

East Central Judicial District

Caseflow Plan and Policies

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East Central Caseflow Management Plan and Policies

The following caseflow management plan (hereinafter referred to as 'plan') and policies are adopted to efficiently manage and distribute the judicial caseload in the East Central Judicial District. Cases in the East Central Judicial District shall be processed and disposed of in a manner consistent with the goals, objectives, procedures and forms set forth in this plan. Nothing contained in this plan shall supersede or conflict with any state statutes or any Administrative Rules, Policies or Rules of Court, Rules of Civil Procedure or Criminal Procedure, or any other rules that now exist or are hereinafter adopted by the North Dakota Supreme Court.

Case Management Plan Goals and Policy Objectives

The goals of the East Central Judicial District case management plan are to:

1. Manage the judicial caseload as efficiently as possible while meeting the case disposition timing objectives.
2. Maintain a system of regular judicial attendance in each county that adequately and equitably addresses the need for judicial services.

The objectives of the caseflow management policies are to:

1. Identify cases where judicial continuity is not essential or time is of the essence. These cases require/allow flexibility in assignments.
2. Identify cases where judicial continuity is essential. The management and disposition of individually assigned cases is the responsibility of the assigned judge.

Case Management Responsibilities and Duties

1. It is the responsibility of the clerk to implement proper case management of which docket currency is an integral part.
2. The court's case management system should, at all times, reflect pending activity or have a future time standard entered. Timely entry of events is required for each case.

At a minimum, docket currency reports should be run by the 10th of each month to ensure the proper entries are being made.

3. Clerks are expected to manage docket currency issues. If judicial oversight becomes necessary the file should be brought to the attention of the judge assigned to the case. The judge should then review the file and take the appropriate action to bring the case into compliance with docket currency standards. If action is not taken within a reasonable time, the clerk should refer the case to the presiding judge.
4. If the parties agree to suspend action on a civil or family case, after approval of the assigned judge, clerks should administratively close the case and manually stop the case aging clock. The party(s) may make a motion to reopen the case.

GENERAL PROCEDURES

Judges' Rotation

	Week 1					Week 2				
	Monday	Tuesday	Wednesday	Thursday	Friday	Monday	Tuesday	Wednesday	Thursday	Friday
AM	Rev/Motion	Arraign/Dispo	PH	Arraign	Arraign	Opinion	Opinion	Traill Cty	Opinion	Opinion
PM	Civil Hrgs	Civil Hrgs	Civil Hrgs	Civil Hrgs	Civil Hrgs	Opinion	Opinion	Steele Cty*	Opinion	Opinion
	Week 3					Week 4				
	Monday	Tuesday	Wednesday	Thursday	Friday	Monday	Tuesday	Wednesday	Thursday	Friday
AM	COP	Trials	Trials	Trials	Trials	Trials	Trials	Trials	Trials	Trials
PM	Bench trial	Trials	Trials	Trials	Trials	Trials	Trials	Trials	Trials	Trials
	Week 5					Week 6				
	Monday	Tuesday	Wednesday	Thursday	Friday	Monday	Tuesday	Wednesday	Thursday	Friday
AM	Civil Hrgs	Civil Hrgs	Civil Hrgs	Civil Hrgs	Civil Hrgs	Opinion	Opinion	Opinion	Opinion	Opinion
PM	Arraign	Rev/Motion	Arraign/Dispo	PH	Arraign	Opinion	Opinion	Opinion	Opinion	Opinion
	Week 7					Week 8				
	Monday	Tuesday	Wednesday	Thursday	Friday	Monday	Tuesday	Wednesday	Thursday	Friday
AM	COP	Trials	Trials	Trials	Trials	Trials	Trials	Trials	Trials	Trials
PM	Bench trial	Trials	Trials	Trials	Trials	Trials	Trials	Trials	Trials	Trials
	Week 9									
	Monday	Tuesday	Wednesday	Thursday	Friday					
AM	Trials	Trials	Trials	Trials	Trials					
PM	Trials	Trials	Trials	Trials	Trials					

Note: Red text indicates required scheduled events anticipated to be criminal in nature.
 Note: Blue text indicates required scheduled events anticipated to be civil in nature.

Referee Assignments (Revised 6/1/06)

Judicial referees will handle all paternity, parental responsibility, juvenile court matters, as well as child support enforcement hearings, small claims, civil termination of parental rights, and administrative traffic in Cass County and juvenile, small claims, and child support enforcement in Traill County. (revised ECJD Judges Meeting 8/21/14)

Demands & Recusals

Demands

When a demand is filed against an assigned judge:

1. The clerk's office will immediately change the Case File Location to the judge whom the demand has been filed against.
2. Within five days, the judge whom the demand was filed against will change the case file location to the presiding judge and include a comment as to the demand.
3. The presiding judge will review the comment and make a determination on whether the demand has been filed timely and change the case file location back to clerk's action along with a comment indicating his decision.
4. If the demand is denied, the presiding judge will prepare an order denying the demand. The clerk does not need to take any further action regarding case assignment.
5. If the demand is approved, the clerk should use the case management system to automatically assign the next available judge in their county.
6. If no other judge assigned to that county is eligible for assignment, the clerk will notify both the court administrator and the assistant court administrator so a judge can be selected from the District-Wide rotation list.

Recusals

All recusals must be in writing and either filed with the clerk in the county of venue or included in the case file tracking comments.

When a recusal is filed by an assigned judge the clerk's office will:

1. Use the case management system to automatically assign the next available judge in their county.
2. If no other judge assigned to that county is eligible for assignment, the clerk will notify both the court administrator and the assistant court administrator so a judge can be selected from the district-wide rotation list.

Courtroom Assignments (revised 10/14/12)

Mental health cases will be held in Courtroom 304.

Courtrooms 201, 301, and 302 have secure access for defendants and have priority because of the agreement with Cass County Sheriff's Department for cases where the prisoner is in custody or security was needed. Only if no such cases are scheduled may they be used for other cases.

Monday's Change of Pleas will be held in Courtrooms 301 and 302.

Criminal hearing week court will be held in Courtroom 201.

In-custody defendants for child support cases will be held in courtroom 202

Jury and court trials for in-custody cases will be heard in courtrooms 301 and 302. When there are no in-custody criminal cases then civil cases can be heard in these courtrooms. If there is a large, multiple-party case and the judge needs a larger courtroom, arrangements should be made with the calendar control clerks to reserve one of these courtrooms if possible.

All requests for a specific courtroom should be directed to the calendar control clerks. Calendar control clerks will assign cases to courtrooms based on the best available courtroom for the case.

(ECJD Judges Meeting 10/4/12)

Judges' Vacation/Seminars/Meetings (Revised 6/1/06)

1. To help alleviate any communications breakdowns, information should be directed the calendar control clerks and entered as unavailability time on their resource calendar in the case management system. In case of illness, the judge or the judge's support staff should contact the calendar control clerks so arrangements can be made for court coverage.
2. Hearing week judges need to find their own substitutes, unless there is an emergency.

Case Management Review Process (Revised 6/1/06)

The following process and time frames will be used for the orderly and timely review of pending cases. The objective is to establish a systematic, pro-active approach so that the actual docket review process does not become a "crisis" management step after cases exceed standards set by Administrative Rule 12.

The process will be followed by the East Central Judicial District through the automated case management information system.

The Court Administrator's Office is responsible for generating docket currency and other case management reports for all case types for distribution to all judges. Docket Currency reports will be run for cases over 150 days and a Time Standard report for motions over 60 days old. Reports will be set up to automatically be emailed to judges after the 10th of each month.

Court Security (Revised 6/1/06)

1. No person may possess a weapon in any courtroom or court office, unless the weapon is to be used as evidence in a court proceeding. The term weapon includes firearms, knives, and chemical agents such as mace and pepper spray. This rule does not apply to:
 - (a) an official city, town, county, state, or federal law enforcement or corrections officer if present in their official capacity; (ECJD Judges' Meeting 7/19/12)
 - (b) a private, uniformed security guard employed by a financial institution or private security service who is transporting money or other valuables.
 - (c) a private security guard or officer under contract with the court system to provide security services within the courthouse who possess a weapon authorized under the contract;
 - (d) a judicial officer; or
 - (e) a person who has written authorization from the presiding judge to possess a weapon on court premises. This authorization will be given only upon a showing of good cause and only for a specified period of time. If the weapon is a concealed handgun, the person must have a valid permit to carry this weapon.

The exemptions listed in (a)-(c) above apply only to persons acting within the scope of and authority of their employment. A law enforcement officer, corrections officer, or private security guard who is participating in or attending a court proceeding outside the scope of his or her employment, whether as a party, witness, victim, or other interested person, is not permitted to bring a weapon onto court premises unless authorized to do so under (e).
2. Deputy Sheriffs are to be present for all criminal proceedings (except motion hearings and disposition conferences, unless required or requested by the judge or court staff). Deputy Sheriffs are required to be present for protection order hearings, mental health hearings and upon a judge's request for other hearings.
3. The deputy clerk will notify the sheriff's office when a jury reaches a verdict in a criminal trial. If security is needed for hearings or trials that continue after 5:00 p.m., the deputy clerk in the courtroom notify the Sheriff's Department, to request that the courthouse security desk continue to be staffed and/or that officers are needed to accompany jurors, bailiffs and deputy clerks to their vehicles after dark.
4. If it is anticipated that there will be a need for security for a scheduled hearing, the clerk's office will notify the Sheriff's Department.

5. In the event of an unexpected outburst during a hearing, the deputy clerk or court reporter/recorder will call the Sheriff's Office and indicate that a deputy is needed immediately, identifying which courtroom. The judge, referee or court staff should activate the "panic" alarm in the event of an emergency.
6. Deputy clerks and other court staff who perceive or anticipate potential security concerns at a particular hearing shall notify their immediate supervisor clerk of court, in advance of the hearing.

Jury Procedures (Revised 6/1/06)

1. Jurors are allowed to keep their cell phones until deliberation at which time they are collected and held until the conclusion of the trial. (ECJD Judges Meeting 7/19/12)
2. Jurors are allowed to have water while in the courtroom. (ECJD Judges Meeting 6/14/14)
3. Meals will only be provided for jurors who are in deliberation. Jurors are responsible for their own meals during jury selection and during the course of a trial. Juror meals will be delivered directly to the courthouse. The bailiff or the deputy clerk will inform the clerk's office if it appears that a jury will be deliberating through the lunch hour or after hours at dinner time, so that arrangements can be made to order juror meals. The cost per juror for meals shall not exceed the current state employee meal allowance.

Closing Courtroom During Final Arguments (Revised 2/11/10)

Courtroom doors are to be locked during instructions and final argument phases of jury trials.

EC Judges Meeting 2/11/10

Depositions (Revised 2/11/10)

Attorneys should only submit relevant portions of depositions.

EC Judges Meeting 2/11/10

Obtaining Copies of Court Recordings (Revised 8/16/12)

The Court Administrator or the Assistant Court Administrator is designated as the approval authority for copies of audio recordings of court proceedings pursuant to Policy 503 (2).

(ECJD Judges Meeting 8/16/12)

Requests for Audio Recording when Transcripts Is Completed and Filed (7/7/15)

Once a transcript is done, that is the official record and we do not need to make CD's of the audio. (Per Judge Racek 7-7-15)

Documents that May Be Stamped with a Judges' Signature (6/17/14)

1. Order Regarding Notice of Motion—(ECJD Judges Meeting 6/17/14)

Access to Restricted Areas

Non-Court employees including domestic violence advocates should not be given any special access to secured court areas. The Clerks' office will forward any proposed orders to the judge for signature.

(ECJD Judges Meeting 6/17/14)

Media Policy (Revised, 3/21/13)

Effective January 1, 2001
Revised June 1, 2006
Revised March 21, 2013

East Central Judicial District
(Cass, Traill, and Steele Counties)

Electronic and Photographic Media Coverage of Judicial Proceedings

PURPOSE

The purpose of this policy is to establish guidelines for electronic and photographic media coverage in the East Central Judicial District. This policy is limited to pre-trial conferences, post-trial motions, and trials. It does not include interviews of judges or judicial personnel when not involved in a specific judicial proceeding.

GUIDELINES

- A. To assure that judicial proceedings are not disrupted, members of the media shall confine camera and audio media coverage to areas not immediately adjacent to courtrooms to assure egress of participants and the public. The designated areas are the rotunda on the second floor of the Cass County Courthouse and the first floor of the Traill County Courthouse and the first floor of the Steele County Courthouse. Cameras and audio recorders are not allowed beyond these designated areas of any courthouse during any judicial proceedings, except as expressly provided in Section B. Audio and/or video interviews of trial participants during any judicial proceeding are limited to this area.

- B. Exceptions to this policy are limited to those prescribed in North Dakota Supreme Court Administrative Rule 21. Any request for an exception to this policy is to be directed to the court administrator in writing at least 48 hours in advance of the judicial proceeding.
1. All media coverage and all applications for “expanded media coverage” shall be in strict compliance with Administrative Rule 21, except as modified hereafter.
 2. All requests for “expanded media coverage” pursuant to Administrative Rule 21 shall be by a “designated representative” of the “expanded media” as such phrase is defined in Administrative Rule 21.
 - a. On an annual basis, the media shall select a designated representative and shall submit that representative’s name in writing to the court administrator. The East Central Judicial District shall not grant any request for expanded media coverage without written notification of the designated representative.
 - b. The designated representative shall be the only contact between the Court and the media.
 - c. It shall be the sole responsibility of the designated representative and his/her organization to cooperate with all other organizations to provide immediate access to video or audio hookups, or to photographs or tapes.
 - d. Due to the “pooling” requirements set forth in 2(c), the following additional rules shall be observed where applicable to a particular media mode:
 1. In Courtrooms 201, 301, and 302 media personnel must use the equipment installed in the media room. (Equipment in these courtrooms is the property of Cass County and any training issues or problems should be reported to the Cass County IT Department.) In the remaining courtrooms, only one TV or video camera, and a reasonable number of microphones in the Courtroom, with a single output line for audio and a single output line for video;
 2. In Courtrooms other than 201, 301, and 302 only one media operator may be present in the Courtroom. The operator is to remain in the same spot and not move about in the Courtroom;
 3. Only one still camera photographer in the Courtroom. The photographer will remain seated in one spot as designated by the judge;
 4. If the audio/video feed is sent to a non-secure area, one representative per media outlet will be allowed in the room where the pool feed is sent. If the audio/video feed is sent to a secured area, only one representative will be allowed in the room where the pool feed is sent.
 3. The following shall be observed for all cases involving expanded media requests:
 - a. All media representatives in the courtroom shall be dressed appropriately: e.g., no blue jeans or t-shirts.

- b. No artificial light shall be brought into the courtroom – ambient light only for TV/video or still cameras.
 - c. Each microphone shall have an on/off switch.
 - d. No transmitters of any type are allowed on the second or third floor of the courthouse, except as provided for in Section B(5).
 - e. There shall be no coverage during court recesses, or during bench conferences and in a jury trial, during periods in which the jury has been excused from the courtroom.
 - f. The judge must be present in the courtroom during all coverage.
 - g. Equipment must be installed and removed only during recesses.
 - h. To determine scheduling or cases in District Court, contact the Calendar Control Clerk: 451-6942 for civil cases; and 451-6943 for criminal cases. If no answer at either of these numbers, call 451-6944.
 - i. All other inquiries regarding pooling in District Court should be directed to the Clerk of Court at 451-6924.
 - j. Coverage in the courtroom, of whatever type, shall be at all times in strict compliance with the provisions of Administrative Rule 21.
4. Any procedure may be modified by the judge presiding over the proceedings if circumstances warrant such modification.
 5. No proceeding, or part of a proceeding, may be transmitted live without the express written permission of the judge.
 6. Failure to comply with these rules will result in the immediate revocation of expanded media coverage.

A written response shall be made by the Clerk of Court staff to the media representative (after consultation with the judge presiding in the case) prior to commencement of the judicial proceeding.

Approved: /s/
Frank L. Racek
Presiding Judge
East Central Judicial District
North Dakota

Date: March 21, 2013

EAST CENTRAL JUDICIAL DISTRICT, STATE OF NORTH DAKOTA
APPLICATION FOR COURT APPROVAL OF EXPANDED MEDIA COVERAGE

Case Name: _____

Case Number: _____

Name of Judge assigned to case: _____

Type of Coverage:

- Television Still Camera Radio
 Sketch Artist Audio Other: _____

Proceeding to be covered: _____

Dates for which coverage is requested: _____

Live transmission of the following portions of the proceeding is requested as follows (be specific): _____

Permission is requested to cover the above proceeding pursuant to North Dakota Supreme Court Administrative Rule 21. It is understood and agreed that the provisions of Administrative Rule 21 and the Revised Media Policy of the East Central Judicial District will be abided by.

_____ Date _____ Signature of Media Representative

_____ Office Number _____ Fax Number _____ Print

Notice given to:

Office Use Only	
Objection:	
_____	Yes <input type="checkbox"/> No <input type="checkbox"/>
_____	Yes <input type="checkbox"/> No <input type="checkbox"/>

APPROVAL BY COURT

The Court, having reviewed the above application, permission for expanded media coverage for all proceedings in this case is _____ Granted / _____ Denied.

Live transmission of the proceedings is _____ Denied / _____ Granted, as to the following portions of the proceedings only: _____.

Exceptions, restriction or comments: _____.

Signature of Judge assigned to case

Date

Distribution: Court file Media file Media Representative

Use of Evidence Presentation System (2/1/05)

East Central Judicial District
(Cass, Traill, and Steele Counties)

PURPOSE

The purpose of this policy is to ensure that all persons who request to use the Court's electronic evidence presentation system are treated in the same fashion and that court personnel responsible for setting up the electronic system have adequate time in which to do so.

GUIDELINES

Requests must be made, in writing, to the Calendar Control Clerks of the East Central Judicial District as appropriate at least two (2) days prior to the date at which the electronic system is needed. The request must include the case and dates needed. If two days' notice is not given, the electronic system may not be available. Requests will be taken on a first come, first served basis.

Telephonic Hearings (Revised 6/1/06)

Requests to appear telephonically in court shall be made in writing, filed with the clerk's office, and served on the opposing party at least one day [or twenty-four hours] before the scheduled hearing. The court, at its discretion, may not issue a written order specifically granting the request, but instead will send a response by mail or email if the request is denied. Unless the judge orders otherwise, the court will initiate the call. The attorney/party must submit a phone number and be available at that number.

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____

EAST CENTRAL JUDICIAL DISTRICT

(Plaintiff),	Plaintiff,
vs.	
(Defendant),	Defendant.

File No. _____

REQUEST TO PARTICIPATE BY TELEPHONE OR ITV

The trial or hearing is set for the following date: _____ time: _____.

I request that the court allow Plaintiff Defendant Witness _____ to participate in this trial/hearing by telephone because:

I have notified all other parties to this case of my request and have received no objections.

(Area Code) Phone Number

Date

Signature

Print or Type Name

I certify that on _____
A copy of this request was sent to
(list names):

NOTICE

The request to participate by telephone or ITV is:

- DENIED
- GRANTED

You must be at the number provided or ITV site above at the time of trial/hearing and be prepared to receive a telephone or ITV call from the Court.
(NOTE: Wait by the telephone or at the ITV site for up to 1 hour. Your case may be delayed by prior cases.)

Date

Judge

Transcript Requests (Revised 3/12/15)

Requests for transcripts shall be made to the designated coordinator who shall research the file to determine who took the record and route the request for transcript to the appropriate reporter/recorder. Whenever possible, the person taking the record shall be responsible for preparing the record.

Preparation of transcripts of cases heard by the referees shall be prepared by a monthly rotation schedule.

If a transcript is requested by the public defender and is not covered under Policy 206 Criminal or juvenile case transcripts requested by the Indigent Defense Commission for the purpose of appeal or for any court proceeding that occurred prior to the appointment of counsel; or covered under N.D. Rule of Criminal Procedure 5.1 (c) the reporter/recorder will ask the indigent defense attorney if a copy of the recording if one is available will be sufficient. If the indigent defense attorney wishes to have a transcript prepared then they must send a letter to the judge assigned to the case stating the reason under Administrative Rule 39. The judge will rule on the request. Upon approval by the judge, the reporter/recorder will prepare the transcript.

(Judges' Meeting March 12, 2015)

Policy Changes (Revised 6/1/06)

1. Requests for policy changes should be directed to the court administrator for action. Proposals for changes, amendments, additions, or deletions will be considered by the district judges at their monthly meetings.

CRIMINAL

Assignment (Revised 5/31/16)

1. Criminal cases are initially assigned to a judge at the time of arraignment and should remain with that judge through final disposition, unless another judge agrees to take the sentencing or is assigned by the presiding judge to another judge. Exceptions: bail review, modification or vacation of no contact orders, or bail will be heard by all judges in the criminal division whether the case is assigned to that judge or another judge. **The case is not reassigned just because another judge agrees to do the sentencing.**
2. Defendants with multiple criminal cases:
 - a. If a defendant or attorney of record wishes to enter pleas on multiple misdemeanor cases pursuant to a plea recommendation, the matter will be handled by the judge assigned to the defendant's oldest misdemeanor case;
 - b. If a defendant or attorney of record wishes to enter pleas on multiple misdemeanor cases and a felony case pursuant to a plea recommendation, the matters will be handled by the judge assigned to the defendant's felony case;
 - c. If a defendant or attorney of record wishes to enter pleas on multiple felony cases, the matters may only be handled by one of the assigned judges with the consent of the other assigned judge(s);
 - d. If a defendant has more than one misdemeanor order to show cause, the matters will be handled by the judge assigned to the defendant's oldest misdemeanor order to show cause case;
 - e. If a defendant has one or more misdemeanor orders to show cause and a felony probation revocation, the matters will be handled by the judge assigned to the felony case;
 - f. If a defendant has one or more probation revocations on felony cases and misdemeanor order(s) to show cause, the matters may only be handled by one of the assigned judges with the consent of the other judges assigned to the felony cases.
 - g. If a defendant has one or more pending traffic citations related to the defendant's criminal case(s), the matter(s) should be handled by the judge assigned to the criminal case(s).
3. Change in Public Defenders: (Added 5/31/16)

- a. Anytime the Public Defender changes on a case involving only misdemeanors, the clerk may automatically reassign the case to the judge the Public Defender regularly follows.
- b. Anytime the Public Defender changes on any case with at least 1 felony count, the clerk may automatically reassign the case to the judge the Public Defender follows if it is before the original time set for PH. (about 4 weeks from 1st appearance).
- c. On all other cases involving a felony, the clerk may not automatically reassign the case. A party will need to submit a written motion or stipulation, along with a proposed order to do so, which will be decided by the judge originally assigned to the case.

Judge Coverage Procedure (Revised 6/1/06)

1. When the scheduled arraignment judge is absent (planned vacation, meetings, or educational seminar), another judge will handle the following:
 - a. Arraignments
 - b. Preliminary Hearings
 - c. Misdemeanor Pretrial Motions and Disposition Conferences
 - d. Felony Pretrial Motions and Disposition Conferences

The judge with the planned absence will arrange for another judge to cover that judge's hearing calendar.
2. The clerk's office shall be notified of last-minute changes of judge coverage and any courtroom re-assignments that are made.

Search Warrants (Revised 2/11/10)

Law Enforcement Officers requesting search warrants shall come to the Clerk of Court's Office. The clerk's office shall contact the judge who is currently scheduled for a hearing week. The person requesting the search warrant shall be given a controlled access key card at the Clerk of Court's Office to access the judge. The clerk's office will ensure that keys are signed out and returned.

Search warrants shall be filed in the administrative file in the Case Management System. (EC Judges' Meeting 2/11/10)

Scheduling Procedures (Revised 6/1/06)

1. Misdemeanor orders to show cause/and probation revocations, felony probation revocations and sentencings will be re-scheduled before the assigned judge upon the judge's return from an absence. Discretion is given to the criminal calendar control clerk to accommodate these additions.
2. The criminal calendar control clerk has authority to reschedule matters as long as the new date(s) is/are in compliance with the original case scheduling order and other routine court scheduling procedures.
3. Rule 35 motions (for correction or reduction of sentence) should not be set for a hearing unless directed by the assigned judge.
4. At preliminary hearings, sentencing hearings, and dispositional conferences, cases should be blocked so that the cases of the regularly assigned public defender are placed last.
5. Arraignments involving interpreters should be identified accordingly on the arraignment calendar and will be the first items scheduled.
6. In-custody appearances will be scheduled at 1:30 p.m. Tuesday, after a Monday holiday in front of the morning hearing judge. When a holiday falls on a Friday, in-custody appearances will be scheduled at 2:30 p.m. on the Thursday before the Friday holiday. Late arraignments on Friday afternoon will be scheduled at 2:30 p.m. Late arraignments for Mondays will be set for 2:00 p.m.
7. Criminal Scheduling/Monday Holiday (Revised 10/4/12)
If Monday is a holiday judges agree to uniformly move that day's hearings to Thursday except Motions which should be moved to the previous Thursday at 10:30am.
8. City Transfer Cases
Once a city transfer case is on the jury trial calendar it cannot be removed unless there is a written waiver of Jury Trial and the case is remand to Municipal Court.

(ECJD Judges Meeting 10/4/12) (Revised 3/12/15 to include City Transfer Cases)

Felony Case Scheduling (Revised 6/1/06) (Unless modified by further order of the court)

First Appearance – Parties are given a scheduling order with dates for filing of motion deadlines, motion hearings, preliminary hearings, disposition conferences and trial.

Misdemeanor Case Scheduling (Revised 6/1/06) (Unless modified by further order of the court)

First Appearance/Arrestment – Parties are given a scheduling order with dates for filing of motion deadlines, motion hearings, disposition conferences and trial.

Failure to Appear for First Appearance (In-Custody) (7/12/18)

In-Custody defendants who refuse to appear in person or by ITV should be set them an appearance in the next available arraignment time. If they don't appear at the second setting the clerks should contact the hearing judge as to how to proceed.

(ECJD Judges' Meeting 7/12/18)

Courtroom Procedures (ECJD Judges' Meeting 1/8/15)

See Appendix A for a list of specifically identified courtroom procedures.

Bonds

Setting Bond (3/12/15)

A single bond should not be set to apply to multiple cases. If bond is revoked it should be forfeited according to the procedure outlined below. If applicable, Bond should not be reinstated, rather the order revoking bond should be vacated.

(ECJD Judges Meeting 3/12/15)

Bond Forfeiture (Revised 4/19/13)

The ECJD will use a one-step process regarding forfeiture of bonds. Bonds will be forfeited on the spot and forego the 10 day appearance requirement. The Order and Notice to Forfeit Bond is available as an Odyssey form. If the bondsman applies for remission, the application should be reviewed by the judge who forfeited the bond. (See Appendix B)

(ECJD Judges Meeting 4/9/13)

Lifting Pretrial No Contact Orders (Revised 6/1/06)

From time to time, a criminal defendant or the victim will request lifting a "no contact" order, which was imposed as a condition of bail. These orders are generally issued in domestic violence situations. If a judge is inclined to consider lifting the "no contact" order, then the following would apply:

1. The judge would order the defendant to complete a domestic violence inventory and return to court with the victim present after the inventory has been completed and the results have been filed with the court.

2. The agency upon completing the domestic violence inventory will send the results including a narrative report to the court along with any recommendation(s) for lifting the “no contact” order or for further treatment.
3. Based on the above information, the court will consider whether to lift the “no contact” order.
4. Any requests to lift a no-contact order should be set for 9:00 a.m. Thursdays.

The above procedure would only apply if a Judge is considering lifting a “no contact” order. There are situations where the judge will not consider such action pretrial. In that event, the judge would simply direct that the “no contact” order be continued and none of the above would apply.

Rule 43 Waiver of Appearance (7/12/18)

When written Rule 43 agreements are filed, the case should be scheduled and called so judges sentence the defendant on the record and the clerks can prepare the appropriate judgment. An appearance by the defendant or their attorney is not required.

(ECJD Judges’ Meeting 7/12/18)

Dismissals (Revised 6/1/06)

Court Dismissals of Criminal Actions

1. When the court orders the dismissal of a criminal action on its own volition on the record, the clerk’s office will provide to the court, for signature, a computer-generated order.
2. The clerk’s office will provide notification of the signed order to all pro se parties.

State’s Requested Dismissals of Criminal Actions

1. N.D. R. Crim. P. 48(a) requires that a motion for dismissal be presented to the court with a written statement stating the reasons for the motion.
2. If a dismissal is ordered and upon the court signing the order, the clerk’s office will provide notification to all pro parties.

Pre-Sentence Investigations (Revised 8/17/07)

Notices of pre-sentence investigations (PSI’s) will be communicated by report from the Case Management System. Judges, public defenders, and private defense counsel are to direct defendants who are not in custody to call Parole and Probation immediately following court to schedule a time for the defendant’s initial interview(s).

PSI Extension Request (8/17/17)

A request by probation for an extension in completing and submitting the PSI past the original deadline must be in writing and e-filed in the applicable case. The clerk will send the request up to the judge for consideration. The judge will indicate whether it is approved or denied by notating and signing the request. The clerk will file the signed request as an “Order for Extension” and relate it to the original request/letter in the file.

PSI Delivery/Sentencing (Revised 6/1/06)

Pre-sentence Investigation Reports shall be e-filed.

If the case is ready for sentencing, the calendar control clerk shall be contacted for a sentencing date.

Judgments (5/1/14)

Criminal Judgments do not need to be signed by a judge or the defendant.

(ECJD Judges Meeting 5/1/14)

PROCEDURES FOR MONITORING AND CLOSING MISDEMEANOR OR INFRACTION CASES WITH DEFERRED IMPOSITION OF SENTENCE PURSUANT TO RULE 32.1, N.D. R. Crim. P.

Deferred Impositions

Clerks will follow the procedure outlined in the Business Decision Guidelines to generate a report of cases with a deferred imposition of sentence to send to the State’s Attorney. If the State’s Attorney does not want the complaint or information dismissed, they must file a 3.2 motion with the Court. If there is no response to the motion from the defendant, the file shall not be restricted. If there is no response from the State’s Attorney prior to the due date of the time standard, the file shall be restricted.

Protocol for Restore

Community Service (Revised 6/1/06)

If a judge imposes community service, the following protocol will be followed:

1. On the judgment, a definite date will be given for completion of community service. This is to be considered the deadline for completion of all of the community service ordered.
2. The judges will typically allow defendants approximately 30 days to complete every 20 hours of community service or fraction thereof ordered. (For example, if a defendant was ordered to do 30 hours of community service, the court would allow 60 days to complete those hours and the deadline date would be included in the judgment.)
3. Defendants will be ordered by the court to contact RESTORE immediately to make arrangements for community service.
4. If the defendant has not complied by the date ordered in the judgment, then RESTORE is to immediately prepare order-to-show-cause papers and an affidavit of non-compliance.
5. The clerk's office, upon receiving these papers, is to provide an appearance date for the defendant (using an arraignment time before the sentencing judge would be considered appropriate) and serve the papers by first-class mail. If the defendant does not appear in court at the appointed time in response to this mailing, then a bench warrant will be issued. If the defendant appears, and the court determines that the defendant has not completed community service as ordered, then the court may impose any amount of jail time that would have otherwise been imposed in lieu of the community service.

Procedure for NSF Infraction Cases (Revised 6/1/06)

Arrest warrants are **not** to be used for infractions unless service has been complied with as provided in Rule 4, N.D. R. Crim. P., and the defendant did not appear in court.

If service is not perfected, an order of dismissal will be prepared for the judge's signature by the State's Attorney's Office.

24/7 (6/17/14)

24/7 offenders who are in re-entry centers should not be revoked if they are being monitored.
(ECJD Judges Meeting 6/17/14)

Write-offs (3/6/14)

Any uncollectible amount under \$35 may be automatically waived by the Clerk. (EC Judges Meeting 3/6/14)

Post Judgment Domestic Violence Order (Revised 6/1/06)

When post-conviction “no contact” orders are issued in criminal domestic violence-related cases, the court will follow the following procedures:

1. At the conclusion of a criminal proceeding, if the court deems a “no contact” order appropriate, it will order an extension of the pretrial “no contact” order for a period of one year.
2. The state’s attorney’s office will develop a method of providing the court with these orders at the time of sentencing, and the court will provide defendants with copies of such orders. The defendant must be present if a no contact order is to be issued. (ECJD Judges Meeting 9/6/12)
3. The order will contain additional information and instructions for the defendant to follow if the defendant wishes to make a future request that the court vacate the “no contact” order, which would include completing a domestic violence inventory and following through on any recommended treatment and obtaining a recommendation from the agency administering the test as to the appropriateness of lifting the “no contact” order. The instructions should indicate that unless the order is lifted by the court after the above procedure is followed, the order will remain in effect for one year.
4. The above requests should be scheduled for Thursdays at 9:00 a.m.

CIVIL

Assignment (Revised 3/12/15)

1. Civil cases are initially assigned to a judge at the time of filing and stay with the assigned judge through disposition unless a demand for change of judge is granted, a recusal is submitted, or a formal reassignment is made by the presiding judge, except as follows:

2. The following cases may be scheduled before the next available hearing judge and will be assigned to the hearing judge at that time:
 - a. Adoptions (uncontested);
 - b. Forcible detainers (to be filed at least 24 hours before hearing);
 - c. Adult abuse protection orders;
 - d. Restraining orders;
 - e. Juvenile special proceedings;
 - f. Sexually Dangerous Individuals
 - g. Out of State Witness Hearings;

These are hearings to request the issuance of a subpoena for a North Dakota resident to appear as a witness in either a court proceeding in another state (jurisdiction) or at a deposition for an out of state court case.

(i.) State's attorney will open a file with the clerk's office.

(ii.) The state's attorney's office staff will obtain a hearing date from the calendar control clerk.

(iii.) State's attorney's office staff will submit a proposed order to the clerk's office.

3. The following cases may be scheduled before the next available hearing judge and will not be assigned:
 - a. Mental health hearings;

4. Applications for temporary orders shall be made to the assigned judge. If the assigned judge is absent, the hearing judge will handle the application.

Judge Coverage Procedure (Revised 6/1/06)

Absence of Judge

When a judge is absent, the judge or the judge's support staff is to inform the calendar control clerk. In the case of unplanned absence, the calendar control clerk will arrange for another judge to fill in on uncontested cases for the absent judge.

Steele and Traill Counties:

- A. District Judge Marquart will be assigned to regularly cover Steele County (Finley) cases and master calendar on Wednesday of his designated "hearing" week.
- B. Judges will rotate equally to cover Traill County (Hillsboro) on Wednesday of the assigned judge's opinion week.
- C. The judges who travel to Steele and Traill counties will handle all hearings except those held by referees. (See general section—Referee Assignments for a list of hearings being handled by referees.)
 - 1. Stipulated and default divorces
 - 2. Name changes
 - 3. Adoptions
 - 4. Forcible detainers
 - 5. Mental health
 - 6. Protection orders
 - 7. Paternity and child support
- D. Judges will handle the following civil hearings in Steele County:
 - 1. Small claims
 - 2. Formal juvenile matters
 - 3. Paternity
 - 4. Child support order to show cause hearings
 - 5. Post-judgment motions to amend child support

All other civil cases will be referred to the calendar control clerk for scheduling before the judge assigned to the case.

All contested civil matters will be handled in Fargo by the assigned judge.

- E. One day will be selected approximately three months apart (probably on a Thursday or Friday) to schedule criminal trials in Traill County. Scheduling orders will be drafted and utilized setting cases for trial at these times similar to Cass County. Pretrial conferences will be held by the regular hearing judge the Wednesday, eight days prior. Dispositional Conferences will be scheduled three weeks prior to the trial date.

The cases in Steele County are considered “master calendar” and if a civil trial is demanded, the calendar control clerk will work them into the assigned judge’s calendar; if a criminal trial is demanded, the calendar control clerk will work them into the judge rotation.

Civil Bench Warrants (5/1/14)

1. If the sheriff takes someone into custody on a civil bench warrant, the sheriff will choose a court date and will notify the clerk’s office. The clerk will then inform the calendar control clerk whether the person posted bail. The person, in either case, shall be given a date to appear before the civil hearing judge on the next day court is in session.
2. If the person is unable to post bail, the sheriff will attempt to have the person provide answers to the written interrogatories that are served with the warrant.
3. If the person is able to post the required bail, the civil division clerk will notify plaintiff’s counsel as to the date of the hearing.
4. In the event a hearing is set, the civil division clerk is to notify the civil calendar control clerk.
5. If the hearing is canceled because the party complied with the warrant, the bond should be exonerated. (ECJD Judges Meeting 5/1/14)

Protection/Restraining Order Requests (Revised 7/12/18)

Parties requesting protection orders shall come to the Clerk of Court’s Office. The clerk’s office shall contact the judge who is currently scheduled for civil hearing week. If a petition is not completed and given to the clerk by 4:30pm the petitioner will be informed it is not possible to complete the review process and they must come back the next day after 9:00am.

(ECJD Judges' Meeting 7/12/18)

Divorce Scheduling Orders

Scheduling Orders in divorce case are sent 45 days after case initiation. They contain a date for a pretrial conference between 90 and 120 days from the date of the scheduling order.

Scheduling Pro Se Divorces (Revised 6/1/06)

The assigned judge will determine whether a hearing is required for stipulated divorces in which both parties are representing themselves.

Prior to scheduling the time for the hearing, the judge will review the filed documents to make sure they have been properly prepared. All documents must be filed at the time of opening the case, including the summons and complaint, property settlement agreement, proposed findings of fact and conclusions of law, and Order for Judgment.

Rule 16 Scheduling Conferences (Revised 6/1/06)

If a Rule 16 pretrial conference has not been previously scheduled the calendar control clerk will set a Rule 16 hearing 180 days after a case is filed.

Rule 16 scheduling conferences will be set during the assigned judge's designated hearing week.

Scheduling Asbestos-Related Hearings (3/12/15)

Judges agreed to the following guidelines when scheduling asbestos-related hearings:

1. Dispositive Motions should be given 2 hours
2. Pretrial Hearings should be given 1 hour
3. Final Pretrial with Motion in Limine 2 hours

(ECJD Judges Meeting 10/4/12)

Procedure for Setting Trial Schedules (Revised 6/1/06)

1. The calendar control clerk shall develop and use a system to avoid conflicting trial assignments to attorneys in more than one court at a time, and to help eliminate requests for continuances.
2. A notice of trial is sent to all counsel. On occasion, a case will be set as a backup. The calendar control clerk schedules a pretrial conference in jury cases three weeks prior to the trial date.
3. Judges require formal motions for continuances.
4. After completion of a trial or settlement, a time standard is set for check for closing documents. If the documents are not filed by the due date, the deputy clerk will contact the attorney and set a new deadline. If this deadline is not met, the deputy clerk will refer the case to the assigned judge.

Cost of Custody Investigations (Revised 6/1/06)

Custody Investigators assigned to a case shall be authorized to bill time and expenses up to a maximum of \$1500 in any one case. If it becomes necessary to put in additional time or incur expenses a Motion must be made to the Court for consideration.

Prima Facie Determination (Revised 10/4/12)

1. In a Paternity case where the referee has always handled the hearings and there is a Post Judgment motion for change of parental responsibility, the Referee can make the Prima Facie determination.
2. In a Paternity case where a District Judge has signed the Order for Judgment and there is a Post Judgment motion, the Judge should make the Prima Facie determination and the referee can do the hearing.

(ECJD Judges Meeting 10/4/12)

JUVENILE

ECJD Referee Case Assignment and Scheduling Procedures (6/21/18; revised 8/23/18)

In Cass County, Referee Griffeth will handle all “JV” cases. Referee Solheim will handle all Small Claims, Traffic, Eviction and Protection Orders, Child Support Enforcement, and Paternity in Cass County.

Referee Griffeth will handle all court in Hillsboro. He will handle any non-“JV” appearances venued in Hillsboro (Child Support, etc.) as time permits. Any non-“JV” cases not set before a referee will be heard Wednesday by District Judge.

If the Juvenile Referee recuses himself or a District Judge is demanded, the case will be assigned to a District Judge; however, the individual District Judge may refer any “JV” case they be assigned to Referee Solheim but in that event the District Judge remains responsible for the case.

1. Juvenile hearings are set by the calendar control staff of the Cass County Clerk of Court office with the exception of the scheduling of in-custody (detention or shelter care hearings) which are set by the Fargo juvenile office staff. All juvenile cases will be scheduled in time frames that comply with statutory, rule and policy limits. It is expected that all parties will be prepared to proceed at the time(s) scheduled and that changes and continuances would only be granted when absolutely necessary. Formal motions are required for continuance requests. (See Rule 2 Hearing Time and Rule 9 Continuance, N.D.R.Juv.P.)
2. In-custody Appearances: Detention hearings will be scheduled every day of the week at 1:00 p.m. before the juvenile referee. Shelter care hearings will be scheduled at 1:30 p.m. on Mondays, Wednesdays, and Fridays. If a legal holiday falls on a Monday, shelter care hearings will be set on the following Tuesday at 1:30 before the juvenile referee.
 - a. Time for Filing of the Petition: Due to the critical nature of child-in-custody cases and the corresponding reduced time frames for in-custody proceedings, the juvenile referee will require the filing of the petition by the petitioner as follows:
 - i. Secured Detention: The petitioner shall file a petition within five days of the child being taken into secure detention, excluding holidays and weekends. (See Policy 409, Juvenile Court Time Standards, ND Supreme Court Policy)
 - ii. Shelter Care: The petitioner shall file a petition within 15 days of the child’s removal from the home. (See Policy 409, Juvenile Court Time

Standards, ND Supreme Court Policy) If the petition is not filed within 15 days, the Shelter Care Order shall be vacated and the child returned home.

- b. Indian Child Welfare Act Cases: Emergency shelter care in ICWA cases can be up to 60 days from the date of removal as long as the petitioner initiates a child custody proceeding subject to all ICWA protections within 30 days. If a petition is not filed within 30 days, the shelter care order shall be vacated and the child returned to the home.

A child-custody proceeding as defined by the act is initiated with the filing of the petition and the sending out of notice by registered or certified mail, return receipt requested, to the parent or Indian custodian and tribe. (See 25 CFR §23.2 and 25 CFR §23.113(e) and the Guidelines for Implementing the Indian Child Welfare Act, December 2016, U.S. Department of the Interior)

3. Initial Appearances:

- a. Cass County: Juvenile initial appearances are scheduled in Cass County every Tuesday of each week. Delinquent or unruly cases are scheduled on Tuesday mornings at 8:30 and 10:00 am blocks of time. Deprived, juvenile guardianship, and termination of parental rights cases are scheduled for initial appearances on Tuesday afternoons at 1:30 and 2:30 pm blocks of time.
- b. Traill and Steele Counties: Traill County and Steele County initial appearances are set on dates and times when a judicial referee or judge is appearing in those counties or will take place in Cass County if no judge or judicial referee is appearing in Traill or Steele County within the first required appearance time frame. The juvenile master calendar time block in Traill County is 9:30 to 11:00 a.m. every third Monday. Steele County in-custody hearings are conducted by the juvenile referee from Cass County and all other hearings are set by Calendar Control in consultation with the assigned District Judge for Steele County.

4. Pretrials and Trials: All trials in Cass County will be set before the assigned referee during the trial week. All trials for Traill and Steele County will take place, to the extent possible, at the Traill County courtroom or the Steele County courtroom. The pretrials are set 30 minutes before the start of the trial block. (See appendix “ECJD Judicial Referee Calendar”)

5. Scheduling Orders: Cass Calendar Control issues a scheduling order in each case at the conclusion of the detention or shelter care hearing or at the time of the filing of the petition, whichever occurs first. The scheduling order controls the hearing events during the course of the case until disposition. The scheduling order and dates for hearing events will be set by calendar control as follows:

JUVENILE DELIQUENCY

HEARING TIME FRAMES	Detained Scheduling Order	Shelter Care Scheduling Order	Released or Never in Custody Scheduling Order
Detention Hearing	24 hrs from time placed in detention	Not applicable	Not applicable
Shelter Care Hearing	Not applicable	Within 96 hrs from time placed in shelter care	Not applicable
Initial Hearing	Within 14 days after placed in detention	Within 30 days from time placed in shelter care	Within 30 days from the filing of the petition
Status Conference / Motions Hearing	A week before trial date	A week before trial date	A week before trial date
Pretrial/Trial	Within 30 days of initial hearing	Within 90 days of placement in shelter care	Within 120 days of filing
AR 12 Time Standard for final disposition	60 days	120 days	150 days

JUVENILE UNRULY

Hearing Time Frames	Shelter Care	Released or Never in Custody
Detention Hearing	Not applicable unless ICJ out-of-state runaway; 24 hours from time placed in detention	Not applicable
Shelter Care Hearing	96 hrs from time placed in shelter care	Not applicable
Initial Hearing	30 days from time placed in shelter care	30 days from the filing of the petition
Status Conference / Motions hearing	Approximately two weeks after the initial hearing	Approximately two weeks before trial
Pretrial/Trial	Within 90 days of entering shelter care	Within 120 days of filing
AR 12 time standard for final disposition	120 days	150 days

JUVENILE DEPRIVED & TERMINATION OF PARENTAL RIGHTS

Hearing Time Frames	Shelter Care	Termination of Parental Rights (TPR)	Released or Never in Custody
Shelter care hearing	96 hrs from time placed in shelter care (Rule 2 NDRJP)	Likely not applicable as child is already in care under a deprivation case	Not applicable
Initial hearing	Within 30 days from the filing of the petition (Rule 2 NDRJP)	Within 30 days of filing of the petition	Within 30 days from the filing of the petition
Status Conference / Motion hearings	Approximately two weeks before the trial	Approximately two weeks before the trial	Approximately two weeks before the trial
Pretrial/Trial	Within 90 days of removal	Within 90-150 days of the filing of the petition	Within 120 days of filing of the petition
AR 12 Time Standard for final disposition	120 days	180 days	150 days

6. Hearings Scheduled Subsequent to the Scheduling Order: The parties may file a written motion and request a hearing not previously scheduled in the scheduling order. Calendar control will set this hearing after consultation with the assigned juvenile referee or judge. The party requesting the hearing shall file and serve the notice of hearing.

7. Scheduling Post-Disposition Hearings: Reviews of custody, permanency hearings or any other subsequent to disposition hearing request can be made by any party to the case filing a written request. Timely requests will be set prior to the expiration of the current order. Timely is defined as 4-6 weeks prior to the expiration of the current order. Service of process for post-disposition hearings will comply with Rule 7, Service after Summons, N.D.R.Juv.P. which states that service is complete upon mailing to the person's last known address. Any deviation from this rule must be approved by the Juvenile Court Director.
 - a. Reviews of Custody / Permanency Hearings: Requests received without adequate time for scheduling of the initial appearance will be set for an in-custody shelter care or detention hearing during the regular in custody hearing time block. That hearing time will allow the moving party to request an extension of custody pending completion of service and/or a full fact-finding hearing to be held on the request.
 - b. Reviews / Revocations of Probation Hearings: Filing of an affidavit requesting for review or revocation of a probation order must take place prior to the expiration of the order. Filing of the affidavit for review and service under Rule 7 preserves the issue of modification of the underlying probation order notwithstanding that the order of the court is imposed after the expiration has occurred.

(Approved, EC Judges Meeting 6/21/18 & 8/23/18)

ECJD Judicial Referee Calendar (8/23/18)

Juvenile Referee

Monday	Tuesday	Wednesday	Thursday	Friday
DEL Trials	8:30 DEL IA's 10:00 DEL Status & Dispos	TPR/DEP Trials	TPR/DEP Trials	TPR/DEP Trials
1:00 DEL In-Custodies 1:30 DEP In-Custodies	1:00 DEL In-Custodies	1:00 DEL In-Custodies 1:30 DEP In-Custodies	1:00 DEL in Custodies	1:00 DEL In-Custodies 1:30 DEP In-Custodies
DEL Trials	1:30 DEP IA's 2:30 DEP Status Conf	TPR/DEP Trials	TPR/DEP Trials	TPR/DEP Trials

Go to Traill County one day a month

If Referee Griffith is gone, emergencies will be assigned to a judge who may delegate the hearing to Referee Solheim

Civil Referee

Monday	Tuesday	Wednesday	Thursday	Friday
Civil	Civil	9:00 Small Claims	9:00 Child Support 10:30 Child Support In-Custodies	Evictions
Civil	Civil	1:00 Small Claims 3:00 Traffic	PTO/RO	Civil

Indigent Defense Applications (Revised 3/1/14)

In order to ensure cases do not experience delay due to failure of parties to complete Indigent Defense applications, the referees are directed to obtain financial information of the parents during the hearing if an application has not already been completed and counsel is requested or required. If the parties qualify, the referees will approve the appointment of Indigent Dense counsel as appropriate. The referees will direct the parties to complete the forms immediately after the hearing.

Juvenile Cases

Delinquency/Unruly (Revised 6/1/06)

1. The juvenile has the right to be physically present in court. However, the court has discretion to allow telephonic participation by other parties. The juvenile's waiver of the right to be physically present may be obtained orally on the record or in writing.
2. The court may allow telephonic participation of witnesses only upon stipulation of the juvenile and the prosecutor, except that the court may allow the telephonic participation of witnesses without the consent of the parties at disposition, disposition review, or emergency detention hearings.

Deprivation/Termination (Revised 6/1/06)

1. The court may conduct any hearing with telephonic participation by one or more parties, counsel, witnesses, foster parents or out-of-home care providers, or the judge.
2. In any proceeding in which the court is authorized to proceed ex parte, the court may contact the non-appearing party or counsel by telephone, and in the interests of justice receive evidence or argument without stipulation of the parties.

Filing of Termination Cases When There is an Open Deprivation Case (6/21/18)

When a deprivation case is currently pending (no Findings of Fact and Order of Disposition has been filed and the child(ren) are under a temporary custody order) and it is determined a Petition for Termination of Parental Rights is to be filed, that petition shall be filed in the existing deprivation case and the clerk's office is instructed to change the case type in the case management system.

(Approved, EC Judges Meeting 6/21/18)

Rights Notification Procedures in ECJD Juvenile Court (4/20/15)

1. ALL respondents and interested parties will be required to be present in the courtroom listen to the notification of rights, regardless of whether they may have seen the same previously. This is done at 8:30 a.m. for delinquent/unruly matters and at approximately 1:30 p.m. for deprivation related matters.
2. If participants are present, but meeting with probation officers, attorneys, etc. they will be notified that they MUST go to the courtroom.
3. Participants who arrive/check in late, i.e. after the general notification of the rights will so notify the court.
4. The appropriate rights will be read on the record. Transcripts of the rights are attached.
5. As participants appear at their hearings, they will be asked, on the record:
 - a. Whether they have viewed the video recording on their rights
 - b. Whether they understand the rights as explained
 - c. Whether they have any questions
6. NDCC 27-20-26 refers to which participants are entitled to court appointed counsel, and when. It states in part, "If a party appears without counsel the Court shall ascertain whether the party may be represented by counsel and that the party is entitled to counsel at public expense if indigent." If appropriate, the court must make this additional inquiry.
7. The Notification of Rights and Acknowledgement form is to be handed to parties upon check-in at the front window of the juvenile court office. Parties are to complete the form and hand it to the referee when the case is called. The document will be e-filed into the case.

Notification of Rights and Acknowledgment—Juvenile DELINQUENT & UNRULY Cases

You have the following rights:

1. To have reasonable notice of the proceedings.
2. To understand the charge or charges being brought against you.
3. To have a copy of the petition and to have it read to you if necessary.
4. To admit to the charge or deny the charge.
5. You, the juvenile, cannot be compelled to testify against yourself. You have the right to remain silent and anything you say can be used against you.
6. To the assistance of an attorney before making any statement or answering any questions in court.
7. To be represented by an attorney at each stage of the case and if you cannot afford a lawyer, one may be appointed to you at public expense. If a lawyer is appointed, you may be required to reimburse the state for any fees or expenses paid. (** If you are the parent, guardian or custodian of a child alleged to be delinquent or unruly, your right to separate court-appointed counsel is limited to the dispositional phase of the proceedings.)
8. To confront and cross-examine a witness who testifies against you. You have a right to subpoena witnesses for the purposes of testifying on your behalf.
9. To make an admission of the allegations or charges and be aware that if you enter an admission, there will be no trial or hearing on the allegations admitted. By admitting, you waive the right to trial as well as the right to confront any witnesses who would have testified against you and you also waive your right to remain silent.
10. To be informed of the treatment, training and rehabilitative disposition possibilities and length of time a dispositional order may be made.
11. To appeal a decision of this court.

I STATE THAT I AM A PARTY TO THE ACTION; I HAVE READ THIS NOTIFICATION OF RIGHTS AND HAVE BEEN ORALLY INFORMED OF THESE RIGHTS BY THE COURT AND I UNDERSTAND EACH OF THEM.

Dated: _____

Juvenile

Parent

Parent

Notification of Rights and Acknowledgement—Juvenile DEPRIVATION Cases

You have the following rights:

1. To have reasonable notice of the proceedings.
2. To be informed of the contents of the petition or other pleadings.
3. To have a copy of the petition and to have it read to you if necessary.
4. To admit to the allegations in the petition or deny the allegations.
5. To the assistance of an attorney before making any statement or answering any questions in court.
6. To be represented by an attorney at each stage of the case and if you cannot afford a lawyer, one may be appointed to you at public expense. If a lawyer is appointed, you may be required to reimburse the state for any fees or expenses paid. If the interests of two or more parties conflict, counsel must be provided for each of them.
7. To confront and cross-examine a witness who testifies against you. You have a right to subpoena witnesses for the purposes of testifying on your behalf.
8. To make an admission of the allegations contained in the petition and be aware that if you enter an admission, there will be no trial or hearing on the allegations admitted. By admitting, you waive the right to trial as well as the right to confront any witnesses who would have testified against you.
9. To be informed of the disposition possibilities and length of time a dispositional order may be made.
10. To appeal a decision of this court.

I STATE THAT I AM A PARTY TO THE ACTION; I HAVE READ THIS NOTIFICATION OF RIGHTS AND HAVE BEEN ORALLY INFORMED OF THESE RIGHTS BY THE COURT AND I UNDERSTAND EACH OF THEM.

Dated: _____

Parent/Guardian

Parent/Guardian

East Central Judicial District - Shelter Care Hearing Process (2/12/15)

1. Form of Request for Shelter Care Hearing: The juvenile court receives an affidavit requesting a shelter care hearing and a shelter care hearing is set or a temporary custody order is issued by the director or designee under 27-20-06 N.D.C.C. and a shelter care hearing is set.
2. Time for Hearing: Shelter care hearings are held at the first available time within 96 hours to determine whether probable cause exists for the child to remain in shelter care. (Rule 2, N.D. Rules of Juv. Pro) The standing schedule for emergency shelter care hearings in the ECJD is 1:30 p.m. on Mondays, Wednesday and Fridays in the East Central Judicial District. If Monday is a legal holiday, shelter care hearings are held on the very next Tuesday at 1:30 p.m. The hearing must be recorded. (27-20-24 NDCC)
3. Notice: Reasonable notice of the shelter care hearing is given either orally or in writing stating the time, place and purpose of the shelter care hearing. It must be given to the child and if they can be found, to the child's parents, guardian, or other custodian. (27-20-17(2) N.D.C.C.). In the ECJD, the shelter care notice is given in writing if the parents are present at the time the written temporary custody order is executed by social services but more commonly verbally by the social worker at the time of removal or by telephone call from the scheduler at the clerk of court office. Regardless of whether the parents have been notified or appear, the emergency shelter care hearing takes place and the child's safety is addressed.
4. Right to Counsel: At the hearing, any party appearing is informed by the court of their right to counsel. A party who is indigent and unable to employ legal counsel is entitled to counsel at public expense. (27-20-26 N.D.C.C). Appointment of legal counsel shall occur as soon as practicable after the request is made. Request for counsel shall not suspend the emergency proceeding with regard to the protection of the child.
5. Basis for Continued Shelter Care: In order to continue a child in temporary emergency out-of-home placement the court must find:
 - a. Probable cause that the child is a deprived child; and
 - b. That shelter care is required for one of the reasons listed in N.D.C.C. 27-20-14(1)
6. Hearing Outcomes: The court may:
 - a. Release the child to the child's parent, guardian, custodian or other responsible adult able and willing to assume custody of the child. (27-20-15 N.D.C.C.).
 - b. Continue the child in emergency custody for no more than sixty days from the date of the shelter care hearing (27-20-17(3) N.D.C.C.) in the temporary care, custody and control of county social services.
7. Full Faith and Credit: Release may include a custodian from a public agency presenting a valid, certified court order such as a Clay County Order for Immediate Custody or an Indian Tribal Court Order. (Article IV, Sec. 1, U.S. Constitution or the ICWA, 25 U.S.C. 1903) Should a party challenge the jurisdiction of the requesting court, the referee may decline immediately acting on the order at the referee's discretion. In that case, a

further expedited hearing will be set, and counsel appointed if appropriate, to address the issue of jurisdiction.

The custodial court order of the other state or tribal court shall be offered at the hearing and filed with the court. If the court declines to enforce a foreign order, the reason will be articulated on the record.

8. Subsequent Hearing: The Court can reconvene an emergency shelter care hearing at the request of any party.

Length of Shelter Care Orders (6/21/18)

In accordance with N.D.C.C. § 27-20-17 (3), Shelter Care Orders should be issued for a period of 60 days rather than until the next scheduled hearing to alleviate the need for multiple hearings and orders in event the hearing cannot be held as scheduled.

(Approved, EC Judges Meeting 6/21/18)

Use of Restraints in the Courtroom (5/18/15)

1. Restraints will not be used on a juvenile during a juvenile court proceeding and shall be removed prior to the juveniles entry into the courtroom or minimally before the hearing officer enters the courtroom, unless a party or the detention, transport or juvenile court office staff request a finding that the juvenile poses an immediate and serious risk of dangerous or disruptive behavior or of escape or flight risk.
2. The party requesting the use of restraints in the courtroom will provide the court with any information necessary to address the factors to be used in making the decision.
3. Factors to be considered by the court in reviewing a request for the juvenile to remain shackled during a proceeding include:
 - a. The juvenile's record;
 - b. The juvenile's temperament;
 - c. The desperateness of the juvenile's situation;
 - d. The security situation at the courtroom and courthouse;
 - e. The juvenile's physical condition; and
 - f. Whether there is an alternate means of providing security that would be less prejudicial.
4. Once the Court has heard from all the parties, the Court would enter a written order (These forms will be available on the bench and completed by referees during court.)
5. This procedure applies to respondent juveniles appearing for any type of juvenile court hearing.

Ordered Youth Programs (6/21/18)

Referee(s) shall be required to utilize only approved juvenile programs from a list provided by the Juvenile Court Director.

(Approved, EC Judges Meeting 6/21/18)

ECJD Juvenile Court Intensive Supervision Program (ISP) (2/7/17)

1. The ECJD Intensive Supervision Program (ISP) is a heightened level of supervised probation that protects the community by closely supervising and motivating high risk delinquent youth to complete court ordered terms.
2. PROGRAM GOALS: To eliminate the need for secure detention and out of home placement by turning around probation noncompliance through the use of heightened supervision, one-on-one cognitive behavioral and skills programming while maintaining youth and community safety.
3. PROGRAM CRITERIA: Eligibility for the program is determined by the probation office and in general the criteria required will be:
 - a. Adjudicated delinquent youth who reside in Cass, Traill or Steele Counties; and
 - b. Youth assessed high or moderate risk on the probation screening assessment; and
 - c. Youth who are currently noncompliant with probation terms; and
 - d. At risk of placement with the Division of Juvenile Services.
4. PROGRAM COMPONENTS: The program will consist of multiple weekly contacts between the juvenile court officer and the youth, structured time, random drug and alcohol testing, cognitive behavioral and skills building sessions, and incentives and sanctions for youth behavior. The Appendix A conditions continue to apply to the youth while on ISP. (Attached is a copy of the program requirements form that will be signed by the youth and family)
5. COURT PROCESS:
 - a. Review of custody on a formal probation case is requested due to probation noncompliance.
 - b. Juvenile Court Officer files an affidavit and recommends that the youth be placed on a 30, 60 or 90 day Interim Order with participation in the Intensive Supervision Program.
 - c. Interim Order issued with a next court date set.
 - d. Juvenile Court Officer meets with youth and family after the court hearing and a signed copy of the program rules is filed in the court file.
6. PROGRAM END: Successful completion results in either return to regular probation or release from probation or all court requirements. Unsuccessful completion or compliance with the program could result in a pick up order request, detention hearing and/or placement of the youth with the Division of Juvenile Services.

INTENSIVE SUPERVISION PROGRAM

Youth: _____ File No. _____

1. **STRUCTURE:** Standard rules of probation (Appendix A) remain in full effect. No exceptions to curfew will be granted unless there is prior approval of the court officer. There will be a minimum number of face-to-face contacts between the juvenile court officer and the youth each week (probation) along with contacts with parents, school or service providers (collateral). These visits will be conducted through office visits, school visits, home visits or other approved site locations. The visits may be random or scheduled. A law enforcement officer may occasionally join the court officer on these visits.

Week	Curfew	Contacts or Check-Ins
Week 1	House arrest with GPS	3 youth / 1 collateral
Week 2	House arrest with GPS	3 youth / 1 collateral
Week 3	8:00 p.m.	2 youth / 1 collateral
Week 4	9:00 p.m.	2 youth / 1 collateral
Week 5 and until Court Hearing	As set by court officer and parents	2 youth / 1 collateral

2. **INCENTIVES:** Rewards to encourage desirable youth behavior may include: encouragement, verbal praise, reduced court officer contacts, phone contacts in lieu of office visits, extended curfew, request for court early release from ISP-S and return to regular or reduced supervision probation or any individualized identified incentive that may support and encourage the youth.
3. **SANCTIONS:** Interventions to discourage undesirable or unsafe behaviors may include: verbal admonishments, written assignments, apologies, parent/child conference, curfew restrictions, driving restrictions, community service, increased contact from court officer, day reporting, house arrest, GPS, pick up and hold, review hearing.
4. **SKILL BUILDING:** At least one visit or contact per week will involve a cognitive behavior restructuring activity or skill-building activity and an assignment. These teaching sessions will be individualized based on the youth's identified risks and needs and change to address current concerns.
5. **COMMUNICATION:** Youth and parents will sign a release of information for all service providers and also for the Division of Juvenile Services. **PARENTS/GUARDIANS:** Must timely report any violations to the juvenile court officer and assist their son/daughter in successfully completing the conditions.

We received a copy of the ISP conditions on this date: _____.

Youth

Parent/Guardian

Juvenile Court Officer

Parent/Guardian

NOTICE: The next court hearing will be held at the Cass County Annex, 1010 Second Ave S, Fargo, ND on:

Procedure for Privately Filed Juvenile Deprivation, Termination of Parental Rights and Guardianship Cases (6/23/16)

1. Commencement of Privately Filed Juvenile Court Proceeding: Petitions filed in juvenile court by someone other than a state's attorney must be reviewed by the juvenile court director or a judicial referee to determine if the filing is in the best interest of the public and the child (§27-20-20 NDCC). If a private party files a petition alleging child deprivation and requesting a termination of parental rights or the establishment of a guardianship under Chapter 27-20 (Uniform Juvenile Court Act), the intake clerk will accept the filing and detail the case file to the juvenile court (A-Juvenile Court) for review. This is the case even if the e-filer selects the "DM" or "PR" case designation, as that is not a valid rejection reason. The juvenile court will either approve or deny the approval of the petition after checking the juvenile court database for other referrals, cases or child protective services involvement.
 - a. If the petition is approved, the case is detailed to the scheduler, a guardian ad litem is appointed and a notice of right to intervene is sent to the appropriate tribe if it is apparent on the face of the filing or through prior case files with the juvenile court that ICWA applies. The case proceeds in juvenile court and both the petitioner and respondent are entitled to apply for counsel at public expense.
 - b. If the petition is not approved, the petitioner is informed in writing and the petitioner can request review by a judicial referee or district judge.
2. Procedure to Correct Case Type: If a judicial referee or judge is assigned to a civil guardianship of a child or termination of parental rights case and the initial pleadings indicate that the petitioner is requesting relief under Chapter 27-20 (Uniform Juvenile Court Act), the hearing officer assigned shall hold an initial hearing on the matter to verify the correct venue and jurisdiction of the matter and if verified that the basis of the matter is to prove deprivation by a parent or parents and request a disposition available through the juvenile court, the case is dismissed and the petitioner informed of the option to file in juvenile court.

(Approved, EC Judges Meeting 6/23/16)

ECJD Juvenile Procedure for Orders Prohibiting or Restricting Contact (4/20/2015)

1. The following paragraph will be included in the prayer for relief in each of its juvenile court petitions:

That the Court enter an order prohibiting and/or restricting said child from having contact with the victim both before and/or after final disposition in cases alleging a crime of violence or threat of violence, stalking, harassment, or a sex offense.

2. In cases in which the juvenile is in detention and a petition has not yet been prepared, the Notice of Detained Child document shall include the following language and shall be served on the child in detention and on the parents at the first detention hearing.

Please be advised that the Court may enter an order prohibiting said child from having contact with the victim both before and/or after final disposition in cases alleging a crime of violence or threat of violence, stalking, harassment, or a sex offense.

3. The court will address the issue and issue an appropriate order as authorized by N.D.C.C. § 27-20-50.
4. If granted, the Pre-Disposition Order Prohibiting Contact and/or Post-Disposition Order Prohibiting Contact will include the following language:

It is hereby ordered pursuant to N.D.C.C. 27-20-50 that the above-named child, (NAME), DOB, shall have no contact, directly or indirectly, in person or by telephone, or come within (#) yards¹ of the following person: (VICTIM NAME/DOB), residing in (TOWN),(STATE).

The child is notified 1) Willful violation of this order would be a separate criminal offense if 2) a willful violation of this order by an adult would carry a maximum penalty of one (1) year imprisonment and/or a \$2000 fine, 3) this order is enforceable in any jurisdiction, and 4) if a law enforcement officer determines there is probable cause to believe this order has been violated, then the officer shall make a warrantless arrest and place said child in a juvenile detention facility, whether or not the violation is committed in the officer's presence.

Juvenile Court is hereby directed to forthwith provide a copy of this Order to the Cass County Sheriff, the local law enforcement jurisdiction in which the protected individual resides and, if applicable, the school district(s) where the juvenile and the protected individual attend school. The State's Attorney's office shall be permitted to provide a copy of this order to (VICTIM's NAME) and parents. This order prohibiting contact remains in effect for a period of (LENGTH OF ORDER).

ICWA

ICWA Designation (6/21/18)

It is the responsibility of the State's Attorney's Office to inform the Calendar Control Clerk if a case has been determined to be an ICWA case. This may result in an Amended Scheduling Order if one is needed to meet the timelines for ICWA cases.

(Approved, EC Judges Meeting 6/21/18)

¹ The Court recognizes that if the child attends the same school as the alleged victim, it may not be possible due to class schedules to remain **more than 50 feet** away from the alleged victim at all times during school hours, **and this limit applies when necessary during school hours**. The child must still follow all other conditions of this order during school hours.

ICWA Notice of Right to Intervene (Revised 3/23/15)

1. The court will inquire on the record about ICWA for all child deprivation, termination of parental rights and unruly requesting placement cases. ICWA does not apply to delinquency cases.
2. When the court knows or has reason to believe that ICWA applies or may apply in a juvenile proceeding, the court will file and serve the Notice of Right to Intervene and flag the case in Odyssey putting the name of the tribe or tribes in the comment field of the ICWA case flag.
3. The Notice of Right to Intervene is served in the same packet as the Scheduling Order, Summons, Petition, Order Appointing Lay Guardian ad Litem and any other case initiating documents.
4. The Notice of Right to Intervene need be served only once during the pendency of each filing. The Notice of Right to Intervene need be served only once at the beginning of each proceeding. The tribe is served all legal documents throughout the life of the case so as to ensure adequate notice of all case activities is provided.
5. If there are any later changes or additions to the scheduling order, the party making the change should serve notice on all interested parties.
6. No foster care placement or termination of parental rights determinations can be conducted sooner than ten (10) days after receipt of the Notice of Right to Intervene and upon a parent, Indian custodian or tribe's request, the hearing must be continued for twenty (20) days to allow additional time to prepare for such a proceeding. (See 25 U.S.C. §1912(a)).
7. If a tribe intervenes in a case, the clerk will add the tribe on the party tab as a party type of "intervener".
8. At the start of each proceeding, the referee will note on the record whether the tribe received appropriate notice of the hearing.

State and Tribal Court Jurisdiction and Transfer

Mandatory dismissal

1. **Is the child domiciled or residing within the reservation?** If yes, and it is a non-emergency situation, State Court case to be dismissed. Tribal Court would retain exclusive jurisdiction. (25 U.S.C. Sect. 1922).

2. **Is the child a ward of Tribal Court?** If yes and it is a non-emergency situation, State Court case to be dismissed. Tribal Court would retain exclusive jurisdiction. (25 U.S.C. Sect. 1922).

Transfer

1. **Is request made by the Tribe, Parent or Indian Custodian to transfer State Court action to Tribal Court?** If yes, proceed to 2.

- a. **When must request for transfer be made?**

Requests for transfer are to be made “promptly” after receipt of notice of the proceedings. (Commentary, Bureau of Indian Affairs, Guidelines for State Courts; Indian Child Custody Proceedings, November 26, 1979).

The right to request a transfer occurs with each proceeding. The right to request a transfer is available at any stage of an Indian child custody proceeding, including during any period of emergency removal. (Regulations for State Courts and Agencies in Indian Child Custody Proceedings, 25 CFR Sect. 23.115, February 25, 2015).

- b. **How is a request for transfer made?**

Requests for transfer may be made by petition, but may also be made orally. (Commentary, Bureau of Indian Affairs, Guidelines for State Courts; Indian Child Custody Proceedings, November 26, 1979).

Parent, the Indian custodian, or the Indian child’s tribe may request, orally on the record or in writing, that the State court transfer each distinct Indian child custody proceeding to the tribal court of the child’s tribe. (Regulations for State Courts and Agencies in Indian Child Custody Proceedings, 25 CFR Sect. 23.115, February 25, 2015).

2. **Does a parent object to transfer?** If yes, matter to proceed in State Court. If no, proceed to no. 3.

3. **Does Tribe agree to accept jurisdiction?** If no, matter to proceed in State Court. If yes, proceed to no. 4.

Upon receipt of a transfer petition the State Court must promptly notify the tribal court in writing of the transfer petition and request a response regarding whether the tribal court wishes to decline the transfer. The notice should specify how much time the tribal court has to make its

decision; provided that the tribal court must be provided 20 days from the receipt of notice of a transfer petition to decide whether to accept or decline the transfer. (Regulations for State Courts and Agencies in Indian Child Custody Proceedings, 25 CFR Sect. 23.118, February 25, 2015).

- 4. Does any party wish to demonstrate there is “good cause” not to transfer the case?** If no, matter to be transferred to Tribal Court. If yes, parties may offer evidence and Court must determine whether there exists good cause NOT to transfer matter to Tribal Court.

If the Court or any party asserts that good cause to the contrary exists, the reasons for such belief or assertion shall be stated in writing and made available to the parties who are petitioning for transfer. The petitioners shall have the opportunity to provide the court with their view on whether or not good cause to deny transfer exists. (Commentary, Bureau of Indian Affairs, Guidelines for State Courts; Indian Child Custody Proceedings, November 26, 1979).

If the State court believes, or any party asserts, that good cause not to transfer exists the reasons for such belief or assertion must be stated on the record or in writing and made available to the parties who are petitioning for transfer. (Regulations for State Courts and Agencies in Indian Child Custody Proceedings, 25 CFR Sect. 23.117, February 25, 2015).

Any party to the proceeding must have the opportunity to provide the court with views regarding whether good cause to deny transfer exists. Id.

- 5.** After all evidence has been received, the Court shall issue an Order on the Motion to Transfer. If the motion for Transfer is granted, the Order shall further authorize the custodian to release the child to Tribal Authorities.

Motions

ECJD Juvenile Procedure for Juvenile Motions in Deprivation and Termination Proceedings (4/27/15)

1. When a hearing has been convened, a record shall be made.
2. During non-dispositional hearings where custody of the child(ren) is not addressed, either because there is a pre-existing order or because the child(ren) are not in out of home placement, if motions are made to the Court orally, or in written form, the Court must state its findings on the record. In addition to the oral record, a party may request a written Order of the Court. The party requesting a written order shall prepare the same for the Court’s signature.

3. The party requesting a written Order shall be responsible for service of the written order.

Orders Prepared After Court (6/21/18)

In delinquent and unruly cases, Orders are prepared during court by juvenile court staff. In deprivation and termination of parental rights cases, the referee(s) will Order the State's Attorney's office to prepare proposed orders following all hearings.

Because language in the orders dictates reimbursement of foster care dollars to the county, it is imperative the correct and complete legal language is included in the orders. As counsel for the county, the state's attorney's office is in the best position to ensure the county's interests are served.

ECJD Judges' Meeting 6/21/18

OTHER PROCEDURES

Mental Health Case Scheduling (Revised 6/1/06)

1. Mental health hearings are to be scheduled on Tuesdays and Fridays at 10:30 a.m. An attorney who represents the mental health case respondent must be present and with their client.
2. Doctors may appear by ITV for mental health hearings. (EC Judges' Meeting 9/9/10)
3. If a Petition to Treat with Medication is received simultaneously with a prelim hearing, the request to treat with medication is to be rejected. (EC Judges' Meeting 6/17/14)

Probate Guardianship and Conservatorship Annual Reports/Judicial Review (Revised 6/1/06)

Court-appointed guardians and conservators of incapacitated persons must file an annual report with the court on the anniversary of the guardianship or conservatorship order or as otherwise provided by the court. The clerk's office will track the filing of the annual reports and send notices to guardians or conservators whose annual reports are past due. If, after thirty days of this notice, the annual report has not been filed, the case will be routed to the assigned judge for review and a determination of whether an order to show cause hearing should be scheduled.

APPENDICES

Special Courtroom Procedures

1. Written plea petition – these are read very fast on the record which makes it difficult to get the entire sentence down accurately. It would be helpful if the Judge would re-state the final sentence on the record so that the Clerk gets the full sentence down accurately.
2. When SA states recommended sentence in Court, it would be helpful if the Judge would re-state the final sentence on the record so that the Clerk gets the full sentence down accurately.
3. Amended charges – must be stated on the record in order to include it on the Criminal Judgment. This is not being done consistently.
4. Sentencing one defendant with multiple cases – imposing sentence on one case at a time will make it easier for clerk to enter accurate information in each file.
5. Calling cases in court – the Clerk calls the name of the defendant, the Judge calls the name of the case. This process gives the Recorder time to pull up the case in her recording system and the Clerk to pick the case in Session Works. Judge Webb prefers not to call cases in court; therefore, the Clerk will call cases in his courtroom. All other Judges will call the cases, as stated in #5.
6. Mandatory fees – it would be helpful if each Judge would address these fees on the record (impose or waive them). When these fees are “not addressed”, Clerks do not know what to do about the mandatory fees – should we enter them when they are not addressed? If the Judge intends that the mandatory fees not be addressed, leave those fields blank – do not fill in the fees or indicate that they are waived.
7. Call next case when current case is completed – Clerk could indicate to the Judge when the record is done in the current case. Since the Clerk calls the name of the defendant in all criminal proceedings, the Clerk controls the pace at which cases are called; therefore, the Clerk should call the next case/defendant when she has completed the record on the current case.
8. If a jail sentence is imposed and the **first serve portion of that jail sentence is 12 months or less**, the commitment is to the Cass County Sheriff, even though the overall commitment is to the DORC. If the Judge wants the commitment to be to the DORC on a sentence of 12 months or less, he/she will specifically state that on the record.
9. For all Judges except Judge Irby, play the video rights prior to Preliminary Hearings.

10. The Judges will no longer authorize the tracking of criminal files. They will hear other Judges' cases, but they will not track cases together - the tracking cases are often delayed beyond their original Scheduling Order timelines or get missed if they are taken off the calendar to track with the other case(s).

Failure of Defendant to Appear when Released on a Surety Bond:

The Judge will revoke the bond and order it forfeited at the time of the missed hearing; a bench warrant will be issued.

1. Provide the Judge with the Order and Notice Forfeiting Bond to Court for e-signature.
2. Once signed, event as an Order with description in comments; issue the bench warrant.
3. Scan.
4. Send the bondsman, bond agency, and surety a copy of the Order and Notice of Forfeiting Bond to Court, as required in N.D.R.CR.P 46(f)(1)(B).
5. Complete an Affidavit of Mailing to document that the bondsman, bond agency, and surety were sent the Order and Notice of Forfeiting Bond to Court.
6. Event as Service Document.
7. Scan.
8. Add a Time Standard for 90 days from the date of the Order and Notice of Forfeiting Bond to Court.
9. Click on the financial tab.
10. Click on the fines/fees.
11. Click on the red dollar sign.
12. Click on the plus sign.
13. Select criminal bond forfeiture State.
14. Enter the amount of the bond ordered forfeited.
15. Click finish and save.

If the bond is not paid within 90 days, provide copy of the Order and Notice of Forfeiting Bond to Court, Affidavit of Mailing, copy of the Bond and Power of Attorney, along with the proposed Notice of Suspension from Writing Bonds to the Presiding Judge. Upon the filing of these documents, the bondsman and bond agency will be suspended from writing bonds in North Dakota for a minimum of 30 days, pursuant to N.D.R.Cr.P. 46(e)(2) – provide the bondsman, bond agency, local law enforcement, and jail with a copy of the Notice of Suspension from Writing Bonds.

Upon payment of the bond, notify the Presiding Judge by e-mail that bond has been paid in full – scan your e-mail into Documents for the record. Suspension will continue for a period of 30 days from the date the principal amount of the bond was paid to the Clerk (N.D.R.Cr.P. 46(e)(2)).

Set a time standard for 30 days to reinstate the bondsman and bonding agency. At the end of the 30 days, provide a copy of the proposed Notice of Reinstatement for Writing Bonds to the Presiding Judge for signature – provide the bondsman, bond agency, local law enforcement, and jail with a copy of the Notice of Reinstatement for Writing Bonds.

Receipt for the forfeited bond when received by clicking on the green dollar sign and entering the receipt information.

If bond is ordered revoked but not forfeited by the Judge, don't enter on the bond tab as revoked until actually forfeited.

Rights Advisory - Script for Juvenile Delinquency or Unruly Hearings

Good Day. You will shortly be appearing before the Court in a formal juvenile proceeding.

In regard to this and all subsequent hearings in this court, you have rights including the following:

1. You have the right to have reasonable notice of the proceedings.
2. You have the right to understand the charge or charges being brought against you – to be informed of the contents of the petition or other pleadings including supporting affidavits.
3. You have a right to have a copy of the petition, and to have it read to you if necessary.
4. You have the right to admit to the charge or deny the charge.
5. You, the juvenile, cannot be compelled to testify against yourself.
6. You have the right to the assistance of an attorney before making any statement or answering any questions in court proceedings.
7. You have the right to be represented by an attorney at each stage of these court proceedings. If you cannot afford a lawyer, one may be appointed at public expense. If a lawyer is appointed, you may be required to reimburse the state for any fees or expenses paid. Pursuant to North Dakota law, a lawyer must be provided for a child not otherwise represented. If the interests of two or more parties conflict, counsel must be provided for each of them.
 - a. If you are the parent, guardian, or custodian of a child alleged to be delinquent or unruly, your right to separate court-appointed counsel, is limited to the dispositional phase of the proceedings.
8. You have the right to confront and cross-examine a witness who testifies against you. You have a right to subpoena witnesses for the purpose of testifying on your behalf.

The burden of proof is upon the state to establish the elements alleged in delinquent or unruly matters by proof beyond a reasonable doubt.

9. You have the right to deny the allegations or charges of the petition, or to persist in a denial if it has already been made.
10. You have the right to make an admission, and you should be aware that if you enter an admission, there will be no trial on the allegations admitted. By admitting, you waive the right to a trial as well as the right to confront witness who would have testified against you. You also waive your right to remain silent.
11. You have the right to be informed of the treatment, training, and rehabilitative disposition possibilities and length of time a dispositional order may be made. If you admit or are found to have committed the offense alleged:
 - You may be placed on probation with certain conditions as set by the court;
 - You may be ordered to pay a fine if the offense involved vehicular manslaughter, negligent homicide or driving or being in actual physical control of a motor vehicle while under the influence of drugs or alcohol;

- You may be ordered to pay restitution to the victim or perform community service;
- You may be ordered to report for periodic testing for the use of illicit drugs or alcohol;
- You may be ordered to participate in a juvenile drug court program;
- You may be placed in the custody of the State Division of Juvenile Services for appropriate placement or with the county social services agency. If you are placed in the custody of the Division of Juvenile Services your placement may include a secure facility such as juvenile detention or the N.D. Youth Correctional Center in Mandan but only if the offense committed would be a crime if committed by an adult.

12. You have the right to appeal a decision of this court.

The judicial referee or judge will inquire whether you understand these rights. If you have any questions regarding your rights, ask your attorney before the hearing or ask the judicial referee or judge during your hearing.

It is the responsibility of each party to provide any change of address or other contact information to the court.

Juvenile proceedings are closed to the public; therefore, your case will be called individually.

Rights Advisory - Script for Detention or Shelter Care Hearings

Good day. The purpose of this detention or shelter care hearing is to determine if further detention or shelter care is required for the child.

I am authorized to continue detention or shelter care if I determine that there is probable cause to believe that the child is an unruly or delinquent child or a deprived child and if such detention or shelter care is necessary to protect the person or property of others or of the child or because the child may abscond or be removed from the jurisdiction of the court or because there is no parent, guardian or other custodian able to provide for the supervision and care for that child and to return the child to the court when required for further proceedings.

Before we begin, I wish to inform you that the following rights apply:

1. You have a right to have a lawyer represent you. If you cannot afford a lawyer, one may be appointed at public expense. If a lawyer is appointed, you may be required to reimburse the state for any fees or expenses paid. Pursuant to North Dakota law, a lawyer must be provided for a child not otherwise represented. If the interests of two or more parties conflict, counsel must be provided for each of them. If you wish to apply for court-appointed counsel, the parents will have to fill out a financial statement.
 - a. Please note that if you are the parent, guardian, or custodian of a child alleged to be delinquent or unruly, your right to separate court-appointed counsel, is limited to the dispositional phase of the proceedings which does not include the detention or shelter care hearing taking place today.
2. You have the right to have a hearing on the issue of whether or not further detention or shelter care is necessary.
3. The child has a right to remain silent concerning any allegations of delinquency or unruly conduct made against the child.

The judicial referee or judge will inquire whether you understand these rights. If you have any questions regarding your rights, ask your attorney before the hearing or ask the judicial referee or judge during your hearing.

It is the responsibility of each party to provide any change of address or other contact information to the court.

Juvenile proceedings are closed to the public; therefore, your case will be called individually.

Rights Advisory - Script for Juvenile Deprivation Hearings

Good Day.

You will shortly be appearing before the Court in a formal juvenile court proceeding. In regard to this and all subsequent hearings in this court, you have rights including the following:

1. You have the right to have reasonable notice of the proceedings.
2. You have the right to be informed of the contents of the petition or other pleadings including supporting affidavits.
3. You have a right to have a copy of the petition, and to have it read to you if necessary.
4. You have the right to admit to the allegations in the petition or deny the allegations.
5. You have the right to the assistance of an attorney before making any statement or answering any questions in court proceedings.
6. You have the right to be represented by an attorney at each stage of these court proceedings. If you cannot afford a lawyer, one may be appointed at public expense. If a lawyer is appointed, you may be required to reimburse the state for any fees or expenses paid. Pursuant to North Dakota law, a lawyer must be provided for a child not otherwise represented. If the interests of two or more parties conflict, counsel must be provided for each of them.
7. You have the right to confront and cross-examine a witness who testifies against you. You have a right to subpoena witnesses for the purpose of testifying on your behalf.

The burden of proof is upon the state to establish the allegations in the petition and prove those allegations by clear and convincing evidence that the children are deprived.

8. You have the right to deny the allegations contained in the petition, or to persist in a denial if it has already been made.
9. You have the right to make an admission, and you should be aware that if you enter an admission, there will be no trial on the allegations admitted. By admitting, you waive the right to a trial as well as the right to confront witness who would have testified against you.
10. You have the right to be informed of the disposition possibilities and length of time a dispositional order may be made. Any of the following outcomes that is best suited to the protection and physical, mental and moral welfare of the child or children may be made:
 - a. Permitting the child to remain with the parents, guardian or other custodian subject to conditions and limitations as set by the court;
 - b. Transferring the child's temporary custody to an agency or director of county social services or other public agency authorized by law to receive and provide case for the child;
 - c. Transferring the custody of a child to the juvenile court of another state if authorized by the law (NDCC Section 27-20-39) and if the child is about to become a resident of that state;
 - d. Requiring the parents, guardian or other custodian to participate in treatment;
 - e. Appointing a fit and willing relative or other appropriate individual as the child's legal guardian; or

- f. In cases where compelling reasons have been shown that it is not in the child's best interests to return home, to have parental rights terminated, be placed for adoption, be placed with a fit and willing relative or be placed with a legal guardian or establish some other planned permanent living arrangement.
11. You have the right to appeal a decision of this court.

If this matter concerns an Indian child as defined by law and involves the potential removal of custody from an Indian parent or Indian custodian where the Indian parent cannot have the child returned upon demand, the tribe, the Indian parents and Indian child must be also informed of their rights under the Indian Child Welfare Act.

It is the responsibility of each party to provide any change of address or other contact information to the court.

The judicial referee or judge will inquire whether you understand these rights. If you have any questions regarding your rights, ask your attorney before the hearing or ask the judicial referee or judge during your hearing.

Juvenile proceedings are closed to the public; therefore, your case will be called individually.

Order Regarding Physical Restraints

STATE OF NORTH DAKOTA

IN JUVENILE COURT

COUNTY OF CASS

EAST CENTRAL JUDICIAL DISTRICT

In the Interest of _____, a child. File No.

The above entitled matter came on for hearing before the undersigned on _____.

Present in Court were:

- a. _____, the minor child.
- b. _____, the child's parent(s).
- c. _____, State's Attorney
- d. _____, Juvenile Court Officer
- e. _____, Other interested persons.

_____ has made a request of the Court that the minor child be physically restrained within the Courtroom.

The Court having considered the request and evidence provided hereby makes the following:

FINDINGS AND ORDER

A. The Court has considered the following factors and makes the following Findings:

- 1. The child's juvenile record:
- 2. The juvenile's temperament:
- 3. The desperateness of the situation:
- 4. The security situation in the courtroom and courthouse:
- 5. The juvenile's physical condition:
- 6. Are there adequate means of providing adequate security through less prejudicial means:

B. The request for the use of physical restraints within the Courtroom is hereby:

- 1. Granted ___ Denied _____

Referee

Form: Appendix A—For Youth Under 18 (Approved EC Judges' Meeting 6/23/16)

IN THE INTEREST OF _____, A CHILD (DOB: _____)

FILE NO. _____

**APPENDIX A:
Conditions for Disposition to Juvenile Probation
Pursuant to the Order of the Court**

The Respondent child has been placed under the supervision and case management of the North Dakota Juvenile Court. The Court has ordered the above-named juvenile to cooperate with probation services and programming as decided by the Juvenile Court Officer.

General Conditions and Limitations of Probation Supervision

The Respondent Child shall:

1. Obey all State, Federal, and City laws and all reasonable and lawful commands of the child's parent, guardian, or other custodian. This includes but is not limited to coming home to the parent/guardian/custodian's home each night at a time set by parent or court officer, unless granted permission from the parent/custodian and court officer for other arrangements.
2. Remain in contact with the assigned juvenile court officer and attend all visits/appointments as requested.
3. Report all changes of home address and phone numbers immediately.
4. Obtain permission before leaving the State of North Dakota for more than 24 hours in order to secure any necessary travel permits.
5. Abstain from possessing or using any alcohol or non-prescribed medications or controlled substances.
6. Submit to drug or alcohol testing as requested by the juvenile court officer and not willfully defraud a drug or alcohol test. The child has the right to refuse testing. A refusal will be considered a positive test for purposes of developing a treatment plan. (See Rule 18(d) of the N.D.Rules of Juv Pro)
7. Cooperate with completion of the YASI and MAYSI screening assessments.
8. Sign all necessary releases of information as requested.
9. Undergo any or all of the following agreed-to community constraints and conditions as intermediate measures of juvenile probation to avoid revocation/review/extension under N.D.C.C. § 27-20-37(2):
 - a. Written assignment – Complete a writing assignment or booklet
 - b. Class/Program/Evaluation – Attend and complete a class/program/evaluation
 - c. Community Service – Complete up to 20 hours of uncompensated hours worked within the community
 - d. Day Reporting – Report to the probation office daily for up to 30 days
 - e. Curfew – As set by court officer for up to 180 days
 - f. Home detention – Required to be at home/school only, for up to 14 days

The above conditions of probation have been read and explained to me and I fully understand each one. I intend to follow the foregoing conditions. I understand that failure to follow any one or more of those conditions may result in a revocation of the probation. I have received a copy of this document.

Probationer

Date

Parent/Guardian

Date

IN THE INTEREST OF _____, A CHILD (DOB: _____)

FILE NO. _____

**APPENDIX A for 18+ Youth:
Conditions for Disposition to Juvenile Probation
Pursuant to the Order of the Court**

The Respondent child has been placed under the supervision and case management of the North Dakota Juvenile Court. The Court has ordered the above-named juvenile to cooperate with probation services and programming as decided by the Juvenile Court Officer.

General Conditions and Limitations of Probation Supervision

The Respondent Child shall:

1. Obey all State, Federal, and City laws.
2. Remain in contact with the assigned juvenile court officer and attend all visits/appointments as requested.
3. Report all changes of home address and phone numbers immediately.
4. Obtain permission before leaving the State of North Dakota for more than 24 hours in order to secure any necessary travel permits.
5. Abstain from possessing or using any alcohol or non-prescribed medications or controlled substances.
6. Submit to drug or alcohol testing as requested by the juvenile court officer and not willfully defraud a drug or alcohol test. The child has the right to refuse testing. A refusal will be considered a positive test for purposes of developing a treatment plan. (See Rule 18(d) of the N.D. Rules of Juv Pro)
7. Cooperate with completion of the YASI and MAYSI screening assessments.
8. Sign all necessary releases of information as requested.
9. Undergo any or all of the following agreed-to community constraints and conditions as intermediate measures of juvenile probation to avoid revocation/review/extension under N.D.C.C. § 27-20-37(2):
 - a. Written assignment – Complete a writing assignment or booklet
 - b. Class/Program/Evaluation – Attend and complete a class/program/evaluation
 - c. Community Service – Complete up to 20 hours of uncompensated hours worked within the community
 - d. Day Reporting – Report to the probation office daily for up to 30 days
 - e. Curfew – As set by court officer for up to 180 days
 - f. Home detention – Required to be at home/school only, for up to 14 days

The above conditions of probation have been read and explained to me and I fully understand each one. I intend to follow the foregoing conditions. I understand that failure to follow any one or more of those conditions may result in a revocation of the probation. I have received a copy of this document.

Probationer

Date

Parent/Guardian

Date

Form: Prima Facie Finding for Modification of Primary Residential Responsibility (Approved EC Judges via email 5/22/18)

IN DISTRICT COURT, COUNTY OF CASS, STATE OF NORTH DAKOTA.

	Plaintiff,
vs.	
	Defendant.

File No. 09-2018-_____

**FINDING OF PRIMA FACIE CASE
MODIFICATION OF PRIMARY
RESIDENTIAL RESPONSIBILITY
AND
ORDER FOR HEARING**

[1] Pursuant to N.D.C.C. § 14-09-06.6 the Plaintiff served and filed moving documents seeking modification of a custody order.

[2] The responding party: (Check one)

- Did not file a response or opposing affidavits.
- Filed a response and opposing affidavits.

[3] The Court, having considered the submissions of the parties finds that the moving party has established a prima facie case justifying modification. The moving party is to notice the matter for evidentiary hearing.

[4] The parties will prepare a joint exhibit list in a form acceptable to the Court. The parties will cooperate in entering into a stipulation indicating:

- A. Any exhibits (identified by exhibit number) which may be received into evidence;
- B. Any exhibits (identified by exhibit number) as to which foundation is stipulated. The

stipulation and the exhibit list are to be filed with the clerk at least two business days before the evidentiary hearing commences.

[5] Each party will pre-mark all the party's exhibits using labels with a white background only. No duplicate exhibits or duplicate exhibit numbers will be permitted. All exhibits must be consecutively numbered. For example, Plaintiff exhibits may be 1 to 100. Defendant would start marking its exhibits with 101. The parties should not file exhibits prior to the hearing but must provide a courtesy copy of all pre-marked exhibits to the Court prior to the commencement of the hearing. A party will number any multi-page exhibit that is not already numbered, or otherwise structured in a manner that makes it easy to find or reference a specific portion of the exhibit.

[6] The parties should refrain from including personal information, as defined by Rule 3.4 of the North Dakota Rules of Court, in filings submitted to the Court, except when required by law.

When personal information is included in a filing or attachment, only the last four digits of the number may be used. Parties will redact their exhibits prior to making them to comply with this provision.

[7] Any requests to refer the matter to State mediation must be made by filing a stipulation and proposed order. Any mediation must be completed prior to the date set for evidentiary hearing.

Dated this _____ day of _____, 2018.

BY THE COURT:

Hon. Frank L. Racek
Presiding District Court Judge