

STATE OF NORTH DAKOTA

IN JUVENILE COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

IN THE INTEREST OF _____, DOB _____, A CHILD.

_____)	
_____)	
_____)	Case No. _____
_____)	
_____)	

FINDINGS OF FACT AND ORDER APPOINTING EMERGENCY GUARDIAN(S)

1. A hearing regarding the petition for appointment of _____ as Emergency Guardian/Co-Guardians of the child in the above-entitled matter was held before the Honorable _____ at the _____ County Courthouse, _____ (city), North Dakota on _____ at _____ (time).

2. The following persons appeared personally at the hearing:

- | | |
|----------------------------|---------------------------------|
| Petitioner: | Petitioner’s Lawyer: |
| Co-Petitioner: | Co-Petitioner’s Lawyer: |
| Child: | Child’s Lawyer: |
| Parent: | Parent’s Lawyer: |
| Parent: | Parent’s Lawyer: |
| Proposed Guardian: | Proposed Guardian’s Lawyer: |
| Child’s Guardian ad Litem: | Guardian ad Litem’s Lawyer: |
| Tribal Representative: | Tribal Representative’s Lawyer: |
| Interpreter for | |
| Other: | |
| Other: | |

3. Based on the record in this matter, the Court finds:

FINDINGS OF FACT

4. **Jurisdiction and Venue:** This court has jurisdiction under Section 27-20.1-02 of the North Dakota Century Code (N.D.C.C.); and this is the proper venue because:

The Petition did not allege the child is in need of protection and the child resides in this County.

The Petition alleged the child is in need of protection and:

The child was present in this County when this proceeding commenced.

The child resided in this County for the majority of 30 days prior to the date the need for protection occurred.

The alleged need for protection occurred in this County.

5. **Notice of Emergency Guardianship Proceedings:** The Notice of Hearing and Petition for Emergency Guardianship were properly served as required by N.D.C.C. Section 27-20.1-18(3) and Rule 6 of the North Dakota Rules of Juvenile Procedure.

6. _____ failed to appear, was properly served under Rule 6 of the North Dakota Rules of Juvenile Procedure and is found to be in default.

7. **Child's Information:** The child's full legal name is _____.

The child resides at _____

_____. The child's telephone number is: _____.

8. The child's birthdate is _____ and the child is currently _____ years of age.

9. The child currently resides with _____.

10. **Child's First Parent Information:**

Name: _____

This parent is the child's:

Mother by birth, adoption, or other court order/judgment.

Father. He is known to be alleged to be, or presumed to be the child's father.

Last known address _____

and Telephone number(s) _____.

11. **Child's Second Parent Information:**

Name: _____

This parent is the child's:

Mother by birth, adoption, or other court order/judgment.

Father. He is known to be alleged to be, or presumed to be the child's father.

Last known address _____

and Telephone number(s) _____.

12. **Additional Alleged, Presumed Father(s) Information:**

There are no more alleged or presumed fathers of the child.

There are more alleged or presumed fathers of the child, as follows:

The child's **alleged** or **presumed** father is _____.

Last known address _____

and Telephone number(s) _____.

The child's **alleged** or **presumed** father is _____.

Last known address _____

and Telephone number(s) _____.

13. **Compliance with the Procedures of Chapter 27-20.1** of the North Dakota Century Code (N.D.C.C.) will likely result in substantial harm to the child's health, safety, or welfare, based on the following findings:

14. There is probable cause to believe that the following provision of Section 27-20.1-11(1) of the North Dakota Century Code (N.D.C.C.) is met (*Paragraph 14 continues on next page*):

- All parents are deceased, or parents' parental rights were terminated by previous court order, and there is no appointment of a guardian by will.
- The District Court transferred the case without appointment of a guardian because the testamentary guardian failed to accept the appointment of guardian under N.D.C.C. Chapter 30.1-27.
- The District Court transferred the case without appointment of a guardian upon the filing of an objection to the appointment under N.D.C.C. Chapter 30.1-27.
- All parents consented in writing by affidavit.

The child is a child in need of protection as defined by Section 27-20.1-01(3) of the North Dakota Century Code (N.D.C.C.) based on the following findings:

15. **Best Interest of the Child:** There is probable cause to believe that the emergency appointment of a guardian/co-guardian(s) is in the child's best interests based on the following findings:

16. **Emergency Guardian/Co-Guardian(s) Information:** _____
_____ is/are a fit and willing person(s) to be appointed Emergency
Guardian/Co-Guardian(s) under N.D.C.C. Chapter 27-20.1 based on the following findings:

ORDER

IT IS ORDERED, ADJUDGED, AND DECREED that:

17. _____ is/are appointed Emergency
Guardian/Co-Guardian(s) of the child.

18. The Emergency Guardian/Co-Guardian(s) address is _____
_____.

The Emergency Guardian/Co-Guardian(s) telephone number(s) and email address(es) are _____
_____.

19. The Letters of Emergency Guardianship shall issue, take effect immediately and expire ____
_____.

20. **Powers and Duties of Emergency Guardian/Co-Guardian:** The guardian/co-guardian shall have the powers and duties conferred under Chapter 27-20.1 of the North Dakota Century Code (N.D.C.C.). (*Paragraph 20 continues on next pages.*)

a. When neither parent is alive, OR every living parent's parental rights have been terminated by court order, the guardian has the following rights:

- i. The right to the physical custody of the minor and the right to determine the nature of the care, placement, and treatment of the child, including ordinary medical care as well as medical or surgical treatment for a serious physical condition or illness which in the opinion of a licensed physician requires prompt treatment, except for any limits the court may impose.
 - ii. The right and duty to provide for the care, protection, training, and education and the physical, mental, and moral welfare of the child, subject to the conditions and limitations of the order and to the remaining rights and duties of the child's parents.
 - iii. The authority to consent to the minor's adoption, marriage, and enlistment in the armed forces of the United States.
- b. A guardian is not liable to third persons by reason of the parental relationship for acts of the minor.
- c. The guardian must take reasonable care of the minor's personal effects and commence protective proceedings if necessary to protect other property of the minor.
- d. The guardian may receive money payable for the support of the minor to the minor's parent, guardian, or custodian under the terms of any statutory benefit or insurance system, or any private contract, devise, trust, conservatorship, or custodianship.
 - i. The guardian may receive money or property of the minor paid or delivered by virtue of Section 30.1-26-03 of the North Dakota Century Code (N.D.C.C.). Any

sums received must be applied to the minor's current needs for support, care, and education.

- ii. The guardian must exercise due care to conserve any excess sum for the minor's future needs unless a conservator has been appointed for the estate of the minor, in which case the excess sum must be paid over at least annually to the conservator. Sums so received by the guardian are not to be used for compensation for the guardian's services except as approved by order of the court or as determined by a duly appointed conservator other than the guardian.
- iii. The guardian may not use funds from the minor's estate for room and board that the guardian or the guardian's spouse have furnished to the minor unless a charge for the service is approved by order of the court made upon notice to at least one of the minor's next of kin, if notice is possible.
- iv. A guardian may institute proceedings to compel the performance by any person of a duty to support the minor or to pay sums for the welfare of the minor.
- e. The guardian has the authority to facilitate the minor's education, social, or other activities.
- f. The guardian has the authority to authorize medical or other professional care, treatment, or advice. A guardian is not liable by reason of this consent for injury to the minor resulting from the negligence or acts of third persons unless it would have been illegal for a parent to have consented.

g. The guardian shall inform the court of any change in the minor's residence within thirty days of the change, but must seek prior authorization of the court to establish or move the minor's residence outside of the state.

h. In determining what is in the minor's best interest, the guardian shall take into account the minor's preferences to the extent actually known or reasonably ascertainable by the guardian.

i. To the extent reasonable, the guardian shall delegate to the minor responsibilities for decisions affecting the child's well-being.

j. The guardian may not delegate authority as a guardian under a power of attorney without prior approval from the court.

21. **Interested Persons:** The following are interested persons for the purposes of Chapter 27-20.1 of the North Dakota Century Code (N.D.C.C.):

22. **This Order is effective immediately and expires 60 days from the date of the hearing.**

23. **NOTICE OF RIGHT TO REVIEW JUDICIAL REFEREE FINDINGS AND ORDER: You are hereby given notice of your right to review of a Judicial Referee's Findings and Order by a District Court Judge. To request a review, you must file a written request stating the reasons for the review within SEVEN DAYS after service of this notice upon you.**

24. **NOTICE OF RIGHT TO APPEAL TO SUPREME COURT:** You are hereby given notice of your right to appeal this order appointing an emergency guardian to the North Dakota Supreme Court, within SIXTY DAYS from the date of service of this order upon you.

25. **NOTICE OF RIGHT TO SEEK MODIFICATION OR TERMINATION OF EMERGENCY GUARDIANSHIP:** You are hereby given notice of your right to seek modification or termination of this emergency guardianship at any time.

Judge/Judicial Referee