

20180012

IN THE SUPREME COURT  
STATE OF NORTH DAKOTA

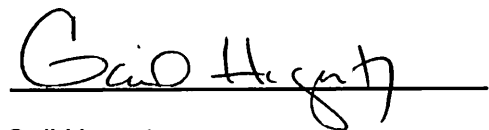
FILED  
IN THE OFFICE OF THE  
CLERK OF SUPREME COURT

JAN 8 2018  
STATE OF NORTH DAKOTA

**In the Matter of a Petition to Amend Administrative Rule 13 – Judicial Referees – Scope of Delegable Duties.**

- [1] The Judges of the South Central Judicial District request that the Supreme Court amend N.D.Admin.R.13 Judicial Referees - Section 5 - Scope of Delegable Duties to expand the scope of delegable duties.
- [2] The South Central Judicial District is experiencing a shortage of judicial resources which makes scheduling particularly difficult.
- [3] 2015-2016 Weighted Caseload data shows the South Central district is short by 3.11 judicial officers and over by .33 judicial referees.
- [4] The shortage/overage of judicial officers could be better managed through delegation of additional duties to the referee/magistrates.
- [5] We request inclusion of eviction proceedings under N.D.C.C. ch. 47-32 and guardianship proceedings under N.D.C.C. ch. 30.1-28 in the scope of delegable duties eligible to be assigned to a judicial referee.
- [6] Proposed changes to N.D.Admin.R. 13 can be found in the attached document.
- [7] Dated January 8, 2018.

On behalf of the Judges of the South Central Judicial District



Gail Hagerty

Presiding District Judge

## **Administrative Rule 13 - JUDICIAL REFEREES**

### **Section 1. Authority.**

The 1985 Legislative Assembly provided for appointment of judicial referees under House Bill 1586. Under N.D. Const. art. VI, § 3, and N.D.C.C. § 27-05-30, the Supreme Court adopts the following administrative rule relating to judicial referees.

### **Section 2. Statement of Policy.**

The North Dakota Judicial System's policy is to provide for the qualifications, the extent and assignment of authority, procedure and the conduct of the role of judicial referees within the North Dakota Judicial System in each judicial district.

### **Section 3. Qualifications of Judicial Referees.**

Minimum qualifications for a judicial referee include:

- (a) United States citizenship;
- (b) physical residence in the judicial district of the appointment after appointment unless physical residence is waived by the presiding judge of the judicial district; and
- (c) a license to practice law in the state of North Dakota; or a juvenile supervisor/referee meeting the requirements of N.D.C.C. § 27-20-06(1)(i).

### **Section 4. Appointment.**

The presiding judge, on behalf of all of the district court judges of the judicial district, must execute in writing the appointment of all judicial referees, to serve at the pleasure of the district court judges of the judicial district. Judicial referees must be compensated under the personnel system of the North Dakota Judicial System

### **Section 5. Scope of Delegable Duties.**

(a) A presiding judge, after consultation with the district court judges of the judicial district, may authorize a judicial referee to preside in any individual proceeding or class of proceedings under:

- (1) N.D.C.C. ch. 12.1-31.2;
- (2) N.D.C.C. 12.1-31-01.2;
- (3) N.D.C.C. title 14, except contested divorce trials;
- (4) N.D.C.C. §§ 20.1-01-28 and 20.1-01-29;
- (5) N.D.C.C. ch. 27-08.1;
- (6) N.D.C.C. ch. 27-20;
- (7) N.D.C.C. ch. 28-25;
- (8) N.D.C.C. § 30.1-28-10.1; and

(9) N.D.C.C. §§ 50-09-08.6(6) and 50-09-14(2); and  
(10) N.D.C.C. ch. 47-32.

(b) A presiding judge, after consultation with the district court judges of the judicial district, may authorize a judicial referee, while serving and acting as a magistrate appointed under N.D. Sup. Ct. Admin. R. 20, to preside in any individual proceeding or class of proceedings under N.D.C.C. § 39-06.1-03.

(c) A judicial referee has such other authority of a district court judge as is necessary to carry out the delegated duties, including the issuance of orders to show cause, temporary restraining orders, temporary injunctions, and the power to impose remedial sanctions for contempt of court.

(d) The order issued under Subsection (a) of this section must be reduced to writing and signed by the presiding judge of the judicial district. The order must be filed with the clerk of district court of each county of the judicial district. The presiding judge must send a copy of this document to the State Court Administrator. A copy must be made available to any party upon request.

(e) Within the limits set forth in the written order of the presiding judge, district court judges may refer individual cases or classes of cases to a judicial referee by written order.

(f) After July 1, 1987, a judicial referee who hears matters under N.D.C.C. ch. 27-20 may not exercise supervision of personnel who supervise juveniles.

### **Section 6. Geographical Jurisdiction.**

Each judicial referee will have jurisdiction only within the judicial district of appointment and is expected to maintain an office as assigned by the presiding judge of the judicial district. A judicial referee may be appointed to temporary duty in another judicial district by the presiding judge of the judicial district, with the consent of the presiding judge of the receiving judicial district or by the chief justice under N.D. Const. art. VI, § 3.

### **Section 7. Proceedings on the Record.**

Except in small claims court cases under N.D.C.C. ch. 27-08.1 and in traffic cases under N.D.C.C. § 39-06.1-03, proceedings must be heard on the record.

### **Section 8. Removal from Referee.**

Any party to a proceeding before a judicial referee is entitled to have the matter heard by a district court judge, if written request is filed by the party within seven days after service of either the initiating documents or other notice informing the party of this right.

### **Section 9. Standard of Conduct.**

The Rules of Judicial Conduct must be observed by each judicial referee.

## **Section 10. Findings and Order.**

(a) The findings and order of the judicial referee have the effect of the findings and order of the district court until superseded by a written order of a district court judge.

(b) Copies of the findings and order together with written notice of the right of review must be promptly served on the parties under N.D.R.Civ.P. 5.

## **Section 11. Procedure for Review.**

(a) Except in small claims court cases under N.D.C.C. ch. 27-08.1 and in traffic cases under N.D.C.C. § 39-06.1-03, a review of the findings and order of a judicial referee may be ordered at any time by a district court judge and must be ordered if a party files a written request for a review within seven days after service of the notice in Section 10(b). The request for review must state the reasons for the review. A party requesting review must give notice to all other parties. A party seeking to respond to a request for review must file their response within 14 days after service of notice of the request.

(b) The review by a district court judge must be a de novo review of the record. The district court may:

- (1) adopt the referee's findings;
- (2) remand to the referee for additional findings; or
- (3) reject the referee's findings.

(c) If the district court judge rejects the referee's findings, the court shall issue its own findings of fact, with or without a hearing.