, sections 27-20-30.1 and 27-20-38 of the North Dakota Century Code, relating to the definition of permanency hearing, a foster care agreement with an agency or tribal council of a recognized Indian reservation in North Dakota, and the rights and duties of legal custodian.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹³³ **SECTION 1. AMENDMENT.** Subsection 15 of section 27-20-02 of the North Dakota Century Code is amended and reenacted as follows:

15. "Permanency hearing" means a hearing, conducted with respect to a child who is in foster care, to determine the permanency plan for the child which includes:
 - a. Whether and, if applicable, when the child will be returned to the parent;
 - b. Whether and, if applicable, when the child will be placed for adoption and the state will file a petition for termination of parental rights;
 - c. Whether and, if applicable, when a fit and willing relative or other appropriate individual will be appointed as a legal guardian;
 - d. Whether and, if applicable, to place siblings in the same foster care, relative, guardianship, or adoptive placement, unless it is determined that the joint placement would be contrary to the safety or well-being of any of the siblings;
 - e. Whether and, if applicable, in the case of siblings removed from their home who are not jointly placed, to provide for frequent visitation or other ongoing interaction between the siblings, unless it is determined to be contrary to the safety or well-being of any of the siblings;
 - f. In cases in which a compelling reason has been shown that it would not be in the child's best interests to return home, to have parental rights terminated, to be placed for adoption, to be placed with a fit and willing relative, or to be placed with a legal guardian, whether and, if applicable, when the child, aged sixteen or older, will be placed in another planned permanent living arrangement. The court shall:

(1) Ask the child whether the child has a desired permanency outcome of another planned permanent living arrangement.

¹³³ Section 27-20-02 was also amended by section 4 of House Bill No. 1029, chapter 127, section 4 of House Bill No. 1186, chapter 111, and section 2 of House Bill No. 1347, chapter 112.

- (2) Make a judicial determination explaining why another planned permanent living arrangement is the best permanency plan for the child, and
- (3) Identify the compelling reasons it continues not to be in the best interest of the child to return home, be placed for adoption, be placed with a legal guardian, or be placed with a fit and willing relative;
- g. In the case of a child who has been placed in foster care outside the state in which the home of the parents is located, or if the parents maintain separate homes, outside the state in which the home of the parent who was the child's primary caregiver is located, whether out-of-state placements have been considered. If the child is currently in an out-of-state placement, the court shall determine whether the placement continues to be appropriate and in the child's best interests; and
- h. In the case of a child who has attained age sixteen, the services needed to assist the child to make the transition from foster care to independent living.

SECTION 2. AMENDMENT. Section 27-20-30.1 of the North Dakota Century Code is amended and reenacted as follows:

27-20-30.1. Disposition of child needing continued foster care services.

1. For purposes of this section, "child" means an individual between the ages of eighteen and twenty-one years who is in need of continued foster care services.
2. A petition to commence an action under this section must contain information required under section 27-20-21 along with an affidavit either prepared by the administrative county, as determined by the department of human services, or prepared by an agency or tribal council of a recognized Indian reservation in North Dakota.
3. The court shall issue a summons in accordance with section 27-20-22 upon the filing of a petition and affidavit.
4. If a child is in need of continued foster care services as determined by the department of human services and as set forth in a continued foster care agreement, the court shall make the following judicial determination:
 - a. That the child is not deprived, delinquent, or unruly but is in need of continued foster care services;
 - b. That the child will remain in or will return to foster care pursuant to the child's continued foster care agreement;
 - c. That the child's continued foster care agreement has been willfully entered between:
 - (1) ~~the~~The department of human services or its agent, the child, and the foster care provider; or

- (2) An agency or tribal council of a recognized Indian reservation in North Dakota if the child is not subject to the jurisdiction of the state of North Dakota, the child, and the foster care provider;
- d. That it is in the best interest of the child to remain in or return to foster care;
 - e. That reasonable efforts were made in accordance with subsection 7 of section 27-20-32.2;
 - f. That the child has attained the age of eighteen or older but does not exceed the age of twenty-one years;
 - g. That the child has satisfied the education, employment, or disability requirements under the Fostering Connections to Success and Increasing Adoptions Act of 2008 [Pub. L. 110-351] and as set forth by the department of human services;
 - h. That the administrative county, as determined by the department, or that an agency or tribal council of a recognized Indian reservation in North Dakota, shall continue foster care case management, unless otherwise agreed to or required by the department;
 - i. That the administrative county ~~or division of juvenile services~~ an agency or tribal council of a recognized Indian reservation in North Dakota must have care and placement responsibility of the child;
 - j. That permanency hearing must be as set forth in section 27-20-36; and
 - k. That there are no grounds to file a petition to terminate parental rights under chapter 27-20.
5. Pursuant to ~~section 27-20-37~~ N.D.R.Juv.P., Rule 16, a court may modify or vacate the judicial determination made under subsection 4.

SECTION 3. AMENDMENT. Section 27-20-38 of the North Dakota Century Code is amended and reenacted as follows:

27-20-38. Rights and duties of legal custodian.

A custodian to whom legal custody has been given by the court under this chapter has:

1. The right to the physical custody of the child and the right to determine the nature of the care, placement, and treatment of the child, including ordinary medical care as well as medical or surgical treatment for a serious physical condition or illness which in the opinion of a licensed physician requires prompt treatment, except for any limits the court may impose.
2. The right and duty to provide for the care, protection, training, and education and the physical, mental, and moral welfare of the child, subject to the conditions and limitations of the order and to the remaining rights and duties of the child's parents or guardian.
3. A duty within thirty days after the removal of a child from the custody of the parent or parents of the child for the purpose of placement into foster care, to

exercise due diligence to identify and provide notice to the following relatives: all parents of a sibling of the child entering foster care who have legal custody of the sibling, all adult grandparents, and any other adult relative suggested by the parents and grandparents, subject to exceptions due to family or domestic violence, that:

- a. Specifies that the child has been or is being removed from the custody of the parent or parents of the child;
 - b. Explains the options the relative has under federal, state, and local law to participate in the care and placement of the child, including any options that may be lost by failing to respond to the notice;
 - c. Describes the requirements and standards to become a foster family home and the additional services and supports that are available for children placed in that home; and
 - d. Describes how the relative of the child may enter into an agreement with the department to receive a subsidized guardianship payment.
4. For purposes of this section, "sibling of the child entering foster care" means:
- a. A brother or sister who has at least one biological or adoptive parent in common;
 - b. A fictive brother or sister with a significant bond as identified by the child or parent; or
 - c. A child that would have been considered a sibling but for the termination or other disruption of parental rights, including a death of a parent.

Approved March 13, 2015
Filed March 13, 2015

CHAPTER 230

HOUSE BILL NO. 1119

(Judiciary Committee)

(At the request of the Department of Corrections and Rehabilitation)

AN ACT to amend and reenact subsection 1 of section 27-20-03, section 27-20-08, subsection 1 of section 27-20-30, and subsection 2 of section 27-20-31 of the North Dakota Century Code, relating to the disposition of a nonresident child; and to repeal sections 27-20-39, 27-20-40, 27-20-41, 27-20-42, and 27-20-43 and chapter 27-22 of the North Dakota Century Code, relating to the transfer and supervision of a child in another state or from another state and to the interstate compact on juveniles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 27-20-03 of the North Dakota Century Code is amended and reenacted as follows:

1. The juvenile court has exclusive original jurisdiction of the following proceedings, which are governed by this chapter:
 - a. Proceedings in which a child is alleged to be delinquent, unruly, or deprived;
 - b. Proceedings for the termination of parental rights except when a part of an adoption proceeding;
 - c. ~~Proceedings arising under sections 27-20-39 through 27-20-42;~~
 - d. Proceedings arising under section 27-20-30.1; and
 - e-d. Civil forfeiture proceedings arising under chapter 19-03.1 or section 29-31.1-04 for which a child is alleged to have possessed forfeitable property. The juvenile court shall conduct the proceedings in accordance with the procedures provided for under sections 19-03.1-36 through 19-03.1-37.

SECTION 2. AMENDMENT. Section 27-20-08 of the North Dakota Century Code is amended and reenacted as follows:

27-20-08. Commencement of proceedings.

A proceeding under this chapter may be commenced:

1. By transfer of a case from another court as provided in section 27-20-09; or
2. ~~By the court accepting jurisdiction as provided in section 27-20-40 or accepting supervision of a child as provided in section 27-20-42; or~~
3. In other cases by the filing of a petition as provided in this chapter. The petition and all other documents in the proceeding must be entitled "In the

interest of _____, a child". If a child is in shelter care, the petition must be filed within thirty days of the shelter care hearing under section 27-20-17. If the petition is not filed, the child must be released from shelter care.

¹³⁴ **SECTION 3. AMENDMENT.** Subsection 1 of section 27-20-30 of the North Dakota Century Code is amended and reenacted as follows:

1. If the child is found to be a deprived child, the court may make any of the following orders of disposition best suited to the protection and physical, mental, and moral welfare of the child:
 - a. Permit the child to reside with the child's parents, guardian, or other custodian, subject to conditions and limitations as the court prescribes, including supervision as directed by the court for the protection of the child.
 - b. Subject to conditions and limitations as the court prescribes, transfer temporary legal custody to any of the following:
 - (1) An agency or other private organization licensed or otherwise authorized by law to receive and provide care for the child.
 - (2) The director of the county social service board or other public agency authorized by law to receive and provide care for the child.
 - c. ~~Without making any of the orders otherwise provided in this section, transfer custody of the child to the juvenile court of another state if authorized by and in accordance with section 27-20-39 if the child is or is about to become a resident of that state.~~
 - d. Require the parents, guardian, or other custodian to participate in treatment.
 - e.d. Appoint a fit and willing relative or other appropriate individual as the child's legal guardian.
 - f.e. In cases in which a compelling reason has been shown that it would not be in the child's best interests to return home, to have parental rights terminated, to be placed for adoption, to be placed with a fit and willing relative, or to be placed with a legal guardian, establish, by order, some other planned permanent living arrangement.

¹³⁵ **SECTION 4. AMENDMENT.** Subsection 2 of section 27-20-31 of the North Dakota Century Code is amended and reenacted as follows:

2. Placing the child on probation under the supervision of the director, probation officer, or other appropriate officer of the court ~~or of the court of another state as provided in section 27-20-44~~ or the director of the county social service board under conditions and limitations the court prescribes;

¹³⁴ Section 27-20-30 was also amended by section 2 of House Bill No. 1210, chapter 231.

¹³⁵ Section 27-20-31 was also amended by section 2 of Senate Bill No. 2052, chapter 268.

SECTION 5. REPEAL. Sections 27-20-39, 27-20-40, 27-20-41, 27-20-42, and 27-20-43 and chapter 27-22 of the North Dakota Century Code are repealed.

Approved March 23, 2015

Filed March 23, 2015

CHAPTER 231

HOUSE BILL NO. 1210

(Representatives Klemin, D. Anderson, Damschen)
(Senator J. Lee)

AN ACT to create and enact subsection 4 of section 27-20-13 and subdivision g of subsection 1 of section 27-20-30 of the North Dakota Century Code, relating to time for beneficial transition of a child to or from temporary legal custody.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Subsection 4 to section 27-20-13 of the North Dakota Century Code is created and enacted as follows:

4. Without a compelling reason to the contrary, a court order transferring a child into custody shall provide a reasonable period of time to facilitate a beneficial transition for the child and other parties involved.

¹³⁶ **SECTION 2.** Subdivision g of subsection 1 of section 27-20-30 of the North Dakota Century Code is created and enacted as follows:

- g. Without a compelling reason to the contrary, a court order that transfers the child from the current protective placement to a parent or other biological family must provide a reasonable period of time to facilitate a beneficial transition for the child and other parties involved.

Approved April 22, 2015
Filed April 22, 2015

¹³⁶ Section 27-20-30 was also amended by section 3 of House Bill No. 1119, chapter 230.

CHAPTER 232

SENATE BILL NO. 2028

(Legislative Management)
(Commission on Alternatives to Incarceration)

AN ACT to amend and reenact subdivision b of subsection 1 of section 27-20-34 of the North Dakota Century Code, relating to transfers from juvenile to adult court.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subdivision b of subsection 1 of section 27-20-34 of the North Dakota Century Code is amended and reenacted as follows:

- b. The child was fourteen years of age or more at the time of the alleged conduct and the court determines that there is probable cause to believe the child committed the alleged delinquent act and the delinquent act involves the offense of murder or attempted murder; gross sexual imposition or the attempted gross sexual imposition of a victim by force or by threat of imminent death, serious bodily injury, or kidnapping; or the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance in violation of subdivision a or b of subsection 1 of section 19-03.1-23, except for the manufacture, delivery, or possession with intent to manufacture or deliver marijuana in an amount less than one pound [.45 kilogram]; or the gratuitous delivery of a controlled substance not a narcotic drug or methamphetamine which is a singular and isolated event involving an amount of controlled substance sufficient solely for a single personal use; or

Approved March 12, 2015

Filed March 12, 2015

CHAPTER 233

SENATE BILL NO. 2063

(Judiciary Committee)

(At the request of the Department of Human Services)

AN ACT to amend and reenact section 27-20-45 of the North Dakota Century Code, relating to the department of human services receiving a copy of the termination of parental rights petition and summons.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 27-20-45 of the North Dakota Century Code is amended and reenacted as follows:

27-20-45. Proceeding for termination of parental rights.

1. The petition must comply with section 27-20-21 and state clearly that an order for termination of parental rights is requested and that the effect will be as stated in section 27-20-46.
2. If both of the natural parents of the child are not named in the petition either as petitioner or as respondent, the court shall cause inquiry to be made of the petitioner and other appropriate persons in an effort to identify an unnamed parent. The inquiry must include, to the extent necessary and appropriate, all of the following:
 - a. Whether any man is presumed to be the father of the child under chapter 14-20.
 - b. Whether the natural mother of the child was cohabiting with a man at the time of conception or birth of the child.
 - c. Whether the natural mother of the child has received from any man support payments or promises of support with respect to the child or in connection with her pregnancy.
 - d. Whether any person has formally or informally acknowledged or declared that person's possible parentage of the child.
 - e. Whether any person claims any right to custody of the child.
3. The court shall add as respondent to the petition and cause to be served with a summons any person identified by the court as an unnamed parent, unless the person has relinquished parental rights, or parental rights have been previously terminated by a court.
4. If the court, after inquiry, is unable to identify an unnamed parent and no person has appeared in the proceeding claiming to be an unnamed parent of the child or to have any right of custody of the child, the court shall enter an order terminating all parental rights of the unnamed parent with reference to the child and the parent and child relationship.

5. If a petition for termination of parental rights is made by a parent of the child under this section or if a parent consents to termination of parental rights under section 27-20-44, that parent is entitled under section 27-20-26 to legal counsel during all stages of a proceeding to terminate the parent and child relationship.
6. Subject to the disposition of an appeal, upon the expiration of thirty days after an order terminating parental rights is issued under this section, the order cannot be questioned by any person, including the petitioner, in any manner, or upon any ground, including fraud, misrepresentation, failure to give any required notice, or lack of jurisdiction of the parties or of the subject matter, unless the person retained custody of the child.
7. At least ten days before the petition is heard, the clerk of district court or juvenile court shall provide a copy of the petition and summons, if any, to the department of human services.

Approved March 12, 2015

Filed March 12, 2015