MARRIAGE DEFINITION - IMPACTED SECTIONS

Several states have required the use of gender neutral language when applying laws and regulations to same-sex couples. The statutes listed in the chart provide the topic addressed in each impacted section as well as the exact wording used. The column entitled "Use of 'spouse'" deciphers whether the current terminology could be replaced with the term "spouse" without causing further legal ramifications or if the language would need to be further amended.

Section	Topic	Current Terminology	Use of "Spouse"
1-04-12	Deed to property	Husband and wife, married man or woman	No change necessary
9-03-05	Definition of duress	Husband or wife	No change necessary
9-03-06	Definition of menace	Husband or wife	No change necessary
12.1-23-09(1)	Defenses and proof as to theft and related offenses	Defines "spouse" as husband and wife	Further clarification needed
13-04.1-09.2(6)	Maximum charges for loans under $1,000	Husband and wife	Further clarification needed
14-02-07	Force to protect	Husband, wife	No change necessary
14-02.1-03	Consent to abortion	Husband	Use of "spouse" may have further ramifications based on biology
14-03-01	Definition of spouse	Person of the opposite sex who is a husband and wife	Further clarification needed
14-03-01.1	Members of armed forces as residents	Husband, wife	No change necessary
14-03-06	Exception to marriage of person having husband or wife	Husband, wife	No change necessary
14-03-08	Recognition of foreign marriages	One man and one woman as husband and wife	Further clarification needed
14-04-01	Annulment of marriage	Husband or wife	No change necessary
14-04-02	Action to annul	Husband or wife	No change necessary
14-05-04	Adultery defined	Husband or wife	No change necessary
14-05-06	Divorce-desertion defined	Husband and wife	Further clarification needed
14-05-18	Divorce-domicile	Husband and wife	No legal impact
14-05-20	Legitimacy of children	Husband, wife	Further clarification needed
14-05-21	Legitimacy of children	Husband, wife	Further clarification needed
14-07-01	Mutual obligations	Husband and wife	Further clarification needed
14-07-03	Mutual duty to support-property and labor	Husband and wife	Further clarification needed
14-07-04	Separate property rights and privileges	Husband and wife	No legal impact
14-07-06	Property contracts with third party	Husband and wife	No legal impact
14-07-07	Contract to alter marital relations	Husband and wife	Further clarification needed
14-07-08	Separate and mutual rights and liabilities	Husband and wife	Further clarification needed
14-07-12	Transfer of property when abandoned or imprisoned	Husband and wife	No legal impact
14-07-13	Binding contracts on both parties	Husband and wife	No legal impact
14-07-14	Order for transfer	Husband and wife	No legal impact
14-08-01	Action for support	Husband or wife	No change necessary
14-08-03	Procedure for action	Husband or wife	No change necessary
14-12.2-28(9)	Evidentiary rules-defense of immunity	Husband and wife	No legal impact
14-14.1-30(4)	Child custody-hearing	Husband and wife	No legal impact
14-15-03	Adoption-who may adopt	Husband and wife	No legal impact
14-15-20	Adoption and legitimation by conduct	Husband and wife	No legal impact, further clarification needed
14-18-08	Gestational carrier agreements	Husband	No legal impact
16.1-05-02	Qualifications of members of board of electors	Husband, wife	No change necessary
16.1-15-16	Qualifications of members of canvassing board	Husband, wife	No change necessary

Section	Topic	Current Terminology	Use of "Spouse"
16.1-15-34	Member of canvassing board	Husband, wife	No change necessary
16.1-16-01	Election recounts	Husband, wife	No change necessary
20.1-03-06	Resident game, fur-bearer, fishing licenses	Husband and wife	Further clarification needed
20.1-03-12(8)	Residential fishing license	Husband and wife	Further clarification needed
20.1-03-12(29)	Resident frog license	Husband and wife	Further clarification needed
20.1-03-12(32)	Nonresident fishing license	Husband and wife	Further clarification needed
23-06-03	Duty of burial	Husband, wife	No change necessary
23-06-13	Dissection	Husband, wife	No change necessary
28-22-01.1	Head of family defined	Husband, wife	No change necessary
30-16-03	Homestead	Husband or wife	No change necessary
30.1-10-02(1)	Effect of divorce, annulment, separation	Husband and wife	Further clarification needed
30.1-10-04(1)(b)	Revocation of probate and nonprobate transfers by divorce	Husband and wife	No legal impact
31-11-03	Disputable presumptions	Husband and wife, man and woman	No change necessary
32-21-03	Who may bring action	Husband or wife	No change necessary
35-01-04	Creation of lien	Husband and wife	Further clarification needed
37-26-01	Veterans' compensation	Husband or wife	No change necessary
47-18-04	Execution of homestead	Husband and wife	Further clarification needed
47-18-05	Conveyance of homestead	Husband and wife	No legal impact
47-18-14	Proceeds of sale	Husband and wife	No legal impact
47-18-22	Conveyance in case of mental illness	Husband or wife	No change necessary
47-18-23	Requisites of a petition in case of mental illness	Husband or wife	No change necessary
47-18-26	Sale of homestead	Husband or wife	No change necessary
47-18-27	Conveyance of homestead when spouse is mentally ill	Husband or wife	No change necessary
47-19-33	Prohibition on self-interested individuals from proving documents	Husband or wife	No change necessary
50-10.2-01	Health care definitions	Husband, wife	No change necessary
50-25.1-10	Privileged communication	Husband and wife	Further clarification needed
54-52.4-01(9)	State employee leave definitions	Husband or wife	No change necessary
54-52.4-02(3)	Family leave	Husband and wife	Further clarification needed
57-38-31(2)	Duty to file income tax return	Husband and wife	Further clarification needed
57-40.3-04(5)	Motor vehicle tax exemption	Husband and wife	Further clarification needed
57-40.3-06	Presentation of motor vehicle purchaser's certificate	Husband or wife	No change necessary
57-40.3-07	Motor vehicle title or license	Husband and wife	Further clarification needed
57-40.5-03(3)	Aircraft excise tax exemption	Husband and wife	Further clarification needed
65-01-02(28)	Workforce safety definitions	Husband or wife	No change necessary

The District of Columbia, Minnesota, New Hampshire, Rhode Island, Vermont, and Washington include gender neutral requirements in statute or allow for equal treatment of same-sex couples under other family laws, including the Uniform Parentage Act. These six states enacted same-sex marriage prior to the United States Supreme Court decision in June 2015. Several different options exist for alternative language, the most common being "individuals who are married to each other" and "spouse."

ATTACH:1

1-04-12. Separate deeds of husband and wife to same property legalized.

In any case where a married man or woman, prior to January 1, 1943, conveyed real property which may have been the homestead of the husband, or the wife, or the family, by a deed duly signed and acknowledged by the husband or wife only, but not signed by the other, and the husband or wife who did not join the other in executing a deed, either before or after, by a deed duly signed and acknowledged, conveys the same real estate to the same grantee or a subsequent grantee, the conveyance by such separate deed is declared to be valid and effectual to pass the title to such grantee or subsequent grantee the same as if the conveyance had been made by a single instrument duly executed and acknowledged by both husband and wife.

9-03-05. Duress defined.

Duress consists in:

1. Unlawful confinement of the person of a party to a contract, of the husband or wife of such party, or of an ancestor, descendant, or adopted child of such party, husband, or wife;
2. Unlawful detention of the property of any such person; or
3. Confinement of such person, lawful in form, but fraudulently obtained, or fraudulently made unjustly harassing or oppressive.

9-03-06. Menace defined.

Menace consists in a threat:

1. Of unlawful confinement of the person of a party to a contract, of the husband or wife of such party, or of an ancestor, descendant, or adopted child of such party, husband, or wife, or of confinement of such person, lawful in form but fraudulently obtained, or fraudulently made unjustly harassing or oppressive;
2. Of unlawful and violent injury to the person or property of any person specified in subsection 1 hereof; or
3. Of injury to the character of any such person.

12.1-23-09. Defenses and proof as to theft and related offenses.

1. It is a defense to a prosecution under this chapter that:
   a. The actor reasonably believed that the actor had a claim to the property or services involved which the actor was entitled to assert in the manner which forms the basis for the charge against the actor; or
   b. The victim is the actor's spouse, but only when the property involved constitutes household or personal effects or other property normally accessible to both spouses and the parties involved are living together. The term "spouse", as used in this section, includes persons living together as husband and wife.
2. It does not constitute a defense to a prosecution for conduct constituting an offense in violation of this chapter that:
   a. Stratagem or deception, including the use of an undercover operative or law enforcement officer, was employed;
   b. A facility or an opportunity to engage in such conduct, including offering for sale property not stolen as if it were stolen, was provided; or
   c. Mere solicitation that would not induce an ordinary law-abiding person to engage in such conduct was made by a law enforcement officer to gain evidence against a person predisposed to engage in such conduct.
3. a. It is a prima facie case of theft under this chapter if it is shown that a public servant or an officer, director, agent, employee of, or a person connected in any capacity with a financial institution has failed to pay or account upon lawful demand for money or property entrusted to the person as part of that person's official duties or if an audit reveals a shortage or falsification of the person's accounts.
   b. It is a prima facie case of theft under this chapter if it is shown that a person, having successfully bid on and obtained an item at an auction, removed the item from the auction premises without paying or making provisions to pay for the item.
   c. Proof of the purchase or sale of stolen property at a price substantially below its fair market value, unless satisfactorily explained, gives rise to an inference that the person buying or selling the property was aware of the risk that it had been stolen.
   d. Proof of the purchase or sale of stolen property by a dealer in property, out of the regular course of business, or without the usual indicia of ownership other than mere possession, unless satisfactorily explained, gives rise to an inference that the person buying or selling the property was aware of the risk that it had been stolen.
4. The testimony of an accomplice, if believed beyond a reasonable doubt, is sufficient for a conviction for conduct constituting an offense in violation of sections 12.1-23-08.1 through 12.1-23-08.3 when:
   a. Stratagem or deception, including the use of an undercover operative or law enforcement officer, was employed;
   b. A facility or an opportunity to engage in such conduct including offering for sale property not stolen as if it were stolen, was provided; or
   c. Mere solicitation that would not induce an ordinary law-abiding person to engage in such conduct was made by a law enforcement officer to gain evidence against a person predisposed to engage in such conduct.

13-04.1-09.2. Maximum charges permitted for loans not in excess of one thousand dollars - Refund - Installment payments - Permitted charges.

1. Every licensee may make loans under this section in any amount not exceeding one thousand dollars and may contract for, receive, or collect on the loans, charges not in excess of two and one-half percent per month on that part of the unpaid balance of principal not exceeding two hundred fifty dollars; two percent per month on that part of the unpaid balance of principal exceeding two hundred fifty dollars but not exceeding five hundred dollars; one and three-fourths percent per month on that part of the unpaid balance of principal in excess of five hundred dollars but not exceeding seven hundred fifty dollars; and one and one-half percent per month on that part of the unpaid balance of principal exceeding seven hundred fifty dollars but not exceeding one thousand dollars. For the purpose of computing charges for a fraction of a month, whether at the maximum rate or less, a day is considered one-thirtieth of a month. Amounts to be charged for any small loan by a licensee under this chapter may also be calculated and charged on a stated dollar per hundred basis but the charges over the entire term of the loan may not be in excess of the equivalent percentage charges on the monthly unpaid balances of principal authorized in this section. If charges are calculated and charged on a dollar per hundred basis, the loan must be repayable in substantially equal periodic installments of principal and charges and the annual percentage simple interest equivalent must be conspicuously stated in the note or small loan contract executed in connection with the loan.
2. When any note or loan contract in which charges have been calculated and charged on a dollar per hundred basis is paid in full by cash, a new loan, renewal, or otherwise, one month or more before the final installment date, the licensee shall refund or credit to the borrower a portion of the total charges which must be at least as great as the sum of the full periodic installment balances scheduled to follow the installment date following the date of prepayment in full bears to the sum of all the periodic installment balances of the loan contract, both sums to be determined according to the payment schedules that had been agreed upon in the loan contract. Charges during the month of payment must be prorated in the proportion that the number of days remaining in the installment period bears to the total days of the installment period. No refund of one dollar or less need be made.
3. On any note or loan contract in which charges have been calculated and charged on a dollar per hundred basis, a licensee may charge, collect, and receive on any installment of principal and charges continuing unpaid for five or more days from the date the payment is due a sum that may not exceed the amount of charges during the final full month of the loan before maturity. The charge may not be collected more than once for the same default. The charge may be collected at the time of the default or any time thereafter. However, if the charge is taken out of any payment received after a default occurs and if the deduction results in the default of a subsequent installment, no charge may be made for the subsequent default.
4. On any note or loan contract in which charges have been calculated and charged on a dollar per hundred basis, if the payment date for any scheduled installment is deferred one or more full months and a corresponding deferment is made for all subsequent installments, the licensee may charge and receive a deferment charge that may not exceed one-twelfth of the charges authorized in subsection 1 applied to the balance of principal and charges due at the date of the deferment multiplied by the number of full months during the deferment in which no payment is made. Thereafter, charges must be made over the remaining extended life of the loan in the same manner and at the same ratio as though no deferral or extension had been granted. The charges may be collected at the time of the deferment or any later time. If the loan is prepaid in full during the deferment period, the borrower is entitled to receive in addition to the refund required under subsection 2 a refund of that portion of the deferment charge applicable to any unexpired months of the deferment period.

5. A licensee may not enter into any contract of loan under this section under which the borrower agrees to make any scheduled payment of principal and charges more than twenty-four and one-half calendar months from the date of making the contract. Every loan contract must require payment of principal and charges in installments that must be payable at approximately equal periodic intervals, except that payment dates may be omitted to accommodate borrowers with seasonal incomes. No installment contracted for may be substantially larger than any preceding installment. When a loan contract provides for monthly installments, the first installment may be payable at any time within forty-five days after the date of the loan.
6. A licensee may not induce or permit any person, or husband and wife, jointly or severally, to be obligated, directly or indirectly, under more than one contract of loan at the same time if the multiple loans result in a higher rate of charge than would otherwise be permitted by this chapter.
7. No further amount in addition to the charges provided for in this chapter may be directly or indirectly charged, contracted for, or received. However, this restriction does not apply to court costs, lawful fees for the filing, recording, or releasing in any public office of any instrument securing a loan, and the identifiable charge or premium for insurance provided for by rule. If any sum in excess of the amounts authorized by this chapter is willfully charged, contracted for, or received, the licensee or any assignee or other person has no right to collect or receive any charges or recompense.

14-02-07. Force to protect.

Any necessary force may be used to protect from wrongful injury the person or property of one's self, or of a wife, husband, child, parent, or other relative, or member of one's family, or of a ward, servant, master, or guest.

14-02.1-03. Consent to abortion - Notification requirements.

1. No physician shall perform an abortion unless prior to such performance the physician certified in writing that the woman gave her informed consent as defined and provided in section 14-02.1-02 and shall certify in writing the pregnant woman's marital status and age based upon proof of age offered by her. Before the period of pregnancy when the unborn child may reasonably be expected to have reached viability, an abortion may not be performed upon an unemancipated minor unless the attending physician certifies in writing that each of the parents of the minor requesting the abortion has been provided by the physician in person with the information provided for in section 14-02.1-02 at least twenty-four hours before the minor's consent to the performance of abortion or unless the attending physician certifies in writing that the physician has caused materials of section 14-02.1-02 to be posted by certified mail to each of the parents of the minor separately to the last-known addresses at least forty-eight hours prior to the minor's consent to the performance of abortion. If a parent of the minor has died or rights and interests of that parent have been legally terminated, this subsection applies to the sole remaining parent. When both parents have died or the rights and interests of both parents have been legally terminated, this subsection applies to the guardian or other person standing in loco parentis. Notification by the attending physician is not required if the minor elects not to allow the notification of one or both parents or her guardian and the abortion is authorized by the juvenile court in accordance with section 14-02.1-03.1. None of the requirements of this subsection apply in the case of a medical emergency, except that when a medical emergency compels the performance of an abortion, the physician shall inform the woman, before the abortion if possible, of the medical indications supporting the physician's judgment that an abortion is necessary to avert her death or for which a twenty-four-hour delay will create grave peril of immediate and irreversible loss of major bodily function, and shall certify those indications in writing.
2. Subsequent to the period of pregnancy when the unborn child may reasonably be expected to have reached viability, no abortion, other than an abortion necessary to preserve her life, or because the continuation of her pregnancy will impose on her a substantial risk of grave impairment of her physical or mental health, may be performed upon any woman in the absence of:
   a. The written consent of her husband unless her husband is voluntarily separated from her; or
   b. The written consent of a parent, if living, or the custodian or legal guardian of the woman, if the woman is unmarried and under eighteen years of age.
3. No executive officer, administrative agency, or public employee of the state of North Dakota or any local governmental body has power to issue any order requiring an abortion, nor shall any such officer or entity coerce any woman to have an abortion, nor shall any other person coerce any woman to have an abortion.

14-03-01. What constitutes marriage - Spouse defined.

Marriage is a personal relation arising out of a civil contract between one man and one woman to which the consent of the parties is essential. The marriage relation may be entered into, maintained, annulled, or dissolved only as provided by law. A spouse refers only to a person of the opposite sex who is a husband or a wife.

14-03-01.1. Members of armed forces deemed residents.

For the purpose of instituting any action or proceeding in the courts of this state, under the provisions of this title, in which residence is a requirement, any member of any branch of the armed forces of the United States who is stationed within the state, and the wife or husband of such member, if that wife or husband is living within the state, must be deemed to be a resident of the state of North Dakota.

14-03-06. Marriage of person having husband or wife void - Exception.

A marriage contracted by a person having a former husband or wife living, if the former marriage has not been annulled or dissolved, is illegal and void from the beginning unless such former husband or wife was absent and believed by such person to be dead for a period of five years immediately preceding such marriage.

14-03-08. Foreign marriages recognized - Exception.

Except when residents of this state contract a marriage in another state which is prohibited under the laws of this state, all marriages contracted outside this state, which are valid according to the laws of the state or country where contracted, are valid in this state. This section applies only to a marriage contracted in another state or country which is between one man and one woman as husband and wife.

14-04-01. Grounds for annulling marriage.

A marriage may be annulled by an action in the district court to obtain a decree of nullity for any of the following causes existing at the time of the marriage:

1. That the party in whose behalf it is sought to have the marriage annulled was under the age of legal consent, as defined in section 14-03-02, or that such party was of such age as to require the consent of the party's parents or guardian and such marriage was contracted without such consent, unless, after attaining legal age, such party freely cohabited with the other as husband or wife.
2. That the former husband or wife of either party was living, and the marriage with such former husband or wife was then in force.
3. That either party was of unsound mind, unless such party, after coming to reason, freely cohabited with the other as husband or wife.
4. That the consent of either party was obtained by fraud, unless such party afterwards, with full knowledge of the facts constituting the fraud, freely cohabited with the other as husband or wife.
5. That the consent of either party was obtained by force, unless such party afterwards freely cohabited with the other as husband or wife.
6. That either party was at the time of the marriage physically incapable of entering into the marriage state, and such incapacity continues and appears to be incurable.
7. That the marriage was incestuous.

14-04-02. Action to annul - Limitations of time.

An action to obtain a decree of nullity of marriage for causes mentioned in section 14-04-01 must be commenced within the periods and by the parties as follows:

1. For causes mentioned in subsection 1, by the party to the marriage who was married under the age of legal consent, within four years after arriving at the age of consent, or by the party's parents or guardian at any time before such party has arrived at the age of legal consent.
2. For causes mentioned in subsection 2, by either party during the life of the other, or by such former husband or wife.
3. For causes mentioned in subsection 3, by the party injured, or a relative or guardian of the party of unsound mind, at any time before the death of either party.
4. For causes mentioned in subsection 4, by the party injured, within four years after the discovery of the facts constituting the fraud.
5. For causes mentioned in subsections 5 and 6, by the injured party, within four years after the marriage.
6. For causes mentioned in subsection 7, by either party at any time.

14-05-04. Adultery defined.

Adultery is the voluntary sexual intercourse of a married person with a person other than the offender's husband or wife.

14-05-06. Desertion defined.

Willful desertion is the voluntary separation of one of the married parties from the other with intent to desert:

1. Persistent refusal to have reasonable matrimonial intercourse as husband and wife when health or physical condition does not make such refusal reasonably necessary, or the refusal of either party to dwell in the same house with the other party when there is no just cause for such refusal, is desertion.
2. When one party is induced by the stratagem or fraud of the other party to leave the family dwelling place or to be absent, and during such absence the offending party departs with intent to desert the other, it is desertion by the party committing the stratagem or fraud and not by the other.
3. Departure or absence of one party from the family dwelling place caused by cruelty or by threats of bodily harm from which danger reasonably would be apprehended from the other is not desertion by the absent party, but it is desertion by the other party.
4. Separation by consent, with or without the understanding that one of the parties will apply for a divorce, is not desertion.
5. Absence or separation, proper in itself, becomes desertion whenever the intent to desert is fixed during such absence or separation.
6. Consent to a separation is a revocable act, and if one of the parties afterwards in good faith seeks a reconciliation and restoration but the other refuses it, such refusal is desertion.
7. If one party deserts the other and before the expiration of the statutory period required to make the desertion a cause of divorce returns and offers in good faith to fulfill the marriage contract and solicits condonation, the desertion is cured. If the other party refuses such offer and condonation, the refusal must be deemed and treated as desertion by such party from the time of the refusal.

14-05-18. Presumption of domicile.

In actions for divorce, the presumption of law that the domicile of the husband is the domicile of the wife does not apply. After separation, each party may have a separate domicile, depending for proof upon actual residence and not upon legal presumptions.

14-05-20. Legitimacy of children - Adultery by husband.

When a divorce is granted for the adultery of the husband, the legitimacy of children of the marriage begotten of the wife before the commencement of the action is not affected.

14-05-21. Legitimacy of children - Adultery by wife.

When a divorce is granted for the adultery of the wife, the legitimacy of children begotten of her before the commission of the adultery is not affected, but the legitimacy of other children of the wife may be determined by the court upon the evidence in the case. In every such case, all children begotten before the commencement of the action are to be presumed legitimate until the contrary is shown.

14-07-01. Mutual obligations.

Husband and wife contract toward each other obligations of mutual respect, fidelity, and support.

14-07-03. Duty to support.

The husband and wife have a mutual duty to support each other out of their individual property and labor.

14-07-04. Separate property - Rights and privileges.

Except as otherwise provided by section 14-07-03, neither the husband nor the wife has any interest in the property of the other, but neither can be excluded from the other's dwelling.

14-07-06. Contracts between husband and wife and third persons as to property.

Either husband or wife may enter into any engagement or transaction with the other or with other persons respecting property which either might enter into if unmarried.

14-07-07. Contracts to alter marital relations.

A husband and wife cannot by any contract with each other alter their marital relations, except that they may agree in writing to an immediate separation and may make provision for the support of either of them and of their children during such separation. The mutual consent of the parties is a sufficient consideration for such a separation agreement.

14-07-08. Separate and mutual rights and liabilities of husband and wife.

The separate and mutual rights and liabilities of a husband and a wife are as follows:

1. Neither the husband nor the wife as such is answerable for the acts of the other.
2. Except for necessary expenses as provided in subsection 3, the earnings of one spouse are not liable for the debts of the other spouse, and the earnings and accumulations of either spouse and of any minor children living with either spouse or in one spouse's custody, while the husband and wife are living separate from each other, are the separate property of each spouse.
3. The husband and wife are liable jointly and severally for any debts contracted by either, while living together, for necessary household supplies of food, clothing, and fuel, medical care, and for shelter for themselves and family, and for the education of their minor children.
4. The separate property of the husband or wife is not liable for the debts of the other spouse but each is liable for their own debts contracted before or after marriage.

14-07-12. Transfer of property when abandoned or imprisoned.

In case the husband or wife abandons the other and removes from the state and is absent therefrom for one year without providing for the maintenance and support of that person's family, or is sentenced to imprisonment either in the county jail or penitentiary for the period of one year or more, the district court of the county where the husband or wife so abandoned or not in prison resides, on application by affidavit of such husband or wife fully setting forth the facts and supported by such other testimony as the court may deem necessary, may authorize that person to manage, control, sell, or encumber the property of the husband or wife for the support and maintenance of the family and for the purpose of paying debts contracted prior to such abandonment or imprisonment. Notice of such proceedings must be given to the opposite party and must be served as a summons is served in ordinary actions.

14-07-13. Contracts made under power given by court binding on both parties.

All contracts, sales, or encumbrances made either by the husband or the wife by virtue of the power contemplated and granted by order of the court as provided in section 14-07-12 are binding on both, and during such absence or imprisonment, the person acting under such power may sue and be sued thereon. For all acts done, the property of both parties is liable, and

execution may be levied or attachment issued thereon according to statute. No suit or proceedings may abate or in anywise be affected by the return or release of the person confined, but that person may be permitted to prosecute or defend jointly with the other.

14-07-14. When order for transfer may be set aside.

The husband or wife affected by the proceedings contemplated in sections 14-07-12 and 14-07-13 may have the order or decree of the court set aside or annulled by affidavit of such party, setting forth fully the facts and supported by such other testimony as the court shall deem proper. Notice of proceedings to set aside and annul the order must be given the person in whose favor the same was granted and must be served as a summons is served in an ordinary action. The setting aside of the decree or order in no way affects any act done thereunder.

14-08-01. Action against husband or wife for support of spouse and minor children - When maintained.

Any married person may maintain an action in the district court of the county in which the person resides against the person's spouse for failure on the spouse's part to provide for:

1. The support of the party bringing suit; and
2. The support of minor children by said husband or wife living with the party bringing suit.

14-08-03. Procedure for action.

The practice in an action against a husband or wife to provide support for that person's spouse and minor children must conform as nearly as may be to the practice in actions for divorce.

14-12.2-28. (316) Special rules of evidence and procedure.

1. The physical presence of a nonresident party who is an individual in a tribunal of this state is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage.
2. An affidavit, a document substantially complying with federally mandated forms, or a document incorporated by reference in any of them, which would not be excluded under the hearsay rule if given in person, is admissible in evidence if given under penalty of perjury by a party or witness residing outside this state.
3. A copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it and is admissible to show whether payments were made.
4. Copies of bills for testing for parentage, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least ten days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.
5. Documentary evidence transmitted from outside this state to a tribunal of this state by telephone, telecopier, or other means that do not provide an original record may not be excluded from evidence on an objection based on the means of transmission.
6. In a proceeding under this chapter, a tribunal of this state shall permit a party or witness residing outside this state to be deposed or to testify by telephone, audiovisual means, or other electronic means at a designated tribunal or other location in that state. A tribunal of this state shall cooperate with other tribunals in designating an appropriate location for the deposition or testimony.
7. If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.
8. A privilege against disclosure of communications between spouses does not apply in a proceeding under this chapter.
9. The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under this chapter.
10. A voluntary acknowledgment of paternity, certified as a true copy, is admissible to establish parentage of the child.

14-14.1-30. (310) Hearing and order.

1. Unless the court issues a temporary emergency order under section 14-14.1-15, upon a finding that a petitioner is entitled to immediate physical custody of the child, the court shall order that the petitioner may take immediate physical custody of the child unless the respondent establishes that:
   a. The child custody determination has not been registered and confirmed under section 14-14.1-25 and that:
      (1) The issuing court did not have jurisdiction under sections 14-14.1-12 through 14-14.1-21;
      (2) The child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under sections 14-14.1-12 through 14-14.1-21; or
      (3) The respondent was entitled to notice, but notice was not given in accordance with section 14-14.1-07, in the proceedings before the court that issued the order for which enforcement is sought; or
   b. The child custody determination for which enforcement is sought was registered and confirmed under section 14-14.1-25 but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under sections 14-14.1-12 through 14-14.1-21.
2. The court shall award the fees, costs, and expenses authorized under section 14-14.1-32 and may grant additional relief, including a request for the assistance of law enforcement officials, and set a further hearing to determine whether additional relief is appropriate.
3. If a party called to testify refuses to answer on the ground that the testimony may be self-incriminating, the court may draw an adverse inference from the refusal.
4. A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of husband and wife or parent and child may not be invoked in a proceeding under sections 14-14.1-22 through 14-14.1-37.

14-15-03. Who may adopt.

The following individuals may adopt:

1. A husband and wife together although one or both are minors.
2. An unmarried adult.
3. The unmarried father or mother of the individual to be adopted.
4. A married individual without the other spouse joining as a petitioner, if the individual to be adopted is not the adopting person's spouse, and if:
    a. The petitioner is a stepparent of the individual to be adopted and the biological or legal parent of the individual to be adopted consents;
    b. The petitioner and the other spouse are legally separated; or
    c. The failure of the other spouse to join in the petition or to consent to the adoption is excused by the court by reason of prolonged unexplained absence, unavailability, incapacity, or circumstances constituting an unreasonable withholding of consent.

14-15-20. Adoption and legitimation by conduct.

Notwithstanding the other provisions of this chapter, the biological father of an illegitimate minor adopts and legitimates a minor by publicly acknowledging the minor as that man's child, receiving the minor into that man's home, with the consent of that man's wife, if that man is married, and otherwise treating the minor as if the minor were legitimate. Thereafter, the minor is deemed the legitimate child of the father for all purposes from the time of birth of the minor, the same as if the adoption had been finally decreed pursuant to this chapter.

14-18-08. Gestational carrier agreements.

A child born to a gestational carrier is a child of the intended parents for all purposes and is not a child of the gestational carrier and the gestational carrier's husband, if any.

16.1-05-02. Qualifications of members of the board of election - Oath of office.

1. a. Except as provided in subdivisions b and d, every member of the election board and each poll clerk must be a qualified elector of a precinct within the polling place boundaries in which the individual is assigned to work and must be eligible to vote at the polling place to which the individual is assigned unless the county auditor has exhausted all means to appoint election judges and clerks from within the voting precinct under subsection 2 of section 16.1-05-01.
   b. A student enrolled in a high school or college in this state who has attained the age of sixteen is eligible to be appointed as a poll clerk if the student possesses the following qualifications:
      (1) Is a United States citizen or will be a citizen at the time of the election at which the student will be serving as a member of an election board;
      (2) Is a resident of this state and has resided in the precinct at least thirty days before the election; and
      (3) Is a student in good standing attending a secondary or higher education institution.
   c. A student appointed as a poll clerk may be excused from school attendance during the hours that the student is serving as a poll clerk, including training sessions, if the student submits a written request to be absent from school signed and approved by the student's parent or guardian and by the school administrator and a certification from the county auditor stating the hours during which the student will serve. A student excused from school attendance under this subdivision may not be recorded as being absent on any date for which the excuse is operative. No more than two students may serve as poll clerks on an election board.
   d. An individual who has attained the age of sixteen and has graduated from high school or obtained a general education degree from an accredited educational institution is eligible to be appointed as a poll clerk if the individual meets the qualifications of paragraphs 1 and 2 of subdivision b.
2. An individual may not serve as a member of the election board or as a poll clerk if the individual:
   a. Has anything of value bet or wagered on the result of an election.
   b. Is a candidate in that election.
   c. Is the husband, wife, father, mother, father-in-law, mother-in-law, son, daughter, son-in-law, daughter-in-law, brother, or sister, whether by birth or marriage, of the whole or the half-blood, of any candidate in that election.
3. Before assuming the duties, each member of the election board and each poll clerk severally shall take and subscribe an oath in substantially the following form:

   I do solemnly swear (or affirm as the case may be), that I will perform the duties of inspector, judge, or clerk (as the case may be) according to law and to the best of my ability, and that I will studiously endeavor to prevent fraud, deceit, and abuse in conducting the same.

   The oath may be taken before any officer authorized by law to administer oaths, and in case no such officer is present at the opening of the polls, the inspector or election judges shall administer the oath to each other and to the poll clerks. The individual administering the oath shall cause an entry thereof to be made and subscribed by that individual and prefixed to each pollbook.
4. An individual serving as a member of the election board, before each election, shall attend a period of instruction conducted by the county auditor or the county auditor's designated representative, provided that the period of instruction has been conducted since the appointment of the election judges or election inspector.
5. If any member of the election board fails to appear at the hour appointed for the opening of the polls, the remainder of the board shall select an individual to serve in the absent individual's place. In filling a vacancy in the office of election judge, the remainder of the board shall select an individual of the absent individual's political

party if such an individual is reasonably available. The office of election inspector or clerk may be filled by any qualified individual without regard to political affiliation. If no members of the election board appear at the hour appointed for opening the polls, the qualified electors present shall call the county auditor, city auditor, or school business manager, as appropriate, for instructions and then orally elect a board as nearly as possible in conformity with this section.

16.1-15-16. Qualifications of members of canvassing board - Replacements - Quorum.

A member of the county canvassing board who has anything of value bet or wagered on the result of the election may not serve on the board. When a member of the county canvassing board is a candidate or husband, wife, father, mother, father-in-law, mother-in-law, son, daughter, son-in-law, daughter-in-law, brother, or sister, whether by birth or marriage, of the whole or the half-blood, of any candidate for any office for which that member canvasses the votes, the member must be removed from that portion of the canvass. If any of the members of the board other than the representatives of the two political parties are disqualified or cannot serve for any other reason, the county commissioners who would be qualified to serve on the board shall appoint alternates to serve in the place of those members of the board who are disqualified. If any of the representatives of the district committees of the two parties are disqualified or cannot serve for any other reason and if the party wishes to have representation, the district chairmen shall appoint an alternate from their respective district committees to act as a member of the county canvassing board. A majority of the confirmed members of the board or their duly appointed alternates constitute a quorum and may make the canvass provided for in this chapter and certify the results thereof.

16.1-15-34. Member of state canvassing board - When disqualified.

A member of the state canvassing board who has anything of value bet or wagered on the result of the election may not serve on the board. When a member of the state canvassing board is a candidate or husband, wife, father, mother, father-in-law, mother-in-law, son, daughter, son-in-law, daughter-in-law, brother, or sister, whether by birth or marriage, of the whole or the half-blood, of any candidate for any office for which that member canvasses the votes, the member must be removed from that portion of the canvass. If a quorum still exists, the remaining members shall canvass the votes for that office. If a quorum does not exist, another state officer, summoned according to the authorization granted the state canvassing board in section 16.1-15-33, shall canvass the votes for that office.

16.1-16-01. Election recounts.

A recount of any primary, special, or general election for nomination or election to a congressional, state, district, legislative, county, or city office, or for the approval or disapproval of any measure, question, or bond issue submitted to the qualified electors of this state or one of its political subdivisions must be conducted according to guidelines established by the secretary of state and as follows:

1. A recount must be conducted when:
   a. Any individual failed to be nominated in a primary election by one percent or less of the highest vote cast for a candidate for the office sought.
   b. Any individual failed to be elected in a general or special election by one-half of one percent or less of the highest vote cast for a candidate for that office.
   c. A question, measure, or bond issue submitted to the qualified electors has been decided by a margin not exceeding one-fourth of one percent of the total vote cast for and against the question at any election.
2. A demand for a recount may be made by any of the following:
   a. Any individual who failed to be nominated in a primary election by more than one percent and less than two percent of the highest vote cast for a candidate for the office sought.
   b. Any individual who failed to be elected in a general or special election by more than one-half of one percent and less than two percent of the highest vote cast for a candidate for that office.
3. A demand for a recount must be made within three days after the canvass of the votes by the county canvassing board in the case of county elections and city elections that are combined with the county and by the state canvassing board in the case of presidential, congressional, state, judicial district, multicounty district, or legislative elections. The demand must be in writing, must recite one of the conditions in subsection 2 as a basis for the recount, must contain a bond in an amount previously established by the auditor or auditors doing the recount sufficient to pay the cost of the recount, and must be filed with:
   a. The secretary of state when the recount is for a congressional, state, district, or legislative office.
   b. The county auditor when the recount is for a county office or city office when a city election is combined with the county.
4. Within four days after the canvass of the votes by the state canvassing board in the case of presidential, congressional, state, judicial district, multicounty district, or legislative elections, the secretary of state shall notify all the county auditors to conduct recounts as required by subsection 1 and, when a timely recount demand is received and it is in proper form, as required by subsection 2. The secretary of state shall fix the date or dates of the recounts of legislative contests to be held within seven days after giving notice to the affected auditors that recounts must be conducted. The secretary of state shall fix the date or dates of the recounts of statewide races to be held within fourteen days after giving notice to the auditors that recounts must be conducted. Within four days after the canvass of votes by the county canvassing board or other political subdivision canvassing board, the county auditor or other political subdivision election official shall fix the date for recounts limited to the county, those cities within the county which combined the election with the county, or other political subdivision. The date must be within eight days after the canvass. In all recount proceedings, the county auditor or other election official, as appropriate, shall send notice of the date, place, and time of the recount to all candidates and petitioners involved by certified mail.
5. For recounts conducted by counties of federal, state, district, and county offices, measures, and questions, the county auditor must conduct the recount and may employ up to four qualified electors of the county to assist in the recount. The county auditor shall review all paper and electronic voting system ballots and associated records, whether the ballots were counted at the precinct or the county canvass, and

all absentee ballots cast pursuant to section 16.1-07-09 to determine which ballots were cast and counted according to the law, including that the ballots were properly initialed and that the initials found on the ballots are verified as those of the precinct election board members. The county auditor shall check the precinct count and the count of the county canvassing board. If the county auditor is a candidate involved in the recount, the county auditor is disqualified from acting thereon, and the county recorder shall perform the duties required of the county auditor by this section. For recounts conducted by political subdivisions other than counties of local offices, measures, and questions, the election officer in a political subdivision shall administer a recount in the same manner as is required under this subsection for counties with respect to political subdivision ballot measures, questions, or bond issues.

6. a. The individuals entitled to participate at the recount are:
   (1) Each candidate involved in the recount, either personally or by a representative.
   (2) A qualified elector favoring each side of a question if the recount involves a question or proposition submitted to a vote of the electorate.

   b. The individuals allowed to participate may challenge the acceptance or exclusion of any ballot. The individual challenging a ballot must state the reason for the challenge based upon the law, and the county auditor or other political subdivision election official shall count the challenged ballot as the auditor or election official determines proper and then shall set the ballot aside with a notation that it was challenged and how it was counted.

7. At the conclusion of the recount, the county auditor or other election official shall submit all challenged ballots to the recount board for decision. Except for political subdivision recounts other than counties, the recount board must be composed of the state's attorney of the county, the chairman of the board of county commissioners, and the county recorder. Unless otherwise specified by law, for a political subdivision other than a county, the governing body of the political subdivision shall appoint the recount board. An individual may not serve on the recount board if the individual has anything of value bet or wagered on the result of the election, is a candidate for the office being recounted, or is the husband, wife, father, mother, father-in-law, mother-in-law, son, daughter, son-in-law, daughter-in-law, brother, or sister, whether by birth or marriage, of the whole or the half-blood, of any candidate involved in the recount. If any of the members of the recount board are disqualified or cannot serve for any other reason, the members of the board of county commissioners or other political subdivision governing body who would be qualified to serve on the board shall appoint disinterested qualified electors of the county or other political subdivision to serve as alternates. The recount board shall review all challenged ballots and on majority vote shall decide how those ballots are counted. The recount board is authorized to initial all absentee ballots cast under section 16.1-07-09 that were not considered or counted at the various precincts in the county for the reasons provided in sections 16.1-07-11 and 16.1-07-12 or by the county canvassing boards as provided in section 16.1-15-19. The decision of the recount board is final, subject to the right to contest the election as provided in this chapter. If during the recount a recess is called, the county auditor or other political subdivision election official shall take appropriate steps to safeguard the ballots.

8. The county auditor or other election official shall certify the results of the recount no later than three days after the recount. The recount result is the official result of the election in the county or other political subdivision. The county auditor or other election official shall prepare a corrected abstract of the votes. In a recount limited to the county, city, or other political subdivision, if the corrected abstract shows no change in the outcome of the election, no further action may be taken. If the corrected abstract changes the outcome of the election, the county auditor or other election official shall issue certificates of nomination or election accordingly and shall certify the new result of a question submitted to the qualified electors. In the case of a city election that is combined with a county election, the county auditor shall certify the new results of the

election to the city auditor who is responsible for issuing new certificates of election if applicable.

9. In presidential, congressional, statewide, judicial district, multicounty district, or legislative recounts, the county auditor, no later than three days after the recount, shall send by certified mail a certified copy of the corrected abstract to the secretary of state. The secretary of state immediately shall assemble the state canvassing board, who shall canvass the corrected abstracts and certify the election results. The secretary of state shall issue certificates of election or nomination or record the approval or disapproval of a question submitted to the qualified electors accordingly.
10. The expenses incurred in a recount of a county election must be paid by the county on a warrant by the county auditor. The expenses incurred in a recount of a political subdivision other than a county election must be paid by that political subdivision. The expenses incurred in a recount of a city election must be paid by the city on a warrant by the city auditor. The expenses incurred in a recount of a presidential, congressional, state, judicial district, multicounty district, or legislative election must be paid by the state from the general fund upon approval by the secretary of state of a statement of expenses received from the county auditors. The expenses incurred in a recount demanded under subsection 2 of section 16.1-16-01 must be paid by the secretary of state or county auditor from the bond submitted by the individual requesting the recount.
11. This section also applies to city elections that are not combined with the county except the city auditor, to the extent applicable, shall perform the duties of the county auditor.

20.1-03-06. Contents of resident general game, fur-bearer, or fishing licenses - Licenses not transferable - Resident family fishing license.

A resident general game, fur-bearer, or fishing license is not transferable. Each such license shall:

1. Describe the licensee.
2. Designate the licensee's place of residence.
3. Have printed upon it in large figures the year for which it is issued, or if it is a fur-bearer license, the statement that it expires on the first day of September following the date of issue.
4. Have printed upon it in large letters the word "nontransferable".
5. Be issued in the name of the director.

In addition to the regular resident fishing license, there is hereby authorized a resident family fishing license allowing the husband and wife of a family to fish under one license. Such license shall be valid for the same period as other resident fishing licenses and shall be issued in duplicate. The husband and wife are each to have a copy in possession while fishing.

20.1-03-12. Schedule of fees for licenses and permits.

The various license and permit fees are as follows:

1. For a resident, age sixteen and over, small game hunting license, ten dollars.
2. For a nonresident small game hunting license, one hundred dollars.
3. For a resident big game hunting license, thirty dollars, except the fee for a licensee under age sixteen is ten dollars, except as provided in a gubernatorial proclamation issued pursuant to section 20.1-08-04.1.
4. Except for a nonresident who participates on the same basis as a resident in a lottery for deer licenses remaining after the second lottery for residents under subsection 4 of section 20.1-03-11, for a nonresident big game hunting license, two hundred fifty dollars, and for a nonresident bow license, two hundred fifty dollars, and a nonrefundable five dollar application fee must accompany any lottery license fee under this subsection, except as provided in a gubernatorial proclamation issued pursuant to section 20.1-08-04.1. For a nonresident who participates on the same basis as a resident in a lottery for deer licenses remaining after the second lottery for residents, fifty dollars.
5. For a resident fur-bearer license, fifteen dollars.
6. For a resident fishing license, sixteen dollars, except that for a resident sixty-five years or over, a resident totally or permanently disabled, or a resident disabled veteran who has a fifty percent service-connected disability as determined by the department of veterans' affairs or has an extra-schedular rating to include individual unemployability that brings the veteran's total disability ratio to fifty percent, the license fee is five dollars.
7. For a nonresident fishing license, forty-five dollars.
8. For a resident husband and wife fishing license, twenty-two dollars.
9. For a nonresident nongame hunting license, fifteen dollars.
10. For a resident wild turkey permit, fifteen dollars.
11. For an annual general game license, three dollars.
12. For a license to a nonresident buyer or shipper of green furs, or that person's agent, the amount that the nonresident buyer or shipper of green furs would pay for a nonresident buyer or shipper of green furs license or comparable license in that person's state of residence, or fifty dollars, whichever is greater.
13. For a license to a resident buyer or shipper of green furs, eight dollars for each place of business maintained by that person within this state.
14. For a license to a resident traveling agent, buyer, or shipper of green furs, twenty dollars.
15. For an annual license to practice taxidermy, twenty-five dollars.
16. For a permit to ship, by a person having a resident hunting license, during the respective open seasons, not to exceed in any one season twenty-five game birds, to

points within this state other than that person's home or to points outside this state, three dollars.

17. For a permit to make collections of protected birds and animals for scientific purposes, ten dollars.
18. For a motorboat certificate of number and license: Each motorboat under sixteen feet [4.88 meters] in length, and all canoes, regardless of length, powered by a motor, eighteen dollars. Each motorboat sixteen feet [4.88 meters] in length and over but shorter than twenty feet [6.1 meters] in length, excluding canoes, thirty-six dollars. Each motorboat twenty feet [6.1 meters] in length or over excluding canoes, forty-five dollars.
19. To operate watercraft used for hire, the following license fees apply for three years:

    Class 1. Each craft capable of carrying two adults of average weight, six dollars.

    Class 2. Each craft capable of carrying three adults of average weight, six dollars.

    Class 3. Each craft capable of carrying four adults of average weight, six dollars.

    Class 4. Each craft capable of carrying five adults of average weight, six dollars.

    Class 5. Each craft capable of carrying up to eight adults of average weight, nine dollars.

    Class 6. Each craft capable of carrying up to ten adults of average weight, twelve dollars.

    Class 7. Each craft capable of carrying up to fifteen adults of average weight, twenty-four dollars.

    Class 8. Each craft capable of carrying sixteen or more adults of average weight, thirty dollars.
20. For the taking of undesirable fish from the waters of this state pursuant to section 20.1-06-05, fifteen dollars for each hoop-net or trap, and fifteen dollars for each seine of fifty feet [15.24 meters] or any fraction thereof.
21. For a resident paddlefish tag annual license, ten dollars per tag.
22. For a nonresident paddlefish tag annual license, twenty-five dollars and fifty cents per tag.
23. For an annual resident license to sell minnows or other live bait at wholesale, fifty dollars.
24. For an annual license to sell minnows or other live bait at retail, fifteen dollars, except the fee is seventy-five dollars if white suckers are sold.
25. For an annual license to operate a private fish hatchery, seventy-five dollars.
26. For a resident commercial frog license, fifty dollars.
27. For a nonresident commercial frog license, two hundred dollars.
28. For a resident frog license, three dollars.
29. For a resident husband and wife frog license, five dollars.
30. For a shooting preserve operating permit, one hundred dollars, plus thirty cents per acre [.40 hectare] for each acre [.40 hectare].
31. For a nonresident waterfowl hunting license, one hundred dollars.
32. For a nonresident husband and wife fishing license, sixty dollars.
33. For a nonresident short-term three-day fishing license, twenty-five dollars.
34. For a nonresident fur-bearer and nongame hunting license, forty dollars.
35. For a combination license, fifty dollars.
36. For a white-tailed deer license sold to certified guides or outfitters and provided by them to nonresidents, two hundred fifty dollars.
37. For a resident swan license, ten dollars.
38. For a nonresident swan license, thirty dollars.
39. For a resident sandhill crane license, ten dollars.
40. For a nonresident sandhill crane license, thirty dollars.
41. For a resident commercial clam license, one hundred dollars.
42. For a nonresident commercial clam license, one thousand dollars.
43. For a commercial clam dealer's permit, two thousand dollars. In addition, the applicant shall submit to the director a surety bond in the sum of two thousand dollars.

44. For an annual class B nonresident license to sell minnows or other live bait at wholesale, two hundred fifty dollars.
45. For a bighorn sheep license issued to a nonresident, five hundred dollars.
46. For a nonresident reciprocal trapping license, three hundred fifty dollars.
47. For a nonresident spring white goose license, fifty dollars.
48. For a resident certificate fee, one dollar, and for a nonresident certificate fee, two dollars. An agent may not charge a service fee for issuing a resident or nonresident certificate fee.
49. For a nonresident short-term ten-day fishing license, thirty-five dollars.
50. For a nonresident wild turkey permit, eighty dollars.
51. For a statewide nonresident waterfowl hunting license, one hundred fifty dollars.
52. For an annual class A nonresident license to sell minnows or other live bait at wholesale, five hundred dollars.
53. For a resident early Canada goose season license, five dollars.
54. For a nonresident early Canada goose season license, fifty dollars.
55. For a resident disabled veteran combined general game, habitat stamp, small game, and fur-bearer license, three dollars.

The fees for these licenses and permits must be deposited with the state treasurer and credited to the game and fish fund. Forty-five dollars of each nonresident big game hunting license fee must be used for the private land initiative.

23-06-03. Duty of burial.

1. The duty of burying the body of a deceased individual devolves upon the surviving husband or wife if the deceased was married or, if the deceased was not married but left kindred, upon one or more individuals in the same degree, of adult age, nearest of kin to the deceased and possessed of sufficient means to defray the necessary expenses.
2. If the individual who has the duty of burial does not bury the body within the time required by this chapter, the individual next specified shall bury the body.
3. If the deceased is not survived by an individual described by subsection 1 and did not leave sufficient means to defray funeral expenses, including the cost of a casket, the county social service board of the county in which the deceased had residence for county general assistance purposes or, if residence cannot be established, the county social service board of the county in which the death occurs shall employ some person to arrange for and supervise the burial or cremation. If the deceased was a resident or inmate of a public institution, the county in which the deceased was a resident for county general assistance purposes immediately before entering the institution shall employ a person to arrange for and supervise the burial or cremation. Each board of county commissioners may negotiate with the interested funeral directors or funeral homes regarding cremation expenses and burial expenses but the total charges for burial services, including transportation of the deceased to the place of burial, the grave box or vault, grave space, and grave opening and closing expenses, may not be less than one thousand five hundred dollars. The county social services board may provide for the use of a military casket or urn, if the deceased was a veteran as defined in section 37-01-40, unless the additional cost exceeds the negotiated expenses of this section or a surviving spouse or the nearest of kin of the deceased elects a nonmilitary casket. The county social service board shall pay the charge for funeral expenses as negotiated by the board of county commissioners, less any amount left by the deceased to defray the expenses.
4. If the person with the duty of burial under this section, or the personal representative of the decedent's estate, if any, is aware of the decedent's instructions regarding the disposition of the remains, that person shall honor those instructions, to the extent reasonable and possible, to the extent the instructions do not impose an economic or emotional hardship. A decedent's instructions may be reflected in a variety of methods, including pre-need funeral arrangements a deceased articulated and funded in a pre-need funeral service contract, a health care directive, a durable power of attorney for health care, a power of attorney, a will, a document created under section 23-06-31, or a document of gift for an anatomical gift.
5. If the decedent died while serving in any branch of the United States armed forces, the United States reserve forces, or the national guard, as provided by 10 U.S.C. 1481 section (a)(1) through (8) as effective through December 2001, and completed a United States department of defense record of emergency data, DD form 93, or its successor form or its equivalent branch's form, the duty to bury the decedent or to provide other funeral and disposition arrangements for the decedent devolves on the person authorized by the decedent pursuant to that form.

23-06-13. Dissection - When allowed.

The dead body of a human being may be dissected:

1. When the death occurs under circumstances in which a coroner is authorized by law to hold an inquest upon the body, and a coroner authorizes such dissection for the purposes of the inquest;
2. When the husband, wife, or one of the next of kin of a deceased person, charged by law with the duty of burial, authorizes such dissection for the purposes of ascertaining the cause of death; or
3. When permission has been given therefor by deceased.

28-22-01.1. Head of a family defined.

The phrase "head of a family" as used in this chapter means:

1. The husband or wife when the claimant is a married person.
2. Every person who has residing on the premises with the person and under the person's care and maintenance, any of the following:
   a. That person's child or the child of that person's deceased spouse, whether by birth or adoption.
   b. A minor brother or sister or the minor child of a deceased brother or sister.
   c. A father, mother, grandfather, or grandmother.
   d. The father or mother or grandfather or grandmother of a deceased husband or wife.
   e. Any other of the relatives mentioned in this section who have attained the age of majority and are unable to take care of or support themselves.
3. Every person who provides support for unmarried minor children of a previous marriage of the person, even though the children do not reside on the premises with the person.

30-16-03. Homestead, ascertainment - Setting apart.

After the death of the owner, the homestead, upon the selection of the person or persons entitled to the possession thereof, must be ascertained and set apart as provided in this chapter, except that if the homestead was ascertained and set off to the decedent before the decedent's death, in the manner provided by law, such homestead, as defined in section 30-16-01, must not be again ascertained and the homestead estate provided for in section 30-16-02 shall be commensurate therewith. The homestead shall not be subject to the payment of any debt or liability contracted by or existing against the husband or wife, or either of them, previous to or at the time of the death of such husband or wife, other than the liabilities set forth in section 47-18-04, and except as otherwise provided in section 30-16-04.

30.1-10-02. (2-802) Effect of divorce, annulment, and decree of separation.

1. An individual who is divorced from the decedent or whose marriage to the decedent has been annulled is not a surviving spouse unless, by virtue of a subsequent marriage, the spouse is married to the decedent at the time of death. A decree of separation that does not terminate the status of husband and wife is not a divorce for purposes of this section.
2. For purposes of chapters 30.1-04 through 30.1-07 and section 30.1-13-03, a surviving spouse does not include:
   a. An individual who obtains or consents to a final decree or judgment of divorce from the decedent or an annulment of their marriage, which decree or judgment is not recognized as valid in this state, unless subsequently that participate in a marriage ceremony purporting to marry each to the other or live together as husband and wife;
   b. An individual who, following an invalid decree or judgment of divorce or annulment obtained by the decedent, participates in a marriage ceremony with a third individual; or
   c. An individual who was a party to a valid proceeding concluded by an order purporting to terminate all marital property rights.

30.1-10-04. (2-804) Revocation of probate and nonprobate transfers by divorce - No revocation by other changes of circumstances.

1. In this section:
   a. "Disposition or appointment of property" includes a transfer of an item of property or any other benefit to a beneficiary designated in a governing instrument.
   b. "Divorce or annulment" means any divorce or annulment, or any dissolution or declaration of invalidity of a marriage, that would exclude the spouse as a surviving spouse within the meaning of section 30.1-10-02. A decree of separation that does not terminate the status of husband and wife is not a divorce for purposes of this section.
   c. "Divorced individual" includes an individual whose marriage has been annulled.
   d. "Governing instrument" means a governing instrument executed by the divorced individual before the divorce or annulment of the marriage to the former spouse.
   e. "Relative of the divorced individual's former spouse" means an individual who is related to the divorced individual's former spouse by blood, adoption, or affinity and who, after the divorce or annulment, is not related to the divorced individual by blood, adoption, or affinity.
   f. "Revocable", with respect to a disposition, appointment, provision, or nomination means one under which the divorced individual, at the time of the divorce or annulment, was alone empowered, by law or under the governing instrument, to cancel the designation in favor of the former spouse or former spouse's relative, whether or not the divorced individual was then empowered to designate the divorced individual in place of the former spouse or in place of the former spouse's relative and whether or not the divorced individual then had the capacity to exercise the power.
2. Except as provided by the express terms of a governing instrument, a court order, or a contract relating to the division of the marital estate made between the divorced individuals before or after the marriage, divorce, or annulment, the divorce or annulment of a marriage:
   a. Revokes any revocable disposition or appointment of property made by a divorced individual to the individual's former spouse in a governing instrument and any disposition or appointment created by law or in a governing instrument to a relative of the divorced individual's former spouse, provision in a governing instrument conferring a general or special power of appointment on the divorced individual's former spouse or on a relative of the divorced individual's former spouse, and nomination in a governing instrument, nominating a divorced

individual's former spouse or a relative of the divorced individual's former spouse to serve in any fiduciary or representative capacity, including a personal representative, executor, trustee, conservator, agent, or guardian.

b. Severs the interests of the former spouses in property held by them at the time of the divorce or annulment as joint tenants with the right of survivorship, transforming the interests of former spouses into equal tenancies in common.

3. A severance under subdivision b of subsection 2 does not affect any third-party interest in property acquired for value and in good-faith reliance on an apparent title by survivorship in the survivor of the former spouses unless a writing declaring the severance has been noted, registered, filed, or recorded in records appropriate to the kind and location of the property which are relied upon, in the ordinary course of transactions involving such property, as evidence of ownership.

4. Provisions of a governing instrument are given effect as if the former spouse and relatives of the former spouse disclaimed all provisions revoked by this section or, in the case of a revoked nomination in a fiduciary or representative capacity, as if the former spouse and relatives of the former spouse died immediately before the divorce or annulment.

5. Provisions revoked solely by this section are revived by the divorced individual's remarriage to the former spouse or by a nullification of the divorce or annulment.

6. No change of circumstances other than as described in this section and in section 30.1-10-03 effects a revocation.

7. a. A payer or other third party is not liable for having made a payment or transferred an item of property or any other benefit to a beneficiary designated in a governing instrument affected by a divorce, annulment, or remarriage, or for having taken any other action in reliance on the validity of the governing instrument, before the payer or other third party received written notice of the divorce, annulment, or remarriage. A payer or other third party does not have a duty or obligation to inquire as to the continued marital relationship between the decedent and a beneficiary or to seek any evidence with respect to a marital relationship. A payer or other third party is only liable for actions taken two or more business days after the actual receipt by the payer or other third party of written notice. The payer or other third party may be liable for actions taken pursuant to the governing instrument only if the form of service is that described in subdivision b.

b. The written notice must indicate the name of the decedent, the name of the person asserting an interest, the nature of the payment or item of property or other benefit, and a statement that a divorce, annulment, or remarriage of the decedent and the designated beneficiary occurred. Written notice of the divorce, annulment, or remarriage under this subdivision must be mailed to the payer's or other third party's main office or home by registered mail or served upon the payer or other third party in the same manner as a summons in a civil action. Upon receipt of written notice of the divorce, annulment, or remarriage, a payer or other third party may pay any amount owed or transfer or deposit any item of property held by it to or with the court having jurisdiction of the probate proceedings relating to the decedent's estate or, if no proceedings have been commenced, to or with the court having jurisdiction of probate proceedings relating to decedents' estates located in the county of the decedent's residence. In addition to the actions available under this section, the payer or other third party may take any action authorized by law or the governing instrument. If no probate proceedings have been commenced, the payer or other third party shall file with the court a copy of the written notice received by the payer or other third party with the payment of funds or transfer or deposit of property. The court may not charge a filing fee to the payer or other third party for the payment to the court of amounts owed or transferred to or deposit with the court of any item of property, even if no probate proceedings have been commenced before the payment, transfer, or deposit. The court shall hold the funds or item of property and, upon its determination under this section, shall order disbursement or

transfer in accordance with the determination. A filing fee, if any, may be charged upon disbursement either to the recipient or against the funds or property on deposit with the court, in the discretion of the court. Payments, transfers, or deposits made to or with the court discharge the payer or other third party from all claims for the value of amounts paid to or items of property transferred to or deposited with the court.

8. a. A bona fide purchaser who purchases property from a former spouse, relative of a former spouse, or any other person, or who receives from a former spouse, relative of a former spouse, or any other person a payment or other item of property in partial or full satisfaction of a legally enforceable obligation, is neither obligated under this section to return the payment, item of property, or benefit nor liable under this section for the amount of the payment or the value of the item of property or benefit. But a former spouse, relative of a former spouse, or other person who, not for value, received a payment, item of property, or any other benefit to which that person is not entitled under this section is obligated to return the payment, item of property, or benefit, or is personally liable for the amount of the payment or the value of the item of property or benefit, to the person who is entitled to it under this section.

   b. If this section or any part of this section is preempted by federal law, other than the federal Employee Retirement Income Security Act of 1974, as amended, with respect to a payment, an item of property, or any other benefit covered by this section, a former spouse, relative of the former spouse, or any other person who, not for value, received a payment, item of property, or any other benefit to which that person is not entitled under this section is obligated to return that payment, item of property, or benefit, or is personally liable for the amount of the payment or the value of the item of property or benefit, to the person who would have been entitled to it were this section or part of this section not preempted.

31-11-03. Disputable presumptions.

All presumptions other than those set forth in section 31-11-02 are satisfactory if uncontradicted. They are denominated disputable presumptions and may be contradicted by other evidence. The following are of that kind:

1. That a person is innocent of crime or wrong.
2. That an unlawful act was done with an unlawful intent.
3. That a person intends the ordinary consequences of that person's voluntary act.
4. That a person takes ordinary care of that person's own concerns.
5. That evidence willfully suppressed would be adverse if produced.
6. That higher evidence would be adverse if inferior is produced.
7. That money paid by one to another was due the latter.
8. That a thing delivered by one to another was due the latter.
9. That an obligation delivered up to the debtor has been paid.
10. That former rents or installments have been paid when a receipt for the latter is produced.
11. That things which a person possesses are owned by that person.
12. That a person is the owner of property from exercising acts of ownership over it, or from common reputation of that person's ownership.
13. That a person in possession of an order on that person for the payment of money, or the delivery of a thing, has paid the money or delivered the thing accordingly.
14. That a person acting in a public office was appointed regularly to it.
15. That official duty has been performed regularly.
16. That a court or judge, acting as such, whether in this state or any other state or country, was acting in the lawful exercise of that court's or judge's lawful jurisdiction.
17. That a judicial record, when not conclusive, still does determine or set forth the rights of the parties correctly.
18. That all matters within an issue were laid before the jury and passed upon by it, and, in like manner, that all matters within a submission to arbitration were laid before the arbitrator and passed upon by the arbitrator.
19. That private transactions have been fair and regular.
20. That the ordinary course of business has been followed.
21. That a promissory note or bill of exchange was given or endorsed for a sufficient consideration.
22. That an endorsement of a negotiable promissory note or bill of exchange was made at the time and place of making the note or bill.
23. That a writing is dated truly.
24. That a letter duly directed and mailed was received in the regular course of the mail.
25. Identity of person from identity of name.
26. That a person not heard from in seven years is dead.
27. That acquiescence followed from a belief that the thing acquiesced in was conformable to the right or fact.
28. That things have happened according to the ordinary course of nature and the ordinary habits of life.
29. That persons acting as copartners have entered into a contract of copartnership.
30. That a man and woman deporting themselves as husband and wife have entered into a lawful contract of marriage.
31. That a thing once found to exist continues as long as is usual with things of that nature.
32. That the law has been obeyed.
33. That a document or writing more than thirty years old is genuine when the same generally has been acted upon since as genuine by persons having an interest in the question, and its custody has been satisfactorily explained.
34. That a printed and published book of statutes or other records or reports purporting to be printed or published by public authority was so printed or published.

35. That a printed and published book purporting to contain reports of cases adjudged in the tribunals of the state or country where the book is published contains correct reports of such cases.
36. That a trustee or other person whose duty it was to convey real property to a particular person actually has conveyed to heirs, when such presumption is necessary to perfect the title of such person or the person's successor in interest.
37. That the owner of any land who, without a reservation of the owner's right, consents to the uninterrupted use by the public of such land for a burial ground for five years intends to dedicate it to the public for that purpose.
38. That there was a good and sufficient consideration for a written contract.
39. That the foreign law is the same as the law of this state.
40. A domicile once acquired is presumed to continue until it is shown to have been changed.

32-21-03. Who may bring action.

The action shall be brought by the following persons in the order named:

1. The surviving husband or wife, if any.
2. The surviving children, if any.
3. The surviving mother or father.
4. A surviving grandparent.
5. The personal representative.
6. A person who has had primary physical custody of the decedent before the wrongful act.

If any person entitled to bring the action refuses or neglects so to do for a period of thirty days after demand of the person next in order, that person may bring the action.

35-01-04. Creation of lien by contract or by operation of law - Special circumstances and exception.

A lien or security interest is created by contract or by operation of law. No lien arises by operation of law until the time at which the act secured by the lien is to be performed. A security interest in personal property is governed by chapter 41-09, except that a bill of sale or security agreement, that is not a purchase money security interest, with respect to household goods, effects, furniture of married persons, or personal property exempt from execution is void unless the instrument by which it is transferred or encumbered is jointly executed by the husband and wife, if both are living. This section does not apply to transfers or liens arising by operation of law nor to security agreements relating to threshed grains made with any lending agency authorized to make commodity credit corporation loans on threshed grains.

37-26-01. Definitions.

As used in this chapter:

1. "Adjutant general" means the adjutant general of North Dakota.
2. "Beneficiary" in relation to a deceased veteran, means, in the order named:
   a. The surviving unremarried husband or wife as of the date of signing the application;
   b. The surviving child or children and the lawful issue of a deceased child or children by right of representation;
   c. The surviving person standing in loco parentis; or
   d. The surviving parent or parents.
3. "Domestic service" means service by a veteran during the period of service which is not foreign service.
4. "Foreign service" means service by a veteran during the period of service anywhere in the Persian Gulf theatre.
5. "Honorable and faithful" means service evidenced by:
   a. An honorable discharge, or its equivalent;
   b. In the case of an officer, a certificate of service; and
   c. In the case of a veteran who has not been discharged, a certificate from the appropriate service authority that the veteran's service was honorable and faithful.
6. "Period of service" means the period of time beginning August 2, 1990, and ending June 30, 1993.
7. "Resident" means a person who:
   a. Was born in and lived in the state of North Dakota until entrance into the armed forces of the United States;
   b. Was born in, but was temporarily living outside the state of North Dakota, not having abandoned North Dakota residence at the time of entrance into the armed forces of the United States; or
   c. Was born elsewhere but had resided within the state of North Dakota for the last six months before entrance into military service and had prior to or during that six-month period:
      (1) Voted in the state of North Dakota;
      (2) Was an emancipated minor during such period of residence or had lived with a parent or person standing in loco parentis who was a resident; or
      (3) Was not registered for voting in another state after being a resident.
   d. "Resident" also means a veteran who was a bona fide resident of the state of North Dakota at the time of entering the armed forces, as determined under the rules of the adjutant general and the laws of this state. A person is not a resident of North Dakota for the purpose of receiving any benefits under this chapter if the person was on continuous active duty in the armed forces, immediately prior to August 2, 1990, and has not established actual abode in North Dakota prior to April 18, 1991.
8. "Veteran" means a member of the national guard or reserve component who was activated under 10 U.S.C. 673 or 10 U.S.C. 673(b) and who completed honorable and faithful service of more than thirty days on active duty in the armed forces of the United States at any time during the period of service, who was a resident of the state of North Dakota, and who has not received bonus or adjusted compensation from another state for the period of service.

47-18-04. When homestead subject to execution.

A homestead is subject to execution or forced sale in satisfaction of judgments obtained in the following cases:

1. On debts secured by mechanics', construction, or laborers' liens for work or labor done or performed or material furnished exclusively for the improvement of the same.
2. On debts secured by mortgage on the premises executed and acknowledged by both husband and wife, or an unmarried claimant.
3. On debts created for the purchase thereof and for all taxes accruing and levied thereon.
4. On all other debts when, upon an appraisal as provided by section 47-18-06, it appears that the value of the homestead is more than one hundred thousand dollars over and above liens or encumbrances on the homestead, and then only to the extent of any value in excess of the sum total of the liens and encumbrances plus said one hundred thousand dollars.

47-18-05. Homestead - How conveyed.

The homestead of a married person, without regard to the value thereof, cannot be conveyed or encumbered unless the instrument by which it is conveyed or encumbered is executed and acknowledged by both the husband and wife.

47-18-14. Proceeds of sale exempt - Disposition.

If the sale of a homestead is made as provided in section 47-18-13, the proceeds thereof to the amount of the homestead exemption must be paid to the claimant and the residue applied to the satisfaction of the execution. When the execution is against a married claimant whose spouse is living, the court may direct that the one hundred thousand dollars be deposited in court to be paid out only on the joint receipt of the husband and wife, and it shall possess all the protection against legal process and voluntary disposition by either spouse as did the original homestead premises whether paid directly to the claimant or to the husband and wife jointly.

47-18-22. Conveyance in case of mental illness.

If either the husband or wife of the owner of a homestead becomes mentally ill, the district court serving the county in which the homestead is situated may make an order, upon application of the owner, or if the owner is deceased, the administrator or executor or legal representative of the owner, and upon due proof of such mental illness, permitting the owner, or if the owner is deceased, the administrator or executor or legal representative of the owner, to sell and convey or mortgage the homestead.

47-18-23. Requisites of a petition in case of mental illness.

An application in connection with the mental illness of the husband or wife of the owner of a homestead for an order permitting the sale, conveyance, lease, including oil and gas leases, or mortgage of the homestead by the owner, shall be made by a petition to the court subscribed and sworn to by the applicant, setting forth:

1. The name and age of the mentally ill husband or wife.
2. The number, age, and sex of the children of such husband or wife.
3. A description of the premises constituting the homestead.
4. The value of the homestead.
5. The county in which the homestead is situated.
6. Such facts, in addition to that of the mental illness of the husband or wife, relating to the circumstances or necessities of the applicant and the applicant's family as the applicant may rely upon in support of the petition.

47-18-26. Sale of homestead - Court may direct disposition of funds.

On granting an order authorizing a sale of homestead, the court may direct that a part of the funds derived from such sale, not to exceed one-third thereof, be set aside, and may direct the

investment of such funds for the use and benefit of the mentally ill husband or wife. If such husband or wife dies while mentally ill, the sum so set aside reverts to the surviving husband or wife. If the mentally ill husband or wife survives, then such sum shall descend in accordance with the laws of succession as provided in title 30.1.

47-18-27. Conveyance of homestead when spouse is mentally ill - Validity.

A conveyance or mortgage of a homestead made pursuant to the applicable provisions of this chapter shall be as valid and effectual as if the mentally ill husband or wife had been sane and had joined in the execution and acknowledgment of such conveyance or mortgage.

47-19-33. Prohibition on self-interested individuals from proving documents.

An individual authorized by law to take or receive the proof or acknowledgment of the execution of an instrument or affidavit and to certify to the same may not take or receive the proof, acknowledgment, or affidavit or certify to the same if that individual is a party to the instrument or a member of any partnership that is a party to the instrument, or if the husband or wife of that individual is a party to the instrument. An acknowledgment taken or received in violation of this section is invalid.

50-10.2-01. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Conflict of interest" means any type of ownership in a facility or membership on the governing body of a facility by a provider of goods or services to that facility or by a member of that person's immediate family.
2. "Department" means the department of human services.
3. "Facility" means a skilled nursing care facility, basic care facility, assisted living facility, or swing-bed hospital approved to furnish long-term care services.
4. "Immediate family" means husband, wife, father, mother, brother, sister, son, daughter, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepchild, uncle, aunt, niece, nephew, or grandchild.
5. "Remodeling" means any alteration in structure, refurbishing, or repair that would:
   a. Prevent the facility staff from providing customary and required care; or
   b. Seriously endanger or inconvenience any resident with noise, dust, fumes, inoperative equipment, or the presence of remodeling workers.
6. "Resident" means a person residing in a facility.

50-25.1-10. Abrogation of privileged communications.

Any privilege of communication between husband and wife or between any professional person and the person's patient or client, except between attorney and client, is abrogated and does not constitute grounds for preventing a report to be made or for excluding evidence in any proceeding regarding child abuse, neglect, or death resulting from abuse or neglect resulting from a report made under this chapter.

54-52.4-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Child" means a child by birth, an adopted or foster child, a stepchild, or a legal ward, who is:
   a. Less than eighteen years of age; or
   b. More than seventeen years of age and incapable of providing self-care because of a serious health condition.
2. "Employee" means an individual employed in this state by an employer, who has been employed by the employer for at least twelve months, and who has worked at least one thousand two hundred fifty hours for the employer over the previous twelve months.
3. "Employer" means the state but does not include any political subdivision of the state.
4. "Employment benefit" means all benefits provided or made available to employees by an employer, including education, health care, insurance, leave, and retirement benefits.
5. "Health care provider" means a registered nurse licensed under chapter 43-12.1, a physician licensed under chapter 43-17, a psychologist licensed under chapter 43-32, or a licensed certified social worker licensed under chapter 43-41.
6. "Health care services" means services rendered by a health care provider within the scope of the provider's license, including long-term care and hospice and hospital care.
7. "Parent" means a birth parent, foster parent, adoptive parent, or stepparent.
8. "Serious health condition" means a disabling physical or mental illness, injury, impairment, or condition involving:
   a. Inpatient care in a hospital licensed under chapter 23-16 or operated by the United States or this state, long-term care facility as defined in section 50-10.1-01, or hospice program licensed under chapter 23-17.4; or
   b. Outpatient care that requires continuing treatment by a health care provider.
9. "Spouse" means an employee's husband or wife.

54-52.4-02. Family leave.

1. An employer shall grant an employee's request for a family leave of absence for any of the following reasons:
   a. To care for the employee's child by birth, if the leave concludes within twelve months of the child's birth.
   b. To care for a child placed with the employee, by a child-placing agency licensed under chapter 50-12, for adoption or as a precondition to adoption under section 14-15-12, but not both, or for foster care, if the leave concludes within twelve months of the child's placement.
   c. To care for the employee's child, spouse, or parent if the child, spouse, or parent has a serious health condition.
   d. Because of the employee's serious health condition that makes the employee unable to perform the functions of the employee's job.
2. For any combination of reasons specified in subsection 1, an employee may take family leave in any twelve-month period for not more than twelve workweeks. The twelve weeks of family leave may be taken intermittently for leave under subdivisions a or b of subsection 1 if approved by the employer. The twelve weeks of family leave may be taken intermittently for leave under subdivisions c or d of subsection 1 if the leave is medically necessary. If an employee normally works a part-time schedule or variable hours, the amount of leave to which an employee is entitled must be determined on a pro rata or proportional basis by comparing the new schedule with the employee's normal schedule.
3. In any case in which a husband and wife entitled to family leave under this chapter are employed by the same employer, the aggregate period of family leave to which both

are entitled may be limited by the employer to twelve workweeks during any twelve-month period.

4. An employee shall reasonably consider the needs of the employer in scheduling family leave under this section or in using leave under section 54-52.4-03.
5. The family leave required by this chapter is not required to be granted with pay unless otherwise specified by agreement between the employer and employee, by collective bargaining agreement, or by employer policy.
6. The family leave required by this chapter supplements any leave otherwise available to an employee.

57-38-31. Duty of individuals and fiduciaries to make return.

1. Every resident individual, every fiduciary for a resident individual, estate, or trust, who is required by the provisions of the United States Internal Revenue Code of 1954, as amended, to file a federal income tax return, and every individual or fiduciary who receives income derived from sources in this state, shall file an income tax return with the state tax commissioner in such form as the commissioner may prescribe. Any person who is required to file a state income tax return but not required to compute a federal taxable income figure for federal income tax purposes is required to compute such a federal taxable income figure using a pro forma return pursuant to the provisions of the Internal Revenue Code of 1954, as amended, in order to determine a starting point for the computation of state income tax. Any person required to file an income tax return pursuant to the provisions of the United States Internal Revenue Code of 1954, as amended, with respect to income that is exempt from taxation under this chapter either because it cannot be constitutionally taxed or because it is exempt by any provision of law shall file a return prescribed by the tax commissioner in such form as will permit computation of the tax liability under this chapter on only that part of the income which is subject to taxation pursuant to the provisions of this chapter; provided, that such person elects to use that form of return rather than any other form of return that may be prescribed. The return must be signed by the person required to make it and must contain a written declaration that it is made and subscribed under penalties of perjury.
2. The same filing status and deduction method used by a husband and wife when filing federal income tax returns must be used when filing state income tax returns.
3. If the taxpayer is unable to make the taxpayer's own return, the return must be made by a duly authorized agent or by a guardian or other person charged with the care of the person or property of the taxpayer.
4. Every fiduciary subject to taxation under the provisions of this chapter shall make a return for the individual, estate, or trust for which the fiduciary acts; the return must be signed by the person required to make it and must contain a written declaration that it is made and subscribed under penalties of perjury.
5. The return made by a fiduciary must state such facts as the tax commissioner may prescribe.
6. A fiduciary required to make a return under this chapter is subject to all of the provisions of the chapter which apply to an individual.
7. If required by the tax commissioner, the return must be accompanied by a true copy of the federal income tax return of the taxpayer or by equivalent information in the form and manner prescribed by the tax commissioner. A true copy of the federal income tax return of the taxpayer or equivalent information must be furnished to the tax commissioner by the taxpayer or fiduciary at any time after filing of the return required by this chapter if so required by the tax commissioner.
8. The tax commissioner may prescribe alternative methods for signing, subscribing, or verifying a return filed by electronic means, including telecommunications, that shall have the same validity and consequence as the actual signature and written declaration for a paper return.

57-40.3-04. Exemptions.

There are specifically exempted from the provisions of this chapter and from computation of the amount of tax imposed by it the following:

1. Any motor vehicle acquired by, or leased and in the possession of, a resident disabled veteran under the provisions of Pub. L. 79-663 [38 U.S.C. 3901], a resident disabled veteran who has a one hundred percent service-connected disability as determined by the department of veterans' affairs, or a resident disabled veteran who has an extra-schedular rating to include individual unemployability that brings the veteran's total disability rating to one hundred percent as determined by the department of veterans' affairs who registers, or is eligible to register, the vehicle with a distinctive license plate issued by the department of transportation under subdivision j of subsection 2 of section 39-04-18. An unremarried surviving spouse who is receiving department of veterans' affairs dependency and indemnity compensation retains the exemption of the deceased, qualifying veteran in this subsection.
2. Any motor vehicle owned by or in possession of the federal or state government or a political subdivision thereof or a motor vehicle procured by or on behalf of the North Dakota lottery that is to be awarded as a prize in a game or promotion.
3. Motor carrier vehicles in excess of twenty thousand pounds [9071.85 kilograms] gross weight, whether owned or leased, engaged in interstate commerce but only to the extent their fleet miles outside North Dakota bear to their total fleet miles. For the purposes of this subsection, "fleet miles" means those miles reported in accordance with the international registration plan and must coincide with the mileage reporting period required by the plan. For the purposes of this subsection, "motor carrier vehicles" means any vehicles used upon public streets or highways for the purpose of transporting persons or property for commercial purposes. To claim this exemption, the motor carrier's vehicles must be both titled and registered in this state.
4. Any motor vehicle transferred without consideration to or from a person within thirty days prior to that person entering into the armed services of the United States or within thirty days after discharge therefrom or while serving in the armed services of the United States; provided the person certifies to the director of the department of transportation that the transfer is made only by reason of entering into, serving in, or being discharged from the armed services of the United States.
5. a. A motor vehicle acquired by inheritance from, by bequest of, or operation of a trust created by a decedent who owned it;
   b. The transfer of a motor vehicle that was previously titled or licensed in the name of an individual or in the names of two or more joint tenants and subsequently transferred without monetary consideration to one or more joint tenants, including a transfer into a trust in which one or more of the joint tenants is beneficiary or trustee;
   c. The transfer of a motor vehicle by way of gift between a husband and wife, parent and child, grandparent and grandchild, or brothers and sisters, including a transfer into a trust in which the trustor and beneficiary occupy one of these relationships;
   d. The transfer of a motor vehicle without monetary consideration into a trust in which the beneficiary is the person in whose name the motor vehicle was previously titled or licensed;
   e. The transfer of a motor vehicle to reflect a new name of the owner caused by a business reorganization in which the ownership of the reorganized business remains in the same person or persons as before the reorganization, if the title transfer is completed within one hundred eighty days from the effective date of the reorganization;
   f. The transfer of a motor vehicle previously transferred under subdivision e which returns ownership to the previous owner; and
   g. The transfer of a motor vehicle without monetary consideration from a revocable living trust to the trustor or to the spouse, child, or sibling of the trustor.

6. Motor vehicles transferred between a lessee and lessor; provided, that the lessee has been in continuous possession of such vehicle for a period of one year or longer, and further provided that the lessor has paid either the tax imposed under section 57-40.3-02 at the time of titling or licensing the vehicle in this state or the use tax imposed by chapter 57-40.2.
7. Any motor vehicle in the possession of and used as a bus exclusively by a nonprofit senior citizens' or handicapped persons' corporation; provided, that such bus may not be used for commercial activities.
8. Any motor vehicle that does not exceed ten thousand pounds [4535.92 kilograms] gross weight and which is acquired by, or leased and in the possession of, a permanently physically disabled, licensed driver who is restricted to operating only motor vehicles equipped with special controls to compensate for the disability, or by permanently physically disabled individuals who have either surrendered or who have been denied a driver's license because of a permanent physical disability, provided the individuals obtain from the director of the department of transportation or the director's authorized representative a statement that the individual has a restricted driver's license or has either surrendered or has not been issued a driver's license because of a permanent physical disability; a copy of the statement must be attached to the application for registration of the title to the motor vehicle for which the exemption from tax under this chapter is claimed. If the applicant does not have the statement at the time of application for registration of the title, motor vehicle excise tax is due and must be paid. However, if the applicant provides the statement to the director of the department of transportation, the applicant may apply for a refund of the taxes paid in the manner provided in chapter 57-40.4. Any motor vehicle acquired subject to this exemption must be disposed of either by transfer to another permanently physically disabled person or by a trade-in on another exempt sale or by a transfer involving a sale subject to sales or use tax before another motor vehicle can be acquired subject to the benefits of this exemption clause.
9. Any motor vehicle registered under chapter 39-04 for the first time by a person other than a manufacturer of motor vehicles, as defined in section 39-01-01, who assembled the motor vehicle for that person's own use.
10. Motor vehicles acquired by, or leased and in the possession of, any parochial or private nonprofit school to be used for the transportation of students; provided, that to qualify a school must normally maintain a regular faculty and curriculum and must have a regularly organized body of students in attendance, and provided that the vehicles are not to be used for commercial activities.
11. Any motor vehicle with a gross vehicle weight of at least a class six, seven, or eight chassis, purchased for installation or assembly of heavy duty equipment by a person engaged in the business of installing or assembling the equipment, which when completed forms an integral part of a vehicle, has limited marketability, and is not normally sold to the general public. This exemption applies only when the manufacturer's statement of origin is reassigned to the installer or assembler by a licensed new motor vehicle dealer on a form prescribed by the tax commissioner. The motor vehicle and installed equipment must be sold as a unit when completed. "Heavy duty equipment" includes fuel delivery tanks, refuse bodies, cranes, aerial bucket devices, bus bodies regardless of gross vehicle weight, and digger derricks.
12. Motor vehicles acquired through purchase or gift by any nonprofit county and local historical societies that are exempt from federal income taxation under section 501(c)(3) of the United States Internal Revenue Code [26 U.S.C. 501(c)(3)].
13. Any motor vehicle acquired by, or leased and in the possession of, a resident who was a prisoner of war and who registers the vehicle with a distinctive license plate issued by the department of transportation under subdivision o of subsection 2 of section 39-04-18. The owner or lessor of the motor vehicle who qualifies for the exemption under this subsection is entitled to a refund of taxes paid under this chapter on acquisition or leasing of the vehicle if the distinctive license plate was acquired not more than sixty days after acquisition or leasing of the vehicle.

14. Any motor vehicle acquired by a charitable organization to be awarded as a prize in a raffle conducted in accordance with law if upon registration the motor vehicle will be subject to taxes under this chapter or the motor vehicle is registered in another state.
15. A motor vehicle acquired at any location within this state by an individual who resides within the boundaries of any reservation in this state and who is an enrolled member of a federally recognized Indian tribe.
16. A motor vehicle originally manufactured for use as an ambulance, when purchased by the operator of an emergency medical services operation licensed under chapter 23-27.
17. Motor vehicles registered in another state or territory, if the motor vehicle is registered in this state under section 39-04-18.2.
18. A motor vehicle donated to a qualified nonprofit organization that is exempt from federal taxation under Internal Revenue Code section 501(c)(3) [26 U.S.C. 501(c)(3)] if that organization is organized or incorporated in this state, has its certificate of incorporation or certificate of authority in good standing with the secretary of state, and has an established program with the primary purpose of receiving donations of motor vehicles that it then donates to individuals with demonstrated need of a motor vehicle necessary to the individual's effort to become a self-sufficient member of the workforce.
    a. An exemption under this subsection is rescinded if the organization has not transferred title to a donated motor vehicle and donated that motor vehicle to an individual with demonstrated need of a motor vehicle necessary to the individual's effort to become a self-sufficient member of the workforce within ninety days after taking possession or ownership of the motor vehicle, in which case the organization shall pay the tax based on the retail value of the motor vehicle, as determined by the national automobile dealers association official used car guide, at the time it took possession or ownership.
    b. An exemption under this subsection is rescinded if the organization sells a donated motor vehicle for more than five hundred dollars after taking possession or ownership of the motor vehicle, in which case the organization shall pay the tax based on the retail value of the motor vehicle, as determined by the national automobile dealers association official used car guide, at the time it took possession or ownership.
    c. The commissioner shall issue a certificate of exemption to a qualified nonprofit organization exempted by this subsection. The qualified nonprofit organization shall present the certificate of exemption to the registrar whenever the exemption under this subsection is claimed.
19. Any damaged motor vehicle transferred to an insurance company in the settlement of an insurance claim.

57-40.3-06. Presentation of motor vehicle purchaser's certificate to director.

No title or license registration may be issued by the director of the department of transportation for a motor vehicle purchased or acquired by way of gift from a husband or wife, parent or child, or from a brother or sister unless and until the applicant therefor attaches a properly executed motor vehicle purchaser's certificate to the application for title or license registration. If a license application is made for a motor vehicle that has been previously licensed in this state and the applicant for license is the same person in whose name the license registration had previously been issued, the motor vehicle purchaser's certificate need not be submitted to the director.

57-40.3-07. Title or license registration not to be issued unless tax paid.

No title or license registration shall be issued by the director of the department of transportation for the ownership or operation of any motor vehicle to any applicant for title or license registration unless the tax imposed by this chapter shall be paid by the applicant to the director of the department of transportation except:

1. For those vehicles which have been previously licensed and the applicant for license registration is the same person in whose name the license registration had previously been issued.
2. For those vehicles transferred by way of gift between a husband and wife, parent and child, or brothers and sisters.
3. For those vehicles which have been previously licensed and the applicant for license registration is the same business organization to which the license registration had been issued but the name of which has been changed through incorporation or other reorganization in business structure but the ownership of which remains in the same person or persons as prior to the reorganization.
4. For vehicles which have been previously licensed and are transferred between a member of a general or limited partnership and the partnership at the time the partnership is established or terminated, between a stockholder of a corporation and the corporation at the time the corporation is organized or liquidated, or between a member of a limited liability company and the limited liability company at the time the limited liability company is organized or terminated.
5. For a vehicle leased and registered or licensed in another state by a nonresident individual who is stationed as a member of the armed services of the United States in this state, the vehicle is exempt from tax imposed under this chapter and registration in this state must be issued upon application and payment of appropriate registration fees.

57-40.5-03. Exemptions.

There are specifically exempted from the provisions of this chapter and from computation of the amount of tax imposed by it, the following:

1. Aircraft acquired by disabled veterans as defined by the provisions of Public Law No. 79-663 [38 U.S.C. 1901]. This exemption shall be allowed only with respect to one aircraft owned by any disabled veteran.
2. Any aircraft owned by or in possession of the federal or state government or any of the political subdivisions, departments, agencies, or institutions thereof.
3. Aircraft which were previously titled or registered in the names of two or more joint tenants and subsequently transferred without monetary consideration to one or more of the joint tenants; the transfer of aircraft by gift, inheritance, or devise between a husband and wife, parent and child, or brothers and sisters; and the transfer of aircraft to reflect a new name of the owner caused by a business reorganization, if the ownership of the business organization remains in the same person or persons as prior to the reorganization.
4. Aircraft transferred between a lessee and lessor, if the lessee has been in continuous possession of the aircraft for a period of one year or longer, and if the lessor has paid either the tax imposed under this chapter at the time of registering the aircraft in this state or the use tax imposed by chapter 57-40.2.
5. Aircraft acquired by any parochial or private nonprofit school. To qualify, a school must normally maintain a regular faculty and curriculum and must have a regularly organized body of students in attendance. The aircraft is not to be used for commercial activities.
6. Aircraft for use as an air ambulance, when purchased by the operator of an emergency medical services operation licensed under chapter 23-27.
7. Aircraft acquired by an aviation museum located in this state that is exempt from federal income taxation under section 501(c)(3) of the United States Internal Revenue Code [26 U.S.C. 501(c)(3)]. For purposes of this subsection, the term "acquired" has the meaning as provided in section 57-40.5-01. Any aviation museum acquiring an aircraft under this subsection shall comply with sections 57-40.5-04 and 57-40.5-05. The aircraft may not be used for commercial activities. For purposes of this subsection, commercial activities do not include activities for which a fee is charged when the proceeds are used for the benefit of the aviation museum.

65-01-02. Definitions.

In this title:

1. "Acute care" means a short course of intensive diagnostic and therapeutic services provided immediately following a work injury with a rapid onset of pronounced symptoms.
2. "Adopted" or "adoption" refers only to a legal adoption effected prior to the time of the injury.
3. "Artificial members" includes a device that is a substitute for a natural part, organ, limb, or other part of the body. The term includes a prescriptive device that is an aid for a natural part, organ, limb, or other part of the body if the damage to the prescriptive device is accompanied by an injury to the body. A prescriptive device includes prescription eyeglasses, contact lenses, dental braces, and orthopedic braces.
4. "Artificial replacements" means mechanical aids, including braces, belts, casts, or crutches as may be reasonable and necessary due to compensable injury.
5. "Average weekly wage" means the weekly wages the employee was receiving from all employments for which coverage is required or otherwise secured at the date of first disability. The average weekly wage determined under this subsection must be rounded to the nearest dollar. If the employee's wages are not fixed by the week, they must be determined by using the first applicable formula from the schedule below:
   a. For seasonal employment, during the first consecutive days of disability up to twenty-eight days the average weekly wage is calculated pursuant to the first applicable formula in subdivisions b through g, and after that are calculated as one-fiftieth of the total wages from all occupations during the twelve months preceding the date of first disability or during the tax year preceding the date of first disability, or an average of the three tax years preceding the date of first disability, whichever is highest and for which accurate, reliable, and complete records are readily available.
   b. The "average weekly wage" of a self-employed employer is determined by the following formula: one fifty-second of the average annual net self-employed earnings reported the three preceding tax years or preceding fifty-two weeks whichever is higher if accurate, reliable, and complete records for those fifty-two weeks are readily available.
   c. Hourly or daily rate multiplied by number of hours or days worked per seven-day week.
   d. Monthly rate multiplied by twelve months and divided by fifty-two weeks.
   e. Biweekly rate divided by two.
   f. The usual wage paid other employees engaged in similar occupations.
   g. A wage reasonably and fairly approximating the weekly wage lost by the claimant during the period of disability.
6. "Average weekly wage in the state" means the determination made of the average weekly wage in the state by job service North Dakota on or before July first of each year, computed to the next highest dollar.
7. "Board" means the workforce safety and insurance board of directors.
8. "Brother" and "sister" include a stepbrother and a stepsister, a half brother and a half sister, and a brother and sister by adoption. The terms do not include a married brother or sister unless that person actually is dependent.
9. "Child", for determining eligibility for benefits under chapter 65-05, means a legitimate child, a stepchild, adopted child, posthumous child, foster child, and acknowledged illegitimate child who is under eighteen years of age and resides with the employee; or is under eighteen years of age and does not reside with the employee but a duty of support is substantiated by an appropriate court order; or is between eighteen and twenty-two years of age and enrolled as a full-time student in any accredited educational institution and dependent upon the employee for support; or is eighteen years of age or over and is physically or mentally incapable of self-support and is actually dependent upon the employee for support. A child does not include a married

child unless actually dependent on the employee as shown on the preceding year's income tax returns.

10. "Compensable injury" means an injury by accident arising out of and in the course of hazardous employment which must be established by medical evidence supported by objective medical findings.
    a. The term includes:
        (1) Disease caused by a hazard to which an employee is subjected in the course of employment. The disease must be incidental to the character of the business and not independent of the relation of employer and employee. Disease includes effects from radiation.
        (2) An injury to artificial members.
        (3) Injuries due to heart attack or other heart-related disease, stroke, and physical injury caused by mental stimulus, but only when caused by the employee's employment with reasonable medical certainty, and only when it is determined with reasonable medical certainty that unusual stress is at least fifty percent of the cause of the injury or disease as compared with all other contributing causes combined. Unusual stress means stress greater than the highest level of stress normally experienced or anticipated in that position or line of work.
        (4) Injuries arising out of employer-required or supplied travel to and from a remote jobsite or activities performed at the direction or under the control of the employer.
        (5) An injury caused by the willful act of a third person directed against an employee because of the employee's employment.
        (6) A mental or psychological condition caused by a physical injury, but only when the physical injury is determined with reasonable medical certainty to be at least fifty percent of the cause of the condition as compared with all other contributing causes combined, and only when the condition did not preexist the work injury.
    b. The term does not include:
        (1) Ordinary diseases of life to which the general public outside of employment is exposed or preventive treatment for communicable diseases, except that the organization may pay for preventive treatment for a health care provider as defined in section 23-07.5-01, firefighter, peace officer, correctional officer, court officer, law enforcement officer, emergency medical technician, or an individual trained and authorized by law or rule to render emergency medical assistance or treatment who is exposed to a bloodborne pathogen as defined in section 23-07.5-01 occurring in the course of employment and for exposure to rabies occurring in the course of employment.
        (2) A willfully self-inflicted injury, including suicide or attempted suicide, or an injury caused by the employee's willful intention to injure or kill another.
        (3) Any injury caused by the use of intoxicants or the illegal use of controlled substances.
        (4) An injury that arises out of an altercation in which the injured employee is an aggressor. This paragraph does not apply to public safety employees, including law enforcement officers or private security personnel who are required to engage in altercations as part of their job duties if the altercation arises out of the performance of those job duties.
        (5) An injury that arises out of an illegal act committed by the injured employee.
        (6) An injury that arises out of an employee's voluntary nonpaid participation in any recreational activity, including athletic events, parties, and picnics, even though the employer pays some or all of the cost of the activity.
        (7) Injuries attributable to a preexisting injury, disease, or other condition, including when the employment acts as a trigger to produce symptoms in the preexisting injury, disease, or other condition unless the employment substantially accelerates its progression or substantially worsens its severity.

Pain is a symptom and may be considered in determining whether there is a substantial acceleration or substantial worsening of a preexisting injury, disease, or other condition, but pain alone is not a substantial acceleration or a substantial worsening.

(8) A nonemployment injury that, although acting upon a prior compensable injury, is an independent intervening cause of injury.

(9) A latent or asymptomatic degenerative condition, caused in substantial part by employment duties, which is triggered or made active by a subsequent injury.

(10) A mental injury arising from mental stimulus.

11. "Date of first disability" means the first date the employee was unable to work because of a compensable injury.

12. "Date of maximum medical improvement" or "date of maximum medical recovery" means the date after which further recovery from, or lasting improvement to, an injury or disease can no longer reasonably be anticipated based upon reasonable medical probability.

13. "Director" means the director of the organization.

14. "Disability" means loss of earnings capacity and may be permanent total, temporary total, or partial.

15. "Doctor" means doctor of medicine or osteopathy, chiropractor, dentist, optometrist, podiatrist, or psychologist acting within the scope of the doctor's license.

16. "Employee" means a person who performs hazardous employment for another for remuneration unless the person is an independent contractor under the common-law test.

a. The term includes:

(1) All elective and appointed officials of this state and its political subdivisions, including municipal corporations and including the members of the legislative assembly, all elective officials of the several counties of this state, and all elective peace officers of any city.

(2) Aliens.

(3) County general assistance workers, except those who are engaged in repaying to counties moneys that the counties have been compelled by statute to expend for county general assistance.

(4) Minors, whether lawfully or unlawfully employed; a minor is deemed sui juris for the purposes of this title, and no other person has any claim for relief or right to claim workforce safety and insurance benefits for any injury to a minor worker, but in the event of the award of a lump sum of benefits to a minor employee, the lump sum may be paid only to the legally appointed guardian of the minor.

b. The term does not include:

(1) Any person whose employment is both casual and not in the course of the trade, business, profession, or occupation of that person's employer.

(2) Any person who is engaged in an illegal enterprise or occupation.

(3) The spouse of an employer or a child under the age of twenty-two of an employer. For purposes of this paragraph and section 65-07-01, "child" means any legitimate child, stepchild, adopted child, foster child, or acknowledged illegitimate child.

(4) Any real estate broker or real estate salesperson, provided the person meets the following three requirements:

(a) The salesperson or broker must be a licensed real estate agent under section 43-23-05.

(b) Substantially all of the salesperson's or broker's remuneration for the services performed as a real estate agent must be directly related to sales or other efforts rather than to the number of hours worked.

(c) A written agreement must exist between the salesperson or broker and the person or firm for whom the salesperson or broker works,

which agreement must provide that the salesperson or broker will not be treated as an employee but rather as an independent contractor.

(5) The members of the board of directors of a business corporation who are not employed in any capacity by the corporation other than as members of the board of directors.

(6) Any individual delivering newspapers or shopping news, if substantially all of the individual's remuneration is directly related to sales or other efforts rather than to the number of hours worked and a written agreement exists between the individual and the publisher of the newspaper or shopping news which states that the individual is an independent contractor.

(7) An employer.

c. Persons employed by a subcontractor, or by an independent contractor operating under an agreement with the general contractor, for the purpose of this chapter are deemed to be employees of the general contractor who is liable and responsible for the payments of premium for the coverage of these employees until the subcontractor or independent contractor has secured the necessary coverage and paid the premium for the coverage. This subdivision does not impose any liability upon a general contractor other than liability to the organization for the payment of premiums which are not paid by a subcontractor or independent contractor.

17. "Employer" means a person who engages or received the services of another for remuneration unless the person performing the services is an independent contractor under the common-law test. The term includes:

a. The state and all political subdivisions thereof.

b. All public and quasi-public corporations in this state.

c. Every person, partnership, limited liability company, association, and private corporation, including a public service corporation.

d. The legal representative of any deceased employer.

e. The receiver or trustee of any person, partnership, limited liability company, association, or corporation having one or more employees as herein defined.

f. The president, vice presidents, secretary, or treasurer of a business corporation, but not members of the board of directors of a business corporation who are not also officers of the corporation.

g. The managers of a limited liability company.

h. The president, vice presidents, secretary, treasurer, or board of directors of an association or cooperative organized under chapter 6-06, 10-12, 10-13, 10-15, 36-08, or 49-21.

i. The clerk, assessor, treasurer, or any member of the board of supervisors of an organized township, if the person is not employed by the township in any other capacity.

j. A multidistrict special education unit.

k. An area career and technology center.

l. A regional education association.

18. "Fee schedule" means the payment formulas established in the organization publication entitled "Medical and Hospital Fees".

19. "Fund" means the workforce safety and insurance fund.

20. "Hazardous employment" means any employment in which one or more employees are employed regularly in the same business or in or about the establishment except:

a. Agricultural or domestic service.

b. Any employment of a common carrier by railroad.

c. Any employment for the transportation of property or persons by nonresidents, where, in such transportation, the highways are not traveled more than seven miles [11.27 kilometers] and return over the same route within the state of North Dakota.

d. All members of the clergy and employees of religious organizations engaged in the operation, maintenance, and conduct of the place of worship.

21. "Health care provider" includes a doctor, qualified nurse, pharmacist, audiologist, speech language pathologist, or naturopath or any recognized practitioner providing skilled services pursuant to the prescription of, or under the supervision or direction of any of these individuals.
22. "Organization" means workforce safety and insurance, or the director, or any department head, assistant, or employee of workforce safety and insurance designated by the director, to act within the course and scope of that person's employment in administering the policies, powers, and duties of this title.
23. "Parent" includes a stepparent and a parent by adoption.
24. "Permanent impairment" means the loss of or loss of use of a member of the body existing after the date of maximum medical improvement and includes disfigurement resulting from an injury.
25. "Permanent total disability" means disability that is the direct result of a compensable injury that prevents an employee from performing any work and results from any one of the following conditions:
    a. Total and permanent loss of sight of both eyes;
    b. Loss of both legs or loss of both feet at or above the ankle;
    c. Loss of both arms or loss of both hands at or above the wrist;
    d. Loss of any two of the members or faculties in subdivision a, b, or c;
    e. Permanent and complete paralysis of both legs or both arms or of one leg and one arm;
    f. Third-degree burns that cover at least forty percent of the body and require grafting;
    g. A medically documented brain injury affecting cognitive and mental functioning which renders an employee unable to provide self-care and requires supervision or assistance with a majority of the activities of daily living; or
    h. A compensable injury that results in a permanent partial impairment rating of the whole body of at least twenty-five percent pursuant to section 65-05-12.2.

    If the employee has not reached maximum medical improvement within one hundred four weeks, the employee may receive a permanent partial impairment rating if a rating will assist the organization in assessing the employee's capabilities. Entitlement to a rating is solely within the discretion of the organization.
26. "Rehabilitation services" means nonmedical services reasonably necessary to restore a disabled employee to substantial gainful employment as defined by section 65-05.1-01 as near as possible. The term may include vocational evaluation, counseling, education, workplace modification, vocational retraining including training for alternative employment with the same employer, and job placement assistance.
27. "Seasonal employment" includes occupations that are not permanent or that do not customarily operate throughout the entire year. Seasonal employment is determined by what is customary with respect to the employer at the time of injury.
28. "Spouse" includes only the decedent's husband or wife who was living with the decedent or was dependent upon the decedent for support at the time of injury.
29. "Temporary total disability" means disability that results in the inability of an employee to earn wages as a result of a compensable injury for which disability benefits may not exceed a cumulative total of one hundred four weeks or the date the employee reaches maximum medical improvement or maximum medical recovery, whichever occurs first.
30. "Utilization review" means the initial and continuing evaluation of appropriateness in terms of both the level and the quality of health care and health services provided a patient, based on medically accepted standards. The evaluation must be accomplished by means of a system that identifies the utilization of medical services, based on medically accepted standards, and which refers instances of possible inappropriate utilization to the organization to obtain opinions and recommendations of expert medical consultants to review individual cases for which administrative action may be deemed necessary.
31. a. "Wages" means:

(1) An employee's remuneration from all employment reportable to the internal revenue service as earned income for federal income tax purposes.
(2) For members of the national guard who sustain a compensable injury while on state active duty, "wages" includes income from federal employment and may be included in determining the average weekly wage.
(3) For purposes of chapter 65-04 only, "wages" means all gross earnings of all employees. The term includes all pretax deductions for amounts allocated by the employee for deferred compensation, medical reimbursement, retirement, or any similar program, but may not include dismissal or severance pay.

b. The organization may consider postinjury wages for which coverage was not required or otherwise secured in North Dakota for purposes of determining appropriate vocational rehabilitation options or entitlement to disability benefits under this title.