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CLERK OF SUPREME COURT
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TO: Chief Justice Gerald W. VandeWalle
FROM: Sally Holewa *SHK*
RE: Amendments to AR 19 – Records Retention Schedule
DATE: January 23, 2014

The following changes to the records retention schedule have been approved by Court Services Administration Committee. They were also reviewed by the State Auditor, Attorney General, State Archivist and State Records Administrator who raised no concerns about the changes.

I am requesting that the Appendix to AR 19 be amended to incorporate these changes.

CRIMINAL CASE FILES – (Non-Traffic (K))

Misdemeanor – retention period extended from 7 years to 10 years

Felonies – retention period extended from 21 years to 30 years

Misdemeanor – Protection Order Violation – creates a new category with a retention period of 100 year

Felonies – Protection Order Violation – creates a new category with a retention period of 100 years

The request to extend the length of retention for these records was originally brought to Court Services Administration Committee by Aaron Birst, legal counsel for the North Dakota Association of Counties, because of concerns that the current retention periods were insufficient to allow use of the state convictions for purposes of sentence enhancements in the federal court system. There is particular concern about criminal cases involving domestic violence because those convictions can be used indefinitely for purposes of prohibiting possession of firearms.

Attachment

RULE 19. COURT RECORDS MANAGEMENT PROGRAM

Section 1. Statement of Authority and Policy.

a. Under Article VI, Section 3 of the North Dakota Constitution, the Supreme Court has authority to promulgate rules of procedure to be followed by all courts of this state, including rules regarding the administration of court records. The Legislative Assembly has encouraged this process under N.D.C.C. §§ 27-02-05.1 and 54-46-06.

b. A goal of the North Dakota Judicial System is to establish a uniform judicial records management program.

c. The Supreme Court recognizes the need to provide a court records policy that specifically addresses the retention and disposition of court records. This records retention and disposal procedure is established to meet this administrative goal.

Section 2. Administrative Responsibilities.

a. The State Court Administrator is the court records administrator and is responsible for developing a retention and disposition schedule of court records. The State Court Administrator may obtain the services of the State Records Administrator to develop and monitor the record disposal report identified in Section 9 and to otherwise provide program services described in N.D.C.C. ch. 54-46.

b. The clerk of district court in each county is responsible for the retention and disposition of all district court records in accordance with the records retention schedule.

c. The judge of a municipal court or a clerk designated by the judge is responsible for the retention and disposition of all municipal court records in accordance with the records retention schedule.

24 Section 3. Scope of Supreme Court Rule and Inconsistent Statutes.

25 a. This rule applies to all court records under the jurisdiction of the clerks of district court,
26 municipal judges, and to commissions, boards, committees, and offices under the supervision of the
27 Supreme Court.

28 b. The phrase "court records" means any document, book, paper, photograph, sound
29 recording or other material regardless of physical form or characteristics, made or received by the
30 court pursuant to law or in connection with the transaction of official court business.

31 Section 4. Permanent Retention Periods.

32 a. Court records assigned "permanent" retention periods must be retained by the clerk or
33 judge having jurisdiction over the record for an indefinite period of time. The permanent retention
34 periods are subject to a review process consistent with N.D.R.Proc.R. § 8.6.

35 b. Section 4 (a) does not prohibit the clerk or judge having jurisdiction over the records
36 assigned permanent retention periods from depositing such record with the state archivist for
37 preservation pursuant to Section 10.

38 Section 5. Disposition of Court Records.

39 The term "disposition" means:

40 a. transfer of a record to the possession of the state archivist pursuant to the procedure in
41 Section 10;

42 b. destruction by burning or shredding, if the record is confidential; or

43 c. destruction by ordinary means, such as landfill or recycling, if the record is not
44 confidential.

45 Section 6. Records Disposition Record.

46 The clerk or judge having jurisdiction over the records shall keep a record of the disposition

47 of any court record pursuant to the records retention schedule. This record must indicate the title of
48 the record series, a description of the contents of the record, the inclusive years of the records
49 disposed, and the date and the means of disposition.

50 Section 7. Records Disposition Process.

51 The State Court Administrator will provide each clerk or judge having jurisdiction over court
52 records with a records retention schedule. The records retention schedule must identify and describe
53 each record series, provide the retention period based upon the fiscal, legal, administrative, and
54 archival value of the records, and describe the method of destruction for each series that may be
55 destroyed. The State Court Administrator shall file a copy of the records retention schedule with the
56 Clerk of the Supreme Court. The records retention schedule constitutes approval for disposition of
57 all records that have met the timeframes established in the schedule.

58 Section 8. Procedures to Modify Record Retention Values.

59 The following procedures apply when adding, changing, or deleting a record series from the
60 records retention schedule.

61 a. The person suggesting the changes must complete the Record Series Description, State
62 Form Number 2042, with the exception of the legal value, fiscal value, archival value, and records
63 control number.

64 b. The completed Record Series Description must be sent to the State Court Administrator
65 who shall obtain the advice of the State Auditor, Attorney General, State Archivist and State Records
66 Administrator, to determine the administrative, legal, fiscal, and archival values of the records.

67 c. A draft of the proposed addition, modification, or deletion of a record series must be
68 submitted to the Court Services Administration Committee for comments.

69 d. The State Court Administrator shall issue a revision to the retention schedule if

70 appropriate.

71 Section 9. Records Disposal Procedures.

72 Each clerk or judge having jurisdiction over court records may dispose of records as
73 designated in a records disposal report provided by the State Court Administrator or State Records
74 Administrator. All non-confidential records may be disposed of by landfill. All confidential records
75 must be shredded or burned.

76 A record series must not be disposed of before the time approved in the retention schedule.
77 If a situation warrants early disposal of a record within a record series, the clerk or judge may
78 petition the State Court Administrator for early disposal of that record or may obtain an order from
79 the judge of the court.

80 Section 10. Transfer of Records to the State Archives.

81 The State Court Administrator will provide in the Clerk of Court Procedures Manual
82 procedures for the transfer to the State Archives of records determined to be of archival value. The
83 clerk of court or judge will contact the State Archivist when the records are ready for transfer.
84 Arrangements will be made by the State Archivist to take possession of the records within 60 days
85 of notice to the State Archivist. The State Archivist shall complete a certification for archival transfer
86 and send it to the clerk or judge after all records have been transferred.

87 Section 11. Microfilming Records.

88 Records subject to this rule may be microfilmed for purposes of retention and storage.
89 Records microfilmed under this section must be microfilmed and maintained in accordance with the
90 State Standards for Microfilming North Dakota Public Records developed by the Information
91 Services Division. A copy of the standards must be included in the North Dakota Clerk of Court
92 Manual.

93 Section 12. Effective Date.

94 This rule is effective November 1, 1998.

RULE 19. COURT RECORDS MANAGEMENT PROGRAM

RECORDS RETENTION SCHEDULE -- COURTS

(Applies to electronic and paper records)

Note: The six-digit number accompanying a record, e.g. "500401" below represents the record control number for each record series

Administrative (Noncriminal) Traffic Case Files (T) 500401

This series contains the citation, correspondence, and may include a receipt.

Retain for 3 years after the current fiscal year (ACFY), then dispose by landfill.

Civil Case Files (C)

* Offer all cases prior to 1925, whether appealed or not, to the State Archives.

Custody (14) - 500441 - This series contains pleadings to bring an action or motion to determine or change custody of minor children or if a parent wishes to register a custody order resulting from a proceeding in another state in which child custody was determined.

Retain for 50 years from disposition date. Dispose by landfill.

Child Support (16) - 190102 - This series contains pleadings to bring an action for the establishment of a child support order or pleadings contained in-state child support transcription.

Retain for 5 years from the date of satisfaction. Dispose by landfill.

Child Support (18) - 190102 -This series contains pleadings filed under UIFSA for registration or enforcement of child support or spousal support.

Retain for 5 years from the date of satisfaction. Dispose by landfill.

Contract Collection (32) - This series contains pleadings on a specific contract or an action for collection on a debt or account due and owing.

24 Retain as indicated below from date of disposition. Offer to State Archives if case is
25 appealed. Dispose by landfill.

26 500406 - Money judgment - entered and not renewed - 11 years

27 500407 - Money judgment - entered and renewed - 21 years

28 500405 - No money judgment & case dismissals - 1 year

29 Child support judgment - No disposal unless satisfied

30 Condemnation (36) - An action to take private property for public use.

31 500422 - If uncontested, retain for one year from date of disposition. Dispose by landfill.

32 500423 - If contested, retain for 20 years from date of disposition. Transfer to State
33 Archives.

34 Disorderly Conduct Restraining Order (26) - An action brought for the protection against
35 any action that may affect the safety, security, or privacy of another person. (Does not include
36 allegations of domestic violence).

37 500442 - Retain for 5 years. Dispose by landfill.

38 500443 - Dismissed - Retain for one year from the dismissal order. Dispose by landfill.

39 Divorce (10) - 500412 - An action brought to dissolve a marriage.

40 Retain for 50 years from date of disposition. Transfer to State Archives. Note: If a child
41 support judgment is included, judgment must be maintained until satisfied.

42 Eviction/Forcible Detainer (38) - 500444 - An action to recover the possession of real
43 estate when it is being held wrongfully as specified by law. If money judgment is entered,
44 dispose of in same manner as Contract Collection (32).

45 Retain for 1 year from date of disposition. Dispose by landfill.

46 Foreclosure (4) - 500445 - A action to foreclose or enforce a lien, trust deed, pledge, or

47 mortgage as provided by law.

48 Retain for 10 years from date of judgment. Dispose by landfill.

49 Foreign Judgment (48) - Filing a judgment, decree, or order of any other court that
50 contains a money judgment.

51 Retain as indicated below. Offer to State Archives if case is appealed.

52 500406 - Money judgment entered and not renewed - 11 years.

53 500407 - Money judgment entered and renewed - 21 years.

54 Malpractice (06) - An action for damages based on professional misconduct or
55 unreasonable lack of skill.

56 Retain as indicated below. Offer to State Archives if case is appealed.

57 500446 - No judgment/ Dismissal - 5 years.

58 500446 - Judgment without lien - 5 years.

59 500406 - Money judgment entered and not renewed - 11 years.

60 500407 - Money judgment entered and renewed - 21 years.

61 Name Change (42) - 500402 - A proceeding under N.D.C.C. ch. 32-28 to change the
62 name of a person. This does not include name changes during adoption or divorce.

63 Retain for 100 years from disposition date. Transfer to State Archives.

64 Other (49) - 500403 - Any civil action or proceeding that does not fit in any of the other
65 specific categories.

66 Retain for 20 years from disposition. Transfer to State Archives.

67 Personal Injury (04) - An action for damages based on physical or emotional injury to a
68 person.

69 Retain as indicated below. Offer to State Archives if case is appealed.

70 500446 - No judgment/dismissal - 5 years.

71 500446 - Judgment without lien - 5 years.

72 500406 - Money judgment entered and not renewed - 11 years.

73 500407 - Money judgment entered and renewed - 21 years.

74 Property Damage (02) - An action for damages based on damage to property.

75 Retain as indicated below. Offer to State Archives if case is appealed.

76 500446 - No judgment/dismissal - 5 years.

77 500446 - Judgment without lien - 5 years.

78 500406 - Money judgment entered and not renewed - 11 years.

79 500407 - Money judgment entered and renewed - 21 years.

80 Quiet Title and Eminent Domain (34) - 500427 - An action to determine adverse claims

81 and quiet title to real property.

82 Retain for 20 years from disposition. Dispose by landfill.

83 Special Proceedings (44) - 500447 - A procedure provided for by law which is not

84 included in any other category, e.g., writs of mandamus, certiorari, and prohibition.

85 Retain for 5 years from disposition. Dispose by landfill.

86 Termination of Parental Rights (24) - 500448 - This series contains pleadings filed in

87 district court for termination of parental rights.

88 Retain permanently.

89 Trust Proceedings (46) - 500434 - This series includes both the registration of the trust

90 and the supervision of the trust.

91 Retain for 50 years from disposition. Dispose by landfill.

92 Register of Civil Actions - 720204 - This series contains the index of pleadings filed in

93 the case. This does not include the actual index of plaintiff's and defendant's names.

94 Retain automated record or hard copy for same period as file. Dispose by landfill. If the
95 register is part of the manual index, retain for same period as manual index.

96 Civil Court Reporter Notes - General 801201

97 This series contains court reporter notes, tape recordings, audio visual recordings
98 (possibly cassette tapes).

99 Retain for 7 years from date of judgment. Dispose by landfill, except for notes or tapes of
100 child support hearings.

101 Civil Court Reporter Notes - Support Hearings 801202

102 This series contains court reporter notes, tape recordings, audio visual recordings
103 (possibly cassette tapes).

104 Retain for 60 days after the order has been confirmed. Dispose by landfill.

105 Correspondence - All Case Types 450101

106 This series contains general correspondence from persons or entities. This information is
107 generally one-time in nature such as requests for information and case file cover letters and is of
108 value for only a short time period.

109 Retain until after the requested action is taken. Dispose by landfill.

110 Criminal Case Files - Non-traffic (K)

111 * Offer all cases prior to 1925, whether appealed or not, to State Archives.

112 Infraction - 500435 -This series contains pleadings charging an infraction. Offer to State
113 Archives if case is appealed.

114 Retain for 3 years from date of disposition or the date a financial obligation is satisfied or
115 determined uncollectible, whichever is later. Dispose by landfill.

116 Misdemeanor - 500409 - This series contains pleadings charging a misdemeanor.
117 Retain for ~~7~~ 10 years from date of final disposition or date a financial obligation is
118 satisfied or determined uncollectible, whichever is later. Offer to the State Archives if appealed.
119 Include medical or drug treatment documents. All other files may be disposed by landfill.
120 Dispose of PSI evaluations by shredding.

121 Felonies - 500410 - This series contains pleadings charging a felony.

122 Retain for ~~21~~ 30 years from the date of final disposition or date a financial obligation is
123 satisfied or determined uncollectible, whichever is later. Offer to State Archives if case appealed.
124 Include medical or drug treatment documents. Dispose of PSI evaluations by shredding. All other
125 files may be disposed by landfill.

126 Misdemeanor - Protection Order Violation - 500450 - This series contains pleadings
127 charging a misdemeanor violation of a domestic violence protection order.

128 Retain for 100 years from date of final disposition or date a financial obligation is
129 satisfied or determined uncollectible, whichever is later. Offer to the State Archives if appealed.
130 Include medical or drug treatment documents. All other files may be disposed by landfill.
131 Dispose of PSI evaluations by shredding.

132 Felonies - Protection Order Violation - 500449 - This series contains pleadings charging a
133 felony violation of a domestic violence protection order.

134 Retain for 100 years from the date of final disposition or date a financial obligation is
135 satisfied or determined uncollectible, whichever is later. Offer to State Archives if case appealed.
136 Include medical or drug treatment documents. Dispose of PSI evaluations by shredding. All other
137 files may be disposed by landfill.

138 Adult Sex Offense Files - 500436 - This series contains case files and court documents in

139 which the defendant is alleged to have committed an offense identified under N.D.C.C. § 25-
140 03.3-04.

141 Retain for 50 years from date of final disposition or action. Dispose by shredding if
142 juvenile involved.

143 Search Warrants (when no criminal case file exists) - 800318 -This series contains the
144 affidavit, search warrant, receipt, and inventory.

145 Retain for 3 years from receipt. Dispose by landfill.

146 Criminal Court Reporter Notes/Court Recorder Tapes - 801204 -This series contains
147 court reporter notes and audio recordings.

148 Retention period for notes and electronic recordings that contain mixed proceedings must
149 be retained for the longest retention of the file.

150 Retain infraction, misdemeanor, and felony reporter notes/court recorder tapes for same
151 period as file. Dispose by landfill.

152 Register of Criminal Actions - 720206 -This series contains the index of pleadings filed
153 in the case. This does not include the actual index of parties' names.

154 Retain automated record or hard copy for same period as file. Dispose by landfill. If the
155 register is part of the manual index, retain for same period as manual index.

156 Financial

157 State Clerks - 011001

158 UCIS daily balancing reports, deposit slips, and supporting documentation, which may
159 include distribution, bond activity, outstanding bonds, cash receipts, and restitution reports:

160 Retain for 3 years after the current fiscal year. Dispose by landfill. Records with financial
161 account numbers must be shredded.

162 Proof of contact regarding uncashed checks (Unclaimed Property) - 012401:

163 Retain for 3 years after current fiscal year. Dispose by landfill. Records with financial
164 account numbers must be shredded.

165 County Clerks - 011001

166 UCIS or manual daily/weekly balancing reports:

167 Retain for 3 years after the current fiscal year. Dispose by landfill.

168 Monthly bank statements and reconciliations, manual receipts, deposit slips, proof of
169 contact regarding uncashed checks (Unclaimed Property), deposit summary and transmittal for
170 (given to Treasurer/Auditor), trial balance worksheets (used by Treasurer/Auditor for completing
171 State Tax Collection Report), manual bookkeeping system (McBee, journals, ledgers):

172 Retain until audit is complete. Dispose by landfill.

173 Grand Jury Proceedings - 500414

174 This series contains transcripts of testimony during grand jury proceedings/prosecution's
175 evidence, jury decision, and indictment.

176 Retain for 1 year from date of filing. Dispose by shredding.

177 Index Books - 720202

178 This series contains a listing of all plaintiffs and defendants in civil, criminal, probate,
179 confidential, and small claims actions.

180 Retain permanently. This record has archival value.

181 Judgment Docket - 800309

182 This series contains court record of money judgments including name of debtor, creditor,
183 date of judgment, sum recovered or directed to be paid in figures, time when the judgment roll of
184 transcript was filed and docketed in the clerk's office, and the name of the court in which the

185 judgment was rendered.

186 Retain for 21 years from last judgment entry. Dispose by landfill.

187 Juror Records - 800310

188 This series contains jury qualification form, questionnaires, master jury list and all
189 supporting lists, and payment records.

190 Retain for 3 years from the creation of master jury list. Dispose of by shredding.

191 Lien Records - 500424

192 This series contains Hospital Liens.

193 Retain for 3 years from the date of filing. Dispose by landfill.

194 Miscellaneous - 500425

195 This series contains Orders, Attachments, and Affidavits which are not part of a case file
196 or record found elsewhere on the retention schedule.

197 Retain for 5 years. Dispose by landfill.

198 Probate (P) - 500426

199 This series contains pleadings in all case types:

200 Conservatorship (50)

201 Conservatorship - Minor (52)

202 Guardianship - (54)

203 Guardianship - Minor (56)

204 Conservatorship/Guardianship (58)

205 Protective Proceedings (80)

206 Formal Probate of Will (81)

207 Informal Probate of Will (82)

208 Formal Probate (83)

209 Informal Probate (84)

210 Domiciliary Proceeding (85)

211 Heirship (86)

212 Retain automated record or hard copy permanently. This record has archival value.

213 Register of Probate Actions - 720211

214 This series contains an index of pleadings filed in the case. This does not include the

215 actual index of plaintiff's and defendant's names.

216 Retain automated record or hard copy permanently.

217 Record Search - 800317

218 This series contains a copy of the certification of record search (whether criminal or

219 civil).

220 Retain for 30 days from completion of the search. Dispose by landfill.

221 Restricted Case Series (R)

222 Abortion Control Files (98) - 500417

223 Retain for 1 year from the date of the final order. Dispose by shredding. (Abortion

224 Control Act).

225 Adoption (20) - 190101 - This series contains petition and decree of adoption.

226 Retain automated record or hard copy permanently. This record has archival value.

227 Domestic Violence (12) - This series contains pleadings alleging domestic violence.

228 500437 - Retain for 5 years from expiration of court order, unless dismissed. Dispose by

229 shredding.

230 500438 - Retain dismissed case files for 1 year from the order of dismissal. Dispose by

231 shredding.

232 Mental Health (87) - 500415 -This series includes chemical dependence or mental illness

233 records.

234 Retain for 5 years from the date of last order. Dispose by shredding.

235 Paternity (22) - 500408 - This series contains pleadings filed in a case to adjudicate

236 paternity.

237 Retain permanently.

238 Registers of Adoption, Juvenile, Mental Health Treatment, and Termination of Parental

239 Rights - 720207 -This series contains the index of pleadings filed in the cases. This does not

240 include the actual index of plaintiff's and defendant's names.

241 Retain automated record or hard copy for life of the file. Dispose by shredding. If register

242 is part of the manual index, retain for same period as manual index.

243 Juvenile Case Files

244 This series contains all petitions, summons, findings of fact, orders, documents related to

245 service, court-related notices, motions, affidavits, evaluations, and reports so entered by the

246 court. Retain as listed below.

247 Juvenile Delinquency (94) - 500419

248 Retain for 10 years after expiration of final order, or age 18, whichever is later. Dispose

249 by shredding.

250 Juvenile Unruly (95) - 500420

251 Retain for 1 year after child turns 18 or final expiration of order, whichever is later.

252 Dispose by shredding.

253 Juvenile Deprivation (96) (Without Parental Rights Termination) - 500416

254 Retain for 10 years after child turns 18 or final expiration of order, whichever is later.

255 Dispose by shredding.

256 Juvenile Sex Offense Files - 500439 - This series contains case files or court records that
257 describe acts that may constitute an offense under N.D.C.C. §§ 12.1-20-03, 12.1-20-04, or 12.1-
258 20-07.

259 Retain for 50 years from the date of disposition or action. Dispose by shredding.

260 Juvenile Termination of Parental Rights (97) - 500418

261 Retain permanently.

262 Juvenile Shelter Care (96) - 500421

263 Retain non-petition shelter care cases for 1 year from expiration of the order. Dispose by
264 shredding.

265 Juvenile Special Proceedings (98) - 500440

266 Retain petitioned cases that are dismissed for 1 year from expiration of the order. Dispose
267 by shredding.

268 Juvenile Officer's Working File - 801206 - This series contains all informal and formal
269 documents, case notes, and reports.

270 Retain until child reaches age 18 or meets all conditions, whichever is later, except for
271 documents governed by N.D.C.C. § 25-03.3-04. Dispose by shredding.

272 Juvenile Drug Court - Coordinator's and Juvenile Officer's Working File - 801207 - This
273 series contains all informal documents, case notes, and reports concerning a juvenile's
274 participation in juvenile drug court.

275 Retain for 2 years from graduation or termination from juvenile drug court program or
276 attainment of age 18, whichever is later, except for documents governed by N.D.C.C. §25-03.3-

277 04. Dispose by shredding.

278 Small Claims (S) (88)

279 This series contains pleadings to bring an action for small claims.

280 Retain as specified below. Dispose by landfill.

281 500429 - Judgment entered - not renewed - 11 years.

282 500430 - Judgment entered - and renewed - 21 years.

283 500431 - No money judgment/dismissed cases - 1 year.

284 Register of Small Claims Actions - 720212 -This series contains the index of pleadings

285 filed in the case. This does not include the actual index of plaintiff's and defendant's names.

286 Retain automated record or hard copy for same period as file. Dispose by landfill. If

287 register is part of the manual index, retain for same period as file.

288 Transcript of Judgment from Another County (M)

289 This series contains a transcript of judgment from another county within the state.

290 Retain as specified below. Dispose by landfill.

291 500432 - Judgment Entered - 11 Years.

292 500433 - Judgment Renewed - 21 Years.

293 Wills - 800304

294 This series contains wills in the custody of the clerk of court which are not part of a

295 probate. N.D.C.C. §§ 30.1-11-01 (possible delivery of will to clerk by recorder) and 30.1-11-02

296 (possible delivery of will to clerk by others).

297 Retain permanently.