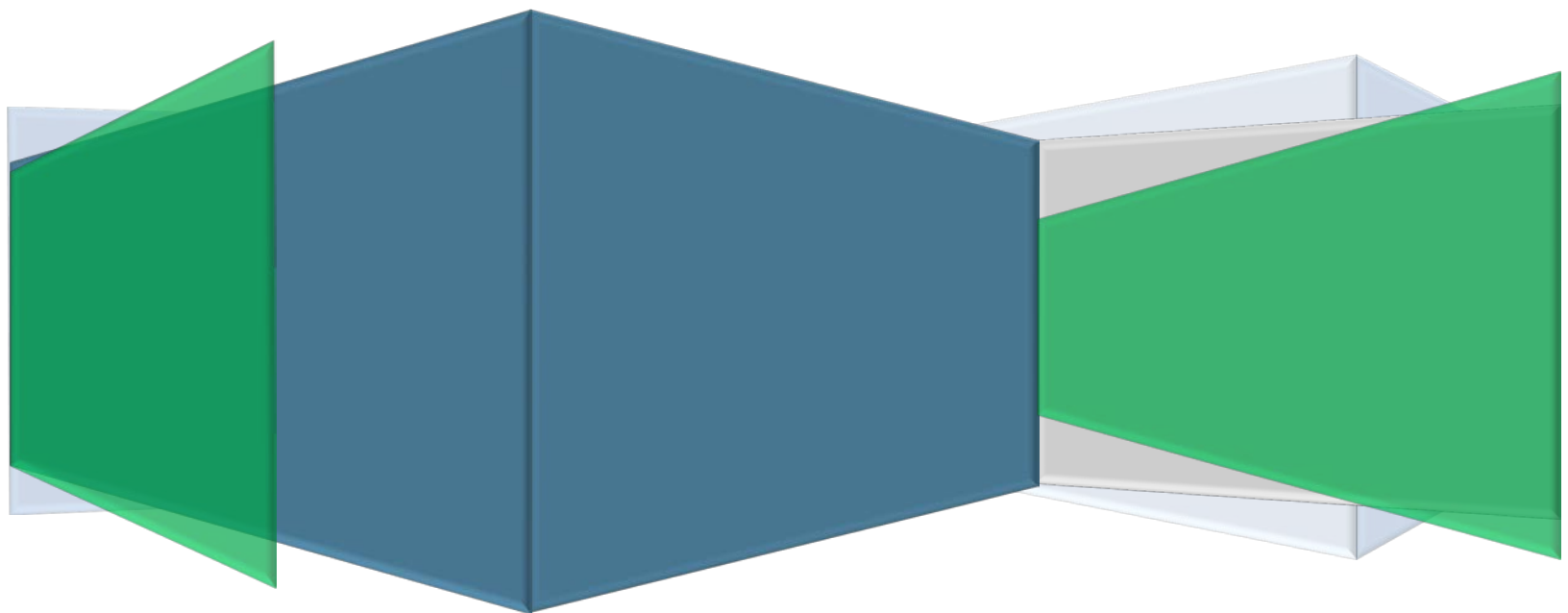


State of North Dakota Juvenile Court Best Practice Manual

February 5, 2020



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II. Introduction

A. Description

The material in this document is to serve as a guide to understanding and carrying out business practice decisions made in juvenile court as authorized in Chapters 27-20 and 27-20.1 of the North Dakota Century Code, the North Dakota Rules of Juvenile Procedure as well as the policy and practice decisions made by the Directors of Juvenile Court Services, the Juvenile Policy Board, the State Court Administrator and the North Dakota Supreme Court.

B. Purpose

The purpose of this document is to empower the user with the necessary information to complete specific work functions at the North Dakota Juvenile Court. This manual assumes the user is familiar with general principles of modern juvenile court practice, community probation, child welfare and adolescent development.

C. Mission

The juvenile court protects the best interests of children and addresses the unique characteristics and needs of children that come before the court as deprived, unruly and delinquent matters. Following the principles of Balanced and Restorative Justice, the mission of the North Dakota Juvenile Court is to promote public safety, hold child offenders accountable, and increase the capacity of children to contribute productively to their community. The courts empower victims, encourage community participation, and support parental responsibility.

D. Manual Committee

The Best Practices Manual shall be maintained by an ad hoc committee made up of one representative from each unit and updated on a yearly basis. The committee must have at least one representative from each court administration unit and the chair will be a director of juvenile court, selected by the directors. All submissions for changes, additions or update are submitted to the chair of the committee by June 1 of each year. The committee would meet in June and July and have the manual updated by August 1 of each year. Committee members are responsible for gathering the input and suggestions of juvenile court staff in their unit and bringing it to the committee meetings for feedback and consideration. The manual is available on-line and orientation to the manual is provided to all new juvenile employees by either a member of the committee or a juvenile court director. All juvenile court employees will review the manual on an annual basis and sign an acknowledgement placed on file with their supervisor. A copy of the acknowledgement form is in the Appendix.

III. Definitions

A. Best Practices

For the purposes of this manual, “best practices” are the optimal and preferred method of operation of the North Dakota Juvenile Court.

B. Dual Status Youth

Youth with an “open assessment” or “services required” finding at child protection services and an unruly or delinquent referral to juvenile court.

C. File

For the purposes of this manual, “file”, unless specifically referred to as the “Odyssey case file”, means the working file and related documents as kept by the juvenile court office staff in either paper or electronic formats.

D. Non-Secure Custody / Non-Secure Placement

A non-secure facility is defined as a residential facility which 1) does not include construction feature designed to physically restrict the movements and activities of children who are in custody; and 2) the facility may establish reasonable rules restricting entrance to and egress from the facility; and 3) the movements and activities of individual residents may, for treatment purposes, be restricted or subject to control through the use of intensive staff supervision. In North Dakota, this would include all treatment placements with the exception of the North Dakota Youth Correctional Center in Mandan.

E. Recidivism

Youth under community supervision (formal and informal) for a delinquent offense that either admit or are adjudicated/convicted within three years of supervision closure/termination and youth under community supervision that are placed with an agency within three years of supervision closure/termination. (Note that this does not include referrals disposed of by diversion).

F. Secure Custody / Secure Placement

A secure custody or secure placement is any secure public or private facility for the lawful custody of adjudicated delinquent children who pose a high risk to the community. In North Dakota, the Youth Correctional Center in Mandan is the only secure placement. Detention is a secure setting that is used pre-adjudication and not authorized by statute or policy as a placement.

IV. Files and CMS Database Referral Entry

A. Delinquent / Unruly Referrals

Referrals should be entered in the juvenile court case management system (CMS) should be entered as soon as possible, but no later than five business days from when the referral comes into the office with the exception that in-custody referrals should be entered the same day. When a referral with multiple charges is received for an offender, the charges shall be listed as one new referral in CMS (i.e., count 1, 2, 3 etc.) with the most serious offense listed as count one. Additional referrals

received shall be entered as a new referral, unless they will be disposed of at one time. Once a referral has been entered in CMS, it should be given to the supervising court officer for a determination on how to proceed or disposed of as per previously established criteria for that particular offense. Once disposition has been completed, "Count 1" may need to be renumbered to be the most serious count that resulted in the disposition. The preferred method is to utilize the disposition workflow.

B. Deprivation Referrals

Services Required referrals from social services which are information only or request no action, require entry into CMS (Charge #630 – 960 Filed – Information Only). If there is an existing file on the child who is the subject of the report, the child protection information or progress reports are placed into that child's file for information purposes only. If there is no existing file, the services required/no action requested referral is either placed into a new file or scanned and placed in a unit folder. The referral is destroyed per the records retention policy.

Deprivation referrals requesting court action are only handled via the petition process. If court action is requested, the matter is referred to the state's attorney for possible petition. Referrals should be entered in the juvenile court case management system (CMS) as soon as possible, but no later than five business days from when the referral comes into the office with the exception that in-custody referrals should be entered the same day. Deprivation, termination of parental rights, continued foster care (18+) referrals, and private guardianships filed under Chapter 27-20.1 are assigned to a juvenile court officer III or director while the case is pending and the assigned staff person is responsible for filing any necessary child abuse and neglect reports, monitoring time standards, and data entry.

C. CMS Entry of Other Referral Types

Judicial Bypass Cases:

Judicial bypass referrals, referred to the juvenile court under 14-02.1-03.1 NDCC, are not entered into CMS but are immediately directed to the juvenile director or supervising court officer for a determination on how to proceed. Time is critical and all proceedings must be kept confidential and the identity of the minor protected. Parental notification requirements under chapter 27-20 are not applicable to these proceedings. All applications must be heard by a judge or referee within forty-eight hours of receipt of the application, excluding Saturdays or Sundays. No paper file is kept in the juvenile court office and the Odyssey file is the file of record.

Juvenile Guardianship of Minor Child Cases:

Juvenile guardianships filed under Chapter 27-20.1, or transferred into Juvenile Court from a civil probate file, are entered in CMS within five working days and assigned to the juvenile court director or a designee. Guardianships transferred in to juvenile court are entered in CMS using the date we receive the transfer as the "date received" and "date of offense" and the "date of disposition" as the date the juvenile court resolves the current activity. Typically notice of the filing of these cases will come to the juvenile office by way of an Odyssey event code (case filed) or case detail report.

Juvenile guardianship "order to show cause" (OTSC) for failing to file the annual report, are not entered into CMS as a "referral" but the case assigned to the juvenile director or designee for

purposes of following and monitoring the OTSC process. See the Ch. 27-20.1 Guardianship section for further information.

QRTP Review Cases:

Requests for a juvenile court director review of a child's placement in a qualified residential treatment program (QRTP) are not entered in CMS as referrals. Rather, the case is assigned to the juvenile court director or designee for purposes of the court review. (See 27-20-06(1)(k) and Rule 18.1 of the N.D.R.J.P.) Documents related to the request can be placed into the physical file already in existence, but note that if the documents are available in Odyssey, there is no reason or requirement to print them out for filing into the paper office file. QRTP reviews can occur in deprived, delinquent or unruly case types.

D. Files

A physical file should be established for each child referred to the juvenile court for delinquent or unruly behavior. Physical files may be created for deprivation and juvenile guardianship cases filed under Chapter 27-20.1 at the discretion of the unit juvenile court director (note that Odyssey contains all of the filed deprivation documents). Physical files and CMS records are not created for judicial bypass cases.

The file should indicate the child's last name, first name, date of birth and CMS individual unique identifier (MNI) number. A visible and distinct indicator must be included on files that fall under the sex offense or offender against a child category. The case is appropriately flagged with in CMS and remains flagged for the life of the case.

Maintenance of Physical Case Files: Formal and informal activity should be separated within the file. Each formal case or informal referral may be separated with some sort of divider, i.e. tab or a colored sheet. Any program requirements, completion information, dispositions or updates of any kind should be entered into CMS within 10 working days upon receipt of information by a court officer or administrative assistant, and an updated CMS history sheet put in the file. To accurately track which agencies are named in a file, a colored agency sheet may be placed in the file upon creation. As agencies are named in a file that sheet shall reflect that contact for ultimate notification upon final destruction. (See §27-20-54 N.D.C.C.) In state courtesy supervision files should be retained as per the original juvenile court working file policy.

Storage of Physical Files: Files should be stored in a secure area that is not readily accessible to the public. All files should be secured in the absence of juvenile court staff regardless of whether the files are kept in individual offices or a central area. Microsoft Word should be used for word processing as it is compatible with CMS for purposes of creating and maintaining an electronic file. Working files should only be removed from the office by a juvenile court employee for the purposes of attending court, conducting informal adjustments and child visits. The file should be returned to the office within 24 hours or the next working day.

Destruction of Physical Files: Pull files of all children who have turned 18, completed all requirements, and have no pending action, with the exception of juvenile drug court files which are retained until two years after drug court graduation, termination from drug court, or age 18, whichever is later. Files with formal orders must be retained until the expiration of the order.

Files with only informal activity or expired formal orders are to be destroyed after the child's 18th birthday. The requirements for retaining juvenile court records as set out in the North Dakota Century Code and Administrative Rule 19 shall be adhered to regarding "working files" of the juvenile court. Under to N.D.C.C. § 27-20-54(2), the juvenile court shall notify required agencies named in the file or record of the file's destruction. Send a Memorandum of Destruction of Juvenile Court Records to all named agencies.

Early Destruction: Children with a juvenile court record can request early destruction of records (physical or electronic) via Rule 19(d) of the North Dakota Rules of Juvenile Procedure. Note that the rule requires that the state's attorney be notified of such a request. Upon the granting of a request for early destruction, juvenile court staff shall submit an IT support call ticket requesting that the name and any identifying information be purged from the electronic database but that the statistical information is maintained. All paper documents in the working physical file should be destroyed as directed by the order. The clerk of court should be notified if the court orders that the Odyssey record be sealed or destroyed.

Records Retention of Sex Offense Cases: Under the Records Retention Schedule authorized by Administrative Rule 19 and N.D.C.C. §25-03.3-04 all juvenile case files containing information of the following alleged offenses must be retained for twenty-five (25) years and made available to any state's attorney for purposes of investigation or proceedings under the commitment of the sexually dangerous. These files may be scanned and kept electronically in a shared folder labeled "Twenty-five Year Keep Records".

- Gross Sexual Imposition (N.D.C.C. §12.1-20-03)
- Continuous Sexual Abuse of a Juvenile (N.D.C.C. §12.1-20-03.1)
- Sexual Imposition (N.D.C.C. §12.1-20-04)
- Corruption or solicitation of minors (N.D.C.C. § 12.1-20-05)
- Luring Minors by Computer or Other Electronic Means (N.D.C.C. § 12.1-20-05.1)
- Sexual abuse of wards (N.D.C.C. § 12.1-20-06)
- Sexual Assault (N.D.C.C. § 12.1-20-07)
- Fornication (N.D.C.C. § 12.1-20-08)
- Incest (N.D.C.C. § 12.1-20-11)
- Deviate Sexual Act (N.D.C.C. § 12.1-20-12)
- Indecent Exposure (N.D.C.C. § 12.1-20-12.1)
- Surreptitious Intrusion (N.D.C.C. § 12.1-20-12.2)
- Transfer of body fluid that may contain HIV (N.D.C.C. § 12.1-20-17)
- Facilitation of sexual acts in public (N.D.C.C. § 12.1-20-24)
- Sexual offender presence near schools (N.D.C.C. § 12.1-20-25)
- Sexual Performances by a Minor (All Offenses) (N.D.C.C. Ch.12.1-27.2)
 - Promoting a Sexual Performance by a Minor (N.D.C.C. 12.1-27.2-04)
 - Possession of Certain Materials Prohibited (N.D.C.C. 12.1-27.2-04.1)

*Note that this does not include: Creation, Possession, Or Dissemination of Sexually Expressive Images Prohibited (N.D.C.C. 12.1-27.1-03.3)

E. Letters and Documents

Many forms and documents can be accessed via the internal macros. To access the macros through Microsoft Word, utilize the Alt + F8 function. To set up macros to run through Microsoft

Word, utilize the following instructions: 1) From Microsoft Word, click the Office Button in the upper left hand corner of the screen; 2) Select Word Options; 3) Select Advanced; 4) Scroll to the bottom of the Advanced window and select File Locations; 5) Under File types, double click User templates; 6) Using the drop down arrow, find J:/Global Template; 7) Click OK to save J:/Global Template as the file location; 8) Click OK again; 9) From Word Options select Trust Center; 10) Click Trust Center Settings; 11) Click the circle next to Enable All Macros; 12) Click OK; 13) Click OK again.

Many forms are also available in Odyssey if the case has been filed with the clerk of court. To access available forms in Odyssey, search the case file that has already been created and select the “forms” tab in the upper right hand corner to access available forms.

There are also some fillable PDF forms available in the J Drive at [..\..\Fillable forms](#)

F. Confidentiality

All juvenile court records are confidential. Records can only be open to inspection or the contents disclosed under N.D.C.C. § 27-20-51, Rule 19, N.D. Rules of Juv. Pro, Administrative Rule 41, Unified Judicial System Policy 401 or by juvenile court order. (See also Requests for Information, Section 5)

Juvenile court officer work material including personal calendars, probation notes, work in progress and draft documents are not accessible to the public, parties, attorneys or judicial officers. (See Rule 41, N.D.Sup.Ct Admin. Rules & Orders)

G. Interpreters

Court staff must make every effort to ensure that language or hearing barriers do not preclude a juvenile, parent, guardian, custodian or victim from understanding and effectively participating in all stages of juvenile court proceedings. Such steps would include: inquiry into English language proficiency if there are signs of communication problems and paper notices of available assistance in interpreting court documents or interpreter services at court proceedings. Interpreters will be provided at no cost to individuals with limited English proficiency or who are hearing impaired under the Unified Judicial System Policy 522. Court staff will take reasonable steps to ensure that limited English proficiency or hearing impaired individuals will have meaningful access to court information and court services outside the courtroom. It is best practice to not have the youth or family members with conflicts of interest to act in the role of interpreter. (See Macro – Interpreter Form) It is also best practice to include an “Access to Language Interpretation Notice” in multiple languages in each mailing to a family to indicate access to language interpretation of court proceedings and documents. [..\..\New Americans Refugee Info\Court Letter Interpreted.docx](#)

V. Commencement of Chapter 27-20 Proceedings

A. Referral Processing

Delinquent / Unruly / Deprived Referrals: Referrals arrive daily from law enforcement, agencies, private third parties, and schools. Delay defeats the core mission of the juvenile court and

therefore timeliness of the process is critical. All referrals should be entered as soon as possible but within five business days from when they arrive at the office. Support staff performing the referral data entry should prioritize the data entry ensuring that the most critical cases (typically the in-custody and significant felony level) are entered first.

The intake court officer or staff review reports and collect any additional needed information. If no additional victim statements, restitution information, or supplemental reports are anticipated, the intake decision should be made by the assigned intake officer within five (5) working days of receiving the referral from support staff. The intake decision is recorded in CMS contacts and dated the day the decision is made. Barriers to timeliness of the process should be brought to the attention of a supervisor. The designated intake court officer decides whether an unruly or delinquent case is to be diverted to a program, scheduled for an Informal Adjustment, or sent to the appropriate state's attorney for review for a petition hearing based on the structured decision making intake matrix. The intake matrix includes multiple opportunities for low-risk youth to be held accountable for behavior outside of the formal court process. Any deviation from the adopted intake matrix must be noted in CMS contacts and emailed to the Director of Juvenile Court, or entered into a unit spreadsheet. Directors will track deviations and review annually. All sex offenses or felony offenses against a child referrals shall be staffed with the state's attorney depending on direction from local state's attorneys and responses from the state's attorney documented in the file (CMS contacts). Any referral on a juvenile who is currently assigned to a court officer is routed to that court officer for input. That court officer makes recommendations of appropriate action and follows the case if it results in services or formal action. In considering the appropriate juvenile court action to take upon the receipt of a referral from law enforcement, schools or parents, a court officer must consider the goals of balanced and restorative justice along with the risk/need factors identified in a previous YASI or other assessment of the juvenile in question. The court officer should target those children with the higher probability of recidivism and provide the most intensive treatment to higher risk offenders while recognizing that intensive treatment for lower risk offenders can actually increase recidivism.

QRTP Review Referrals: Requests for review of QRTP assessments are not entered as referrals on the referrals tab of CMS but the case should be assigned, or at minimum brought to the attention of the director or designee, immediately and the case turned over for review to the director of juvenile court or designee. Rule 18.1 of the N.D.R.J.P. sets a five day deadline for review, from the date of receipt of the child's assessment, which makes timely intake of these requests critical. Each unit should have an Odyssey event code report set to run weekly or daily to alert staff to the filing of the QRTP assessment report.

Chapter 27-20.1 Guardianship Referrals: Petitions for guardianship of a minor child filed under Chapter 27-20.1, are received via an event report in Odyssey or are transferred to juvenile court from a probate or civil file previously handled by district court. These should be entered as a referral in CMS within five working days, a file may be created, and the case detailed or otherwise given to the juvenile director or designee.

B. Intake Rules

Delinquent / Unruly Intake Matrix:

When conducting referral intake, start at the lowest level possible and consider diverting multiple times prior to scheduling the first informal adjustment. Cases should have at least one prior diversion, if not two or three, before being scheduled to come in for an informal adjustment.

Delinquent / Unruly Intake Matrix

Referral Category	Diversion Typically the method to handle the 1 st – 3 rd referrals or if the last referral > 1 year ago or if this is the first referral in new case type.	Informal Adjustment (IA) Typically after youth has already received multiple diversions unless case requires DOT notice or 24/7 program	Formal Petition Best practice to meet at least one of the 11 listed criteria below and be approved by JCO III or Director
Unruly	<ul style="list-style-type: none"> • 1st – 3rd unruly referrals • Child under 12 years • Repeaters with priors in other category • Child in placement 	<ul style="list-style-type: none"> • 3 or more prior referrals • Multiple similar diverted referrals in the past 6 months 	<ul style="list-style-type: none"> <input type="checkbox"/> Denial at informal and state's attorney requires filing <input type="checkbox"/> Exhausted community resources and placement recommended <input type="checkbox"/> Outgoing ICJ cases where diversion in the home state is not an option
Infraction / Misdemeanor	<ul style="list-style-type: none"> • 1st – 3rd referrals • Child under 12 years • Repeaters with priors in other category • Child in placement • Restitution case to Restorative Justice 	<ul style="list-style-type: none"> • 2 or more referrals • Non-cooperative with diversion • Similar repeat diverted referrals in the past 6 months • Referral, if admitted, requires ND DOT notice or 24/7 program 	<ul style="list-style-type: none"> <input type="checkbox"/> Denial at IA and state's attorney approves filing based on sufficiency of evidence <input type="checkbox"/> Exhausted community resources and placement recommended
Felony drug / Felony property	<ul style="list-style-type: none"> • 1st referral • Child under 12 years • Repeater but under a different offense level • Child in placement but only after staffing with state's attorney 	<ul style="list-style-type: none"> • 2 or more referrals • Non-cooperative with diversion • Child in placement but only after staffing with state's attorney 	<ul style="list-style-type: none"> <input type="checkbox"/> Risk to public safety – in detention <input type="checkbox"/> Offense requires offender registration <input type="checkbox"/> Contested restitution <input type="checkbox"/> Meets criteria for JDC <input type="checkbox"/> JDC termination
Felony against person	<ul style="list-style-type: none"> • Child under 12 years • Child already in residential placement but only after consulting with state's attorney 	<ul style="list-style-type: none"> • Child age 12 or older but only after consulting with state's attorney 	<ul style="list-style-type: none"> <input type="checkbox"/> 3+ delinquent offenses in past 6 months <input type="checkbox"/> Non-compliant with IA reporting probation

Any offense which requires a notification to be sent to the North Dakota Department of Transportation requires at least a written admission, or an informal adjustment, as notice can only be sent to ND DOT after an “admission” is received. (See North Dakota Supreme Court Policy 406 and §39-06-01.1(1)(b) N.D.C.C.)

Any offense which could require sex or offender against a child registration should be staffed first with the county state's attorney and if they authorize an informal adjustment or charging at a lesser offense level, that decision should be obtained in writing or at least document in CMS contacts.

Any offense which will require 24/7 Sobriety Program may result in supervised (reporting) probation to assist the youth in complying with all the requirements.

Juvenile Court staff should not recommend the filing of a transfer to adult court unless it is a mandatory transfer offense.

Juvenile Court staff **will** not recommend an interim evaluation at the Youth Correctional Center **without the permission of the juvenile court director or supervisor** as the court system uses the YASI risk and needs assessment in the community.

Competency and / or Amenability to Treatment in the Juvenile Systems Evaluations are performed at the North Dakota State Hospital unless arranged by defense counsel with a private evaluator. (See Rule 11.1 on Child Competency, N.D.R.Juv.P.)

Referrals received on a child in residential placement but are from another region shall be staffed with the JCO III of the home jurisdiction prior to a formal petition being filed or other intake decision made.

Intake of deprived, termination of parental rights, guardianships or QRTP referrals:

Deprived and TPR referrals are entered and assigned within five working days of receipt at the juvenile office. QRTP assessments are referred to assigned staff within one working day and may or may not be assigned in CMS on staff caseload. Guardianship petitions filed under 27-20.1 should be reviewed by the designated staff within five working days for purposes of accepting, denying or requiring more information. If the petition is requesting emergency guardianship it needs to be reviewed the same business day it is received. Guardianship Order to Show Cause referrals should be addressed within ten working days. QRTP intake should be reviewed by staff within one working day of receipt.

C. Game and Fish Referrals

Juvenile Court has jurisdiction over all criminal (felony, misdemeanor or infraction level) game and fish related offenses as these fall under the definition of a delinquent act and a delinquent juvenile. (§27-20-02 N.D.C.C.) All non-criminal game and fish violations should be referred to the district court. (§20.1-01-28 N.D.C.C.)

If a child in either an informal adjustment or a formal hearing, admits or is found to have committed a criminal game and fish violation, one of the possible dispositions is suspension of hunting or fishing privileges and report to the North Dakota Game and Fish Enforcement Division. (See N.D.C.C. 20.1-01-26) Suspension of privileges requires that child to retake a hunter's safety course, either as a requirement of an informal adjustment or court order or because that will be the only way to regain a license. Note that suspension of all hunting, fishing and trapping privileges is mandatory for the offense of hunting on posted land without permission. (See N.D.C.C. 20.1-01-26 and 20.1-01-18)

To report a suspension of hunting, fishing or trapping privileges, juvenile staff notifies North Dakota Game and Fish by sending a notice on letterhead that gives the child's name, date of birth and

address along with the offense, citation number and length of time the privilege is suspended. Send this letter to: North Dakota Game and Fish Enforcement Division, 100 North Bismarck Expressway, Bismarck, North Dakota 58501. Note that juvenile license suspensions are kept informally by this department. Game and Fish does not send out a notice to the family that license is suspended and when the child turns 18, the information is purged.

Note that the wildlife replacement values can be found in Article 30-04 of the North Dakota Administrative Code. See <http://www.legis.nd.gov/information/acdata/html/30-04.html> Court ordered wildlife replacement payments should be received in the form of a money order payable to the North Dakota Game and Fish Division and mailed to the North Dakota Game and Fish Division in Bismarck, North Dakota.

If a donation to the Report All Poachers (R.A.P.) fund is a condition, the child's donation is mailed to: Report All Poachers (R.A.P.), P.O. Box, 1091, Bismarck, ND 58502-1091.

D. Protective Custody: Emergency Removals and Temporary Custody Orders

Law Enforcement Emergency Removals

Law enforcement officers have the authority to take a child into custody. (See N.D.C.C. §§ 27-20-13, 27-20-06(1)(e).) In the case of law enforcement removal, a shelter care hearing should be set as in any other case to procure appropriate order for foster care. If law enforcement does the removal, a JCO issued temporary custody order is not created as it is not necessary. The affidavit of the human service zone employee initiates the Odyssey file.

Director or JCO Issued Temporary Custody Orders

For the purposes of carrying out the objectives and purposes of Chapter 27-20, a juvenile court director, or designee, has the authority to issue a temporary custody order, not to exceed ninety-six hours. (27-20-06(1)(h) N.D.C.C.) Child safety decisions are one of the most important tasks assigned to juvenile court. Deciding whether or not a situation is so dangerous for a child as to rise to the level of an emergency temporary custody order requires training and experience such that only juvenile court officers II or higher can be authorized by the director to perform this function.

Requests are received from child protective workers either in person, phone call or email. When a request is received, the court officer reviews the affidavit of probable cause or written or oral request for removal and determines the appropriateness of removal of the child as authorized by statute. A sworn affidavit from the requesting social worker is the most appropriate document to act upon for a request for removal. Any removal of a child from a parent is traumatic. The reviewing court officer should always inquire whether a lesser restrictive option such as a temporary placement with a relative or a safety plan can protect the child without the need for an emergency custody order.

Unruly Child Request for Temporary Custody Order: *Although this is authorized under N.D.C.C. 27-20-06(1)(e), it typically not done. If a request for an unruly TCO is received, it must be staffed with director or supervisor first.*

Granted TCO Requests

If it is determined that a removal of the child is necessary, then a temporary custody order is signed and a shelter care hearing must be held within 96 hours. (See Hearing Time, Rule 2(a)(2) N.D.R.Juv.P.) If a temporary custody order is granted verbally at night or on a weekend, the order must be reduced to writing within twenty-four hours, excluding holidays or weekends. (§27-20-06(1)(h) N.D.C.C.) A guardian ad litem is appointed for the child. (See §§ 27-20-48, 50-25.1-07 N.D.C.C. and Rule 17, N.D.R.Juv.P.)

Denied TCO Requests

If upon review of written request for an emergency temporary custody order the director or JCO denies the request, the requesting worker is informed that they can take their request to a judge or judicial referee by contacting the clerk of court, or after hours, the on-call judge. Any written affidavit received is placed into a working file and any verbal request is documented in CMS contacts. A CMS deprivation referral is entered and closed out as either “no further action” or “released with safety plan”, if a safety plan is developed instead. The juvenile court officer can encourage a multi-disciplinary team meeting, or use of Family Centered Engagement in counties with this service, to develop a child safety plan or release on conditions.

ICWA involved TCOs: If a native American child who is enrolled or eligible for enrollment in a native American tribe subject to the Indian Child Welfare Act resides or is domiciled on the reservation but is temporarily off the reservation, the court officer or court may order an emergency removal from the parent or Indian custodian in order to prevent imminent physical damage or harm to the child. (25 U.S.C. §1922, 25 CFR §23.113(e)) It is important that the affidavit requesting emergency removal contain a statement of the risk of imminent physical damage or harm to the Indian child and any evidence that the emergency removal or placement continues to be necessary to prevent such imminent physical damage or harm to the child. If that is not present, it is best practice to ask that the requesting CPS worker add that information by amending the affidavit.

Forms

A Juvenile Temporary Custody Order is not a judicial determination and as such, is not required to have ASFA language and findings that are required in judicial determinations related to children in foster care. The court officer should make a brief summary of the basis of the removal in paragraph three of the document and refer to the supporting affidavit. The document should not contain a judicial determination of contrary to the welfare, reasonable efforts to prevent removal, or reasonable efforts to place siblings together. Those determinations are made at the first shelter care hearing and the order should reflect back on the date the juvenile was removed from the home. (See DHS Policy PI 14-11) This document is filed with the court and the correct event code is “Juvenile Temporary Custody Order”.

E. Release from Emergency Shelter Care

Statute requires that upon placement, a hearing be convened promptly and Rule 2 defines that time frame as within 96 hours from when a child is placed in shelter care. (Rule 2(a)(2), N.D.R.Juv.P.) Note that attendant care is only reimbursed with federal dollars for the first 24 hours of the stay and the remainder is a cost to the county. Release of the child or children prior to the shelter care hearing is allowed. (§27-20-15 N.D.C.C.) Law enforcement can make a release if the child has not yet been transferred to human service zone and an appropriate parent, guardian, custodian is found.

Once the child is with human service zone, they can assess safety and contact the juvenile court for authorization or approval of release prior to a shelter care hearing. If the temporary custody order is already on file with the court, the most appropriate way to cancel a shelter care hearing is via motion and supporting affidavit filed by the human service zone ~~county~~. At minimum, documentation of the release decision should be filed with the court and placed in CMS contacts. There is a macro form titled "Release from Protective Custody". Note that release from emergency custody can also take place at the shelter care hearing as the court may authorize release subject to any conditions imposed by the court.

F. Use of Secure Detention

Purpose

Secure detention is only authorized for serious delinquent offenses committed by a child who poses a significant risk to community safety, risk of re-offending before trial, or who is deemed likely to not appear for court. Detention may be used as a sanction in Juvenile Drug Court for adjudicated delinquent participants. The child may be detained twice during the child's participation in the program, but the total period of detention may not exceed four days in a one-year period. (N.D.C.C. § 27-20-14(2)).

Law Enforcement Use of Detention Screening Tool

Law enforcement are required by law to use a detention screening tool, selected by the juvenile court, to assure the appropriate use of detention. (27-20-14(2) N.D.C.C.) The Juvenile Policy Board has approved the use of a detention screening tool with objective factors to determine the appropriate use of detention and a copy of the screening can be found at: <..\..\Detention Screening Tool\August 2019 Law Enforcement Detention Screening Tool.pdf> Children should not be upgraded or "up-charged" to a delinquency solely based on a charge of violation of a court order for purposes of entering them into detention. A copy of the detention screening tool scored by the arresting officer is typically received by the juvenile office either with the detention facility booking paperwork or the law officer investigative report. A copy of the law enforcement scored screening tool should be kept in the paper file or scanned into a shared unit folder.

Detention is prohibited for accused or adjudicated unruly children (runaways, truants, ungovernable, MIP/MIC) except for brief periods of time. Brief period of time is defined as less than 24 hours, except for the cities of Grand Forks, Fargo, Bismarck, and Minot, which is less than 6 hours. It is a violation of federal law to detain unruly offenders with the exception of out-of-state runaways and children held under the Interstate Compact on Juveniles. (See N.D.C.C. § 27-20-16 and 42 United States Code § 5633) Attendant care can be used for unruly children cited with unruly or delinquent offenses who cannot be immediately released to a parent or guardian or other responsible adult able and willing to assume custody of the child. The child must either be released or scheduled for a shelter care hearing within 96 hours per Rule 2, N.D. Rules of Juvenile Procedure.

Court Officer Use of Detention Screening Tool

When the juvenile court receives notification that a child is in detention, the juvenile court officer will either arrange for release, based upon the results of the detention screening tool, or initiates a detention hearing within 24 hours of placement per Rule 2, N.D. Rule of Juvenile Procedure. The assigned juvenile court officer should check the scoring of the tool and score the tool a second time

if more information is available in the court's available records. It is the juvenile court officer's scoring of the detention screening tool that is entered in CMS in the Tests screen. The detention screening tool is typically not e-filed into the court's Odyssey file but may be given to counsel upon request.

Screening Tool Scoring

Score of 7 or Less: If the child has a score of 7 or less with no "mandatory holds", the assigned juvenile court officer will immediately make efforts to release the child to the parent, guardian, custodian or other responsible adult able and willing to assume custody of the child under 27-20-17(1) of the N.D.C.C. That adult must pick up the child that same day or a detention hearing must be scheduled. Efforts to accomplish the release are documented in CMS Contacts.

Score of 8 to 12: A score of 8 to 12 with no mandatory court holds or overrides could be released to a parent or moved to less restrictive placement pending release to a parent. If the intake officer believes that the child needs to be held to ensure public or child safety, the matter must be staffed with the director or a supervisor before a Notice of Detained Juvenile is filed with the court.

Score of 13 or more: Requires continued secure detention and a detention hearing within 24 hours under Rule 2 of the N.D. Rules of Juvenile Procedure.

Mandatory Hold cases: The child must be held and a detention hearing set as required by Rule 2 of the N.D. Rules of Juvenile Procedure, unless this is a drug court hold.

Victim Notification of Pretrial Detention or Attendant Care Release

The court officer making the decision to release prior to the first detention hearing shall notify or ensure notification to any victim listed on the police report as required by Article I, Section 25 of the North Dakota Constitution, also known as Marsy's Law. If the release occurs at night or on a holiday or weekend, the victim is notified by telephone or letter the next business day. Note also that a no contact order can be issued against the respondent child on behalf of the victim(s). See BP Manual Section IX (E) and 27-20-50 N.D.C.C.. The victim in a case that will proceed formally can be directed to the state's attorney's office for any question about how to register as a victim in the SAVIN system.

The Detention Hearing

The juvenile court staff prepares the "JV Notice of Detained Juvenile" and files it with the clerk of court. It is best practice to include the Common Statute Table (CST) code after the listed offense or offenses on this document. The Common Statute Table listing of offenses can be found at the N.D. Attorney General's website : <https://attorneygeneral.nd.gov/criminal-justice-resources/common-statute-table> Parents can be notified of the hearing by phone, personal contact or in writing if time allows. Block scheduling with a predetermined time is preferred. In this case, law enforcement can advise parents at the time of placement when to appear for hearing and they know when to transport the juvenile for hearing. The juvenile court officer will complete transport orders as necessary. Note that all restraints used by transport must be removed prior to entering the courtroom unless a party, transport or juvenile staff is going to request a finding by the court that the juvenile poses an immediate and serious risk of dangerous or disruptive behavior. (Rule10.1, Use of Restraints in Courtroom, N.D.R.Juv.P.) Assigned juvenile court staff receives placement reports in Odyssey and ensures all detained placements are closed out when the juvenile is released. If desired, parents

apply for appointment of counsel for the child. If there is no available custodian, the juvenile court may appoint counsel to expedite matters and to ensure child has proper representation.

Detention across Unit or Judicial District Lines

When a youth is picked up in another county or unit, outside of their county of residence, the intake detention court officer should immediately inform the juvenile office of the child's home residence. This communication is best accomplished by telephone call but can be by emailing a CMS note to the JCO III, with a copy to the juvenile director. If the cause of the detention is a pick up order, it is best practice that the detention hearing take place in the county where the pick-up order was issued. If the cause of the detention is a new arrest, the detention hearing should be held in the county where the delinquent act leading to detention, took place. If the cause of the detention is a new arrest and release prior to a detention hearing is possible given all information available and the score on the detention screening tool, contact should be made between the two juvenile offices and if possible, include the current assigned court officer if the youth is currently on probation supervision.

Pick-Up Order Requests and Hearings: A screening tool should also be completed by a juvenile court officer if they are planning to request a pick up order with authorization for secure detention. This screening tool is submitted along with the affidavit to the supervisor prior to filing with the court and entered in CMS Tests screen. The supervisor will timely approve or deny the request, timely document that decision in CMS contacts, and communicate that decision promptly with the court officer so the process can go forward, if approved, that same business day. A copy of the signed pick up order goes to the sheriff's department that same day and the sheriff's department is responsible for entering that pick up order in NCIC. If a child with a North Dakota pick-up order is located and detained in another North Dakota county solely on the original pick up order, the intake officer should notify the county of the pick-up order so that a detention hearing can be held in the county of pick up order origin within the statutory time requirements. (Rule 2, N.D.R.Juv.P.)

If the child is not released within five business days of being placed in detention, a petition or request must be filed and scheduled within fourteen days after the child has been taken into custody. (Rule 2, N.D.R. Juv. P.) The court may order the child released, released on house arrest, or to remain in detention at either secure or non-secure facility. Even if staff are making attempts to have the child assessed for inpatient and plans are to release before the fifth day to an inpatient setting, the court officer should be cognizant of that five day deadline for petition filing and discuss this with their supervisor and the state's attorney.

Juvenile court officers shall adhere to all statutory and rule requirements set forth in N.D.C.C. §§ 27-20-13, 27-20-17 and the North Dakota Rules of Juvenile Procedure.

G. Pre-Trial Supervision

Pre-trial supervision is a program of intensive home supervision of adolescents who would otherwise be held in secure detention. The goals of the program are to ensure that the juvenile is available for court and to prevent further delinquency pending final court action. The program consists of methods to provide a means of structured supervision for children and address community safety along with opportunities to assess a youth's risks and needs. There are various types of alternatives to detention and some variation may exist depending on availability in a particular region or

community. Conditions of pre-trial release may include: providing current phone numbers for court date reminders or texts, phone or in-person check-ins, curfews or house arrests, no contact orders, referrals to assessments or services, and electronic monitoring. Note that courts have limited authority to compel pre-adjudicatory youth to participate in mandated rehabilitative services such as counseling, for example, as many services require an admission of guilt that defies the fundamental presumption of innocence.

Pre-Trial Assessments: Youth released from detention or attendant care pending further petition hearing can be required by the court to receive a pre-trial risk assessment. If not court ordered, the assessments should be offered to the youth, family and youth's counsel as a method to best inform the court of the youth's risk and needs. Assessments available from the juvenile court officers include the YASI, the MAYSI-II, trafficking screen, trauma screen and the detention screen. Results from pretrial assessments are meant to inform, not replace, the court's discretionary decision making. Court officers consider pretrial risk assessment results alongside other factors, such as the current charge and the referred youth's individual circumstances. The results of a pretrial risk assessment can also aid the court to determine any conditions that might be needed to assure that a released youth appears in court and stay out of further trouble. Juvenile court officers should remember that using the least restrictive measures is not only required by law but is also supported by research. Over-supervising lower and moderate risk youth during the pretrial period has shown to make them more likely to be re-arrested and less likely to return to court.

House Arrest or Home Confinement: This is a community-based program to restrict the at-risk activity of the child to ensure community safety and appearance at court hearings. This can be used pre or post adjudication. With house arrest, children live at home, attend school or work (or both) and fulfill other required responsibilities such as attending necessary appointments; however, they are required to be closely monitored by a parent, caregiver and assigned court officer to ensure they comply with the conditions set by the court. (Rule 18, N.D.R. Juv. P.)

Day Report: Day report is a highly structured, community-based alternative that provides intensive supervision for the youth. It can be used pre and post disposition. Youth are required to report to a reporting center in the community or the juvenile office and participate in structured activities such as classes, community service projects or work on homework. The child is assigned to report at certain times and typically on a daily basis for a certain number of days each week but return home at night. This is typically used in short dosages such as during a time period awaiting a court hearing or as a response to a probation violation.

Attendant Care: Attendant care is defined as the constant and direct supervision of children in a non-secure setting. It is intended for children who are inappropriate for foster care because their expected length of supervision is only a few hours, or because the child's behavior or physical condition requires great structure or supervision and the child's suspected offense or criminal record does not warrant placement in detention. Attendant care may also be used for a temporary safe place for non-offenders or alleged deprived children, but the agency requesting the placement will be responsible for the costs. If a child is not released from attendant care pursuant to N.D.C.C. § 27-20-17(1), a Juvenile Affidavit for Shelter Care Hearing is prepared by the Juvenile Court staff and filed with the clerk of court. A shelter care hearing should take place as soon as possible but not later than the 96 hours allowed by statute (N.D.C.C. § 27-20-17(2)) and time standards of the court (Rule

2, N.D.R.Juv.P.) After 48 hours and/or the shelter care hearing has concluded, the cost of any further attendant care placement will be the responsibility of the placing agency. (N.D.C.C. § 27-20-49)

Electronic Monitoring / GPS: Electronic monitoring is used as an alternative to detention and to provide structure and accountability of children released on house arrest by the court. Electronic monitoring can provide an extra layer of supervision with the goal of enhancing public safety. There can be a variety of technologies used to monitor juvenile house arrest. Electronic monitoring is used to track a child's whereabouts by using radio frequencies or satellites which determine the location of a child wearing the ankle bracelet 24 hours a day for the length of time assigned by the court. It is important to remember that EMS/GPS is not used as a punitive measure, but rather for the safety of the child and/or public and to ensure the child's appearance for court hearings. Note that the juvenile drug court Judge/Referee may utilize EMS/GPS for supervision purposes as ordered in drug court and this use of EMS/GPS is governed by Juvenile Drug Court policies and guidelines.

TIME LIMIT: Use of EMS/GPS is limited to 14 (fourteen) days unless the court continues the order. (See Rule 18(e)(1)(e), N.D.R.Juv.P)

INSTALLATION: Upon order of the court for house arrest monitored by an electronic device, the child shall report to Juvenile Court to participate in intake and application of the electronic device. It is best practice that there is not any time lag between release from detention on GPS/EMS and installation of the device. A juvenile court officer is assigned to install and monitor a child's electronic monitoring. The court officer shall go over the agreement of understanding/requirements of the EMS/GPS program with participant and parent(s)/guardian(s). Both participant and a parent/guardian will sign the acknowledgement form. The original form will be kept in the Juvenile Court paper file and a copy will be provided to the participant.

MONITORING: Each work morning, the assigned juvenile court officer checks the company website and electronic emails to check compliance with the child's house arrest terms. Supervision will be provided by the JCO during regular working hours. The JCO shall review daily alerts and notifications indicating any infractions that occurred the previous and current day. Monitoring children on electronic monitoring can create unique obstacles for the court officers and creative approaches are often required to deal with issues such as poor satellite coverage in certain rural areas, children who fail to keep their unit charged as required and blockage of the signal in certain types of buildings.

VIOLATIONS: Parent(s)/guardian(s) will accept responsibility for reporting all violations of the conditions of GPS/EMS to Juvenile Court or Law Enforcement. Any incidences of failure to report violations by the parent(s)/guardian(s) will be reviewed with a Juvenile Court supervisor for the possibility of further court action. Typically, in the event a child tampers with their bracelet or absconds, the juvenile court officer will put in a request for a pick up order and the child would be placed in detention or attendant care or brought immediately before the court.

DEVICE LOSS OR DESTRUCTION: It is best practice that when having a probation meeting with a child on EMS/GPS that the court officer inspect the equipment for damage or tampering. Children who destroy or lose an EMS or GPS device shall be responsible for that loss. The court officer assigned should notify their supervisor who can consult with the

county state's attorney about a separate charge and claim for restitution. The company must be notified and indication made on the inventory sheet.

CONCLUSION OF EMS/GPS: The device should only be removed by the court officer and not by the child or family member. The court officer should close the active case on the EMS/GPS computer program at the conclusion of the EMS/GPS order. The court officer records the device return on the unit inventory sheet and alerts a supervisor if there is any damage noted to the device or charger.

VI. Pre-Petition Case Processing

a. Practice Goals

Juvenile diversion and juvenile informal adjustment are intervention strategies that direct a child away from the formal court process while still holding them accountable for their actions and providing them an opportunity to learn new skills. These methods are less costly than formal court proceedings because they reduce the burden on the formal court system and free up limited resources for high-risk offenders. Programs may need to be adapted based on language, racial or ethnic group, gender, and/or geographic setting. It is critical that each child has equal access to diversion and informal adjustment.

The authority of the juvenile court director or designated court officer to intake and divert referrals to programs or informal adjustment is found at §§27-20-06 and 27-20-10, N.D.C.C.

b. Diversion

Diversion serves children and families by serving them in the least restrictive environment that will adjust the behavior and maintain community safety. The goal of diversion is to reduce the likelihood that a child will encounter formal processing and yet meet the needs of the child, family, victim and community. Diverted referrals must meet the same evidentiary and charging standards as those in which an informal adjustment is scheduled or referral to state's attorney is made.

When a referral meets the established intake criteria for diversion, the intake officer will direct that a letter is sent to the child and family directing them to an appropriate educational program or regional source of treatment services. If a victim is involved, it is best practice to send out a victim letter and wait a set number of days for a response before making the diversion referral. An exception to this might be a diversion to a program that communicates and coordinates with the victim such as Offender Accountability Conferencing. Completion or lack of completion, of the referred program or service can be noted in the CMS. Failure to complete a diversion program can result in an informal adjustment.

c. Informal Adjustment

After a preliminary inquiry and decision based on the intake matrix, a child referred to the juvenile court may be scheduled for an "Informal Adjustment Conference". (§27-20-10 N.D.C.C.) In these cases, a child is not adjudicated formally as a delinquent or unruly child but rather the matter is handled informally in a meeting held between the assigned juvenile court officer, the child, the family and possibly the victim, if the victim elects to attend.

Scheduling: Informal adjustment conferences should be scheduled for blocks of time designated for that county in advance by the juvenile court staff. Scheduling should be done on a central electronic calendar such as Microsoft Outlook or CMS. Court support staff is directed to send out any necessary letters (e.g. victim notification, restitution requests) and the informal adjustment notices. Identifiable victims of delinquent acts committed by juveniles are notified. (See §12.1-34-02 (19) N.D.C.C.)

Notice: If the case involves a charge for which an admission will result in a driving sanction or North Dakota DOT notification, the informal adjustment notice shall include a notice of the consequence for such an admission. The notice of informal adjustment must include the charge, date of the charge, and a brief description of the case-specific facts of the case and should include a requirement that the parents or guardians be asked to produce a valid driver's license or other valid form of identification to establish standing to be party to the process.

Service: Service upon the parents or guardians of the child is usually accomplished by first class mail but may be accomplished in the same manner as a petition, personal service, sheriff service, or service by certified mail in cases when a parent is in another jurisdiction and service cannot be accomplished by other more expedient means. All informal adjustment conferences should be held as close as possible to the date of receipt of the alleged law violation as possible given the staff resources available. It is best practice to include a notice of the availability of language or hearing interpreters.

Conference Procedure: Parent and child appear and are informed of their rights. (See Macro for sample format) The court officer documents waiver of right to attorney and consent to the informal adjustment for the file. The referral and pertinent North Dakota laws are reviewed with the child and parent. The child admits or denies the delinquent or unruly act. Denial results in cessation of the conference and a referral to the state's attorney. Admission by the child results in disposition as authorized by the North Dakota Juvenile Court Act. Victims are not admitted to the conference until such point as the child admits to the charge. Victims may be asked to leave the room during the pre-screen YASI process in order to obtain the most cooperation and disclosure of necessary information to make an informed decision. Disposition guidelines are utilized in conjunction with the results of the pre-screen YASI, but the court officer conducting the hearing has authority to deviate based upon information gathered during the procedure. It is the best practice that the court officer that conducts the Informal Adjustment conference not be the assigned court officer should it be anticipated that supervised probation will be the result of the conference. It is recognized that in time of reduced staff that this may not be possible. The informal adjustment agreement is signed, dated and a copy is given to the parents and child. Any pertinent information concerning the child and/or family is noted in CMS for any future interaction and if a pre-screen was completed, that score is entered in CMS and the case flagged if youth was placed on a caseload. If requested, the victim is notified of the disposition.

Informal Adjustment Forms: The court officer should utilize a form to document and notice the parties of the agreement and any releases of information necessary, including permission for the probation officer to visit with the child at the school if necessary. (See the Informal Adjustment Agreement form specific to your office based on services available in your area.) The child and the parents shall receive a copy of the agreement that day. Upon request, send a copy of the agreement

to the non-custodial parent. The case is tracked for follow up of disposition by assignment of the case to a court officer unless the child is released with a warning. If noncompliant, the case must be staffed with their supervisor for consideration of further action. At the conclusion of the appearance, the termination of probation or other programming, support staff should receive the file for final closing, filing, and retention per the records retention policy.

Noncompliance with Informal Adjustment Agreements: Utilization of intermediate sanctions should be used prior to consideration of an additional informal adjustment or formal petition on noncompliance with an informal adjustment. Failure of a child to complete the terms of an informal adjustment agreement can be handled by another informal adjustment conference for the purposes of holding the child accountable and possibly extending the time period with appropriate sanctions or by the filing of a formal petition with the original offense as the allegation. The informal adjustment conference must be staffed with the court officer who held the original hearing and scheduled with enough time to allow petition filing or extension, if necessary. The supervisor should review the case with the goal of avoiding unnecessary escalation. (N.D.C.C. § 27-20-10) Note that once an informal adjustment has expired a further informal matter on violation cannot be scheduled or sustained. The violation or noncompliance with the informal adjustment agreement can be used at the disposition stage of the hearing and supports the “reasonable efforts” that were made to support the child in the community. Note also that once the decision is made to withdraw the informal adjustment agreement and file a petition, the informal adjustment agreement is no longer valid. Parent and child are to be advised of the case closure by the assigned or supervising court officer.

d. Requests for Information

When an individual or agency or other court presents written request for information from a juvenile office file that has not previously been authorized by court order or informal adjustment, the best practice is for the court officer who receives the request to immediately get an Order for Release of Information forwarded to the district judge or judicial referee for his or her signature. This should be done to protect all parties, regardless of having a release signed by the requestor and his/her parents. This release is placed into the working file.

Information from an Informal Adjustment is available to the respondent’s attorney. This can be done without a release of information, upon receiving notification that he or she is representing the party. The attorney may make copies of the police report and other information and in a manner consistent with keeping with each individual jurisdiction’s policy on copies for outside parties.

If a parent makes a request for the police report, the parent may look at the redacted report after the names of other minor children have been redacted and that parent can take any notes desired. Copies are not made for parents, and the policy is to not give out written reports generated by another agency to individuals. Parents may directly contact the agency that generated the report.

If a military recruiter makes a request for a juvenile delinquency history of a youth, one can direct the recruiter to the clerk of court’s office regarding formal files; however, it is somewhat common for a military recruiter to be told by a youth seeking to join the military about an informal record with the juvenile court. Since the youth has disclosed an informal record, the recruiter and/or youth may seek a letter indicating the extent of the record (if the youth is under 18) or that a file was destroyed

per record retention policies (if youth is 18 or older). It is best practice in these circumstances to check the database and if the informal record was destroyed to provide a very simple letter on office letterhead indicating “as of today’s date no juvenile court record exists”. It is critical that the recruiter either have a signed release of information signed by the youth (and the parents if the youth is under the age of 18) or appear at the juvenile court window with the youth. Of course, a letter can be prepared and handed to the youth about their own record for purposes of military enlistment. Nothing precludes the juvenile court staff from explaining in general the difference between an informal adjustment record and a formal juvenile court record.

VII. Chapter 27-20 Petitioned Proceedings

A. State’s Attorney Review

Once a delinquent or unruly referral has been determined at intake to be appropriate for formal petition, or if the child denies the charge at an informal adjustment, a request for petition is sent to the appropriate state’s attorney along with a copy of the referral and victim statement or victim restitution information, if available. The request must include all identifying information needed for service and clarification as to whether there is a custodian or guardian in addition to the parents. The state’s attorney screens the referral for legal sufficiency and the request for petition is tracked by the juvenile court officer or administrative assistant for follow up.

State’s Attorney Declines to Petition: If the state’s attorney responds that the petition request is declined, the administrative assistant closes the file as “declined by states attorney” or the matter is considered for other court intervention or referral to services. Written documentation of the state’s attorney declining to prosecute should be received and placed in the file. Ensure that the Odyssey file, if one was created, is closed with documentation of the written decline. Any questions from the victim(s) as to why the case was declined should be referred to the states attorney.

B. Procedure and Scheduling

If the state’s attorney approves the request for petition, a summons and petition are drafted, signed, and notarized. (Rule 3, N.D.R.Juv.P.) Petitions submitted under Chapter 27-20, by persons other than the state’s attorney must be reviewed by the juvenile director, the court, or other person authorized by the court. A court officer signs upon the review of the delinquent or unruly petition (not deprived petitions). (N.D.C.C. § 27-20-19) The petition is sent to a judge or judicial referee for approval and signature and is returned to the juvenile court. The juvenile court support staff coordinates with the designated scheduler to schedule the date and time of the hearings. Block scheduling, using certain hearing dates and times for specific types of cases, is preferred. Support staff may enter hearing dates into CMS and any shared office outlook calendars depending on office practice, but note that all hearing dates are viewable in Odyssey. All hearings should be held as close to the alleged law violation or receipt of deprivation referral as possible and the required time guidelines for hearings must be met. (See Rule 2, N.D.R.Juv.P., Chapter 27-20, N.D.C.C.)

Case Management Time Standards: Administrative Rule 12 of the North Dakota Supreme Court Administrative Rules sets the case management time standards to assist judges in the

management of their caseloads. Section 2 of Rule 12, sets the following juvenile case time standards:

Juvenile Case Type	Time Standard
Delinquent / Unruly	Returned to parental home = 100% within 150 days Placed into shelter care = 100% within 120 days of placement Placed into detention = 100% within 60 days
Deprived	Returned to parental home = 100% within 150 days Placed in shelter care = 100% within 120 days
Termination of Parental Rights	100% within 180 days
Guardianship of Minor Children filed under Ch. 27-20.1	**A time standard has yet to be set for this new case type as this no longer falls under probate guardianship of a minor in AR 12 and yet doesn't fit the two deprived case types of "returned to parental home" or "placed in shelter care". Ideally 100% of these cases would be resolved within 120 days.

Court Appearance: The child has the right to be present at all delinquency and unruly juvenile hearings. The court may allow the child to be present at other types of juvenile hearings. (Rule 10, N.D.R.Juv. P.) It is preferred that a child be physically present in the same location with their parent, guardian and/or counsel unless it is approved and/or ordered by the court. The child shall be permitted to communicate fully and confidentially with counsel immediately prior to and during the proceeding. Court officers must position themselves in the courtroom in a manner signifying neutrality, avoiding the appearance of alignment with either the defense or the prosecution. The court has the discretion to determine interested parties to the hearing. (Rule 4, N.D.R. Juv. P.)

Use of Restraints: As a matter of due process under the 5th and 14th Amendment, a respondent child or other party to a proceeding in court is entitled to be free from physical restraints. The Court is to make a case by case specific determination on the record. (Rule 10.1, N.D.R. Juv. P. and In Re R.W.S., 2007 ND 37) During transport to and from the courtroom, the transport law enforcement agency may make decisions about the use of physical restraints in order to ensure safety but juvenile court staff should know that shackling in the courtroom can cause constitutional violations as well as being contrary to our rehabilitative goals by humiliating and traumatizing children. Rule 10.1, N.D.R.Juv.P. defines "restraints" as "an instrument of physical restraint, including handcuffs, chains, irons and strait jackets". Any party, transport or detention staff or juvenile staff can request that the restraints remain on a child for a hearing. Such a request necessitates that at the beginning of the hearing the court review the request and make a finding whether or not the child poses an immediate and serious risk of dangerous or disruptive behavior or of escape or flight risk. The factors to be considered are set out in Rule 10.1 and a sample court order form is available in the J Drive at <..\..\Fillable forms\Order on Use of Physical Restraints.pdf>

C. The Indian Child Welfare Act (ICWA)

A vital inquiry for a court officer to make in a foster care placement proceeding (deprivation and/or unruly juvenile cases) is whether the child is a member of a federally- recognized Indian tribe or if the

juvenile is the biological child of a member of a federally- recognized Indian tribe and is eligible for membership in any federally- recognized Indian tribe under 25 U.S.C. §1903(4).

This would include any action involving removal of a child from a parent or Indian custodian for temporary placement in a home or institution, including guardianship or conservatorship and if the parent or custodian cannot have the juvenile returned upon demand but parental rights have not been terminated. This does not include placement based upon an act which, if committed by an adult, would be deemed a crime. (See the J drive, ICWA folder for “ICWA Flowchart and Glossary”) ICWA does not apply in 18+ continued foster care cases.

If ICWA is thought to apply but no specific tribe is identified, notice should be sent to the Bureau of Indian Affairs (BIA) to determine the juvenile’s ICWA status. It is best practice to treat the case as ICWA applies until is determined otherwise. In deprived or unruly cases where ICWA is found to not apply, it is best practice to indicate in the court order how this conclusion was reached.

Odyssey Case Flag: Upon determination that ICWA may apply, assigned staff document the information in Odyssey by applying the ICWA case flag and entering the tribe(s) name in the comment field. If the tribe is not known, a comment of “further inquiry needed” can be entered. If later it is found by the court that ICWA does not apply, the flag is deleted by right-clicking on it.

Notice of Right to Intervene: A notice of right to intervene is served by certified or registered mail on the identified tribe or tribes and also on the regional office of Bureau of Indian Affairs (BIA), Great Plains Regional Office, 115 Fourth Avenue SE, Suite 400, Aberdeen, South Dakota. All other legal documents and notices will be served on the tribe or tribes and the regional office of BIA during the life of the case and so long as ICWA is found to apply. If the Regional Office of the BIA sends the juvenile court a notice indicating that “Future Notices are not required and will not be responded to” the best practice is to e-file, serve the parties and place the written document in the clerk of court or Odyssey file. From that point forward in that particular file, further notices of hearings are not required to be sent to the BIA Regional Office but must continue to be served on the tribe or tribes.

D. Filing and Service of Process

The petition is filed with the clerk of court in the appropriate county. (See N.D.C.C. §27-20-11 Venue, and N.D.R.Ct. 3.5 Electronic Filing in District Courts and also the File and Serve User Guide <https://northdakota.tylerhost.net/> for e-filing procedure.) The parties are served the summons and petition under N.D.C.C. § 27-20-23 and Rule 6 (Service of Summons) N.D.R.Juv.P. Typically all initiating documents, including an application for indigent defense counsel, is served out in one packet. Rule 7 outlines service of process for all documents after service of the summons. This includes all review of custody or review of probation documents. If unable to serve the party or parties, the matter should be staffed with the state’s attorney to decide how to proceed.

Service by Publication: Rule 6(b) allows for service by publication if after reasonable effort the party cannot be found or the party’s post-office address ascertained. Since October 1, 2019, there are two ways to publish the summons: 1) In a county newspaper as outlined in Rule 4 of the N.D. Rules of Civil Procedure; or 2) To the court’s website. It is best practice to publish to the court’s website as that is free of charge to the courts, makes the notice available 24/7 for 21 days, and is more likely to effectuate actual notice to the absent party.

Service by Publication to the Court Website:

Step One: Create the “Amended Summons” and obtain a court date at least 30 days in the future along with a judge or referee signature. There is a form available in Odyssey Forms. Remember that in this document the child’s name is only listed with initials. This is critical so as not to publish the child’s name to the public.

Step Two: Add the event “Amended Summons (by Publication) to the case in Odyssey. Scan the Amended Summons to that event. This event automatically adds the time standard “Summons by Publication 3 week certification” with a 21 day target date. Within 15-20 minutes (or less) the scanned image will be posted to the N.D. Court’s Website. It is viewed at “District Courts”, “Summons by Publication”. Simultaneously, the non-docketable event “Amended Summons Published to the Web” will be added to the case. The Amended Summons will be viewable on the website for the next 21 days. This differs from newspaper publication in which the Amended Summons is only printed in the county newspaper once per week for three consecutive weeks.

Step Three: When the “Summons by Publication 3 Week Certification” time standard comes due, a “certification of Publication” event code is auto-generated and includes the posting dates and screenshot of the web posting. This automatically completes the time standard. Another method would be to file a “Certification of Publication” document signed by the person who posted the Amended Summons and verifying that the document was indeed posted on the website for the required amount of time. It is believed this will not be necessary as the proof of completion should be automated by the system.

E. Delinquent or Unruly Disposition Recommendations

Developing the Recommendations: Making investigations, reports, and recommendations to the court are a statutory duty assigned director, or assigned designee, under 27-20-06(1)(a) N.D.C.C. Disposition recommendations in delinquent cases are based on the results of the child’s risk assessment (YASI) and therefore the child’s identified criminogenic risks and needs. It is best practice that an updated full YASI, and any other appropriate assessments, be completed prior to disposition. Juvenile court officers should not recommend a Youth Correctional Center evaluation when the YASI and other assessments can be done in the community by juvenile court staff.

Other factors that may be considered when developing court recommendations include: the principles of balanced and restorative justice, age, prior history, and seriousness of current offense, compliance with prior probation, available resources such as juvenile drug court, and any dispositions that are mandated by law. Gathering the necessary information, reviewing all relevant reports, conducting or updating assessments, and preparing the written document are all critical tasks and should be staffed with a supervisor prior to filing with the court.

Recommendation Document Processing: The disposition recommendations are e-filed and served to the state’s attorney and all other parties. Recommendations must follow the dispositional matrix and any deviation must be reported to the supervisor or director of juvenile court and recorded for year-end data and review. It is best practice that the disposition recommendations be a separate document from the charging petition and be signed by the juvenile court officer making the

recommendations. It is best practice that the document either detail the YASI score by domain or have the YASI full screen wheel attached, but only if the full YASI was completed or reassessed in the last 90 days.

Custodial Recommendations: Only children scoring high risk on the YASI should be recommended for commitment to the Division of Juvenile Services (DJS) and moderate scoring children recommended for non-secure placement. Further, removal of custody should only be considered if all reasonable efforts and all community resources have been exhausted. The assigned court officer should obtain a release of information or court order to allow release of all relevant court records to the proposed custodial agency thirty days in advance of the review hearing in order to provide time for the custodial agency to review the materials and search for appropriate residential placement options. Consideration should be given for recommendation to human service zone for a child whose family has exhausted all community-based services but due to age (under age 13), mental health needs, or family dynamics, is unable to be successfully treated in the community. A courtesy contact or multi-disciplinary team staffing with the proposed custodial agency should be made prior to the dispositional hearing notifying them of the date and time of the hearing and anticipated placement in agency custody. If a release of information has been authorized or ordered, case information including prior offense history and results of the YASI or any other assessments will be disclosed prior to the hearing.

Juvenile Drug Court at Maximum Capacity: If the youth meets criteria for participation in a regional juvenile drug court, but the local juvenile drug court is at maximum capacity based on the available local resources the recommendation should be: one year supervised probation and participation in the juvenile drug court program when openings become available. The assigned juvenile court officer will keep the case and continue probation supervision until there is an opening. It is best practice to file for a review hearing if there is no opening in that drug court within sixty (60) days for reconsideration of the disposition.

F. Delinquent or Unruly Disposition Matrix

To structure the disposition recommendation a matrix has been adopted which guides the assigned court officer to weigh offense severity along with the risk of that particular child to reoffend. Begin with the least restrictive disposition within a recommended range based on the current offense level of the most serious petitioned offense and the current YASI risk score.

A child who successfully completed a particular supervision level in the past should be considered for the same or an enhanced version of that service. If the child has previously received and was unsuccessful in a particular level, staff may consider the next setting within that disposition category.

Residential placement is reserved only for the highest risk children after community-based alternatives have been exhausted. If parents have placed their child privately in a residential placement at the time of the hearing, the court officer may recommend that the child follow through with the private placement treatment along with any other court ordered requirements.

Disposition Matrix

Most Serious Presenting Offense	Admin / Waived Risk Level (age <12 / abilities)	Low Risk to Reoffend	Moderate Risk to Reoffend	High Risk to Reoffend
Unruly ¹	Level 1	Level 1 - 2b	Level 1-2b	Level 1-3b
Infraction or Misdemeanor	Level 1-2a	Level 1a – 3a	Level 2b – 3d	Level 2b – 4a
Non-Violent Felony	Level 1-3b	Level 2a – 3b	Level 2b – 4a	Level 2b – 4b
Violent Felony	Level 2a-3b	Level 2b – 3c	Level 2b – 4b	Level 3b – 4b

Level 1 = Informal Adjustment (IA) without community supervision

1a = IA counseled, warned and adjusted

1b = IA released with referral to community resources / ND DOT notice / restitution only

Level 2 = Informal Adjustment (IA) with community supervision

2a = Non-reporting probation with program(s) tied to highest identified area(s) contributing to risk

2b = Reporting probation with case plan and program(s) tied to highest identified areas contributing

Level 3 = Formal Court Order without removal of custody from parents / guardian

3a = Adjudicated no conditions / deferred disposition

3b = Reporting probation, case plan, program(s) tied to risk

3c = Intensive Supervised Probation (ISP), case plan, program(s) tied to risk

3d = Reporting probation, successful completion of juvenile drug court²

Level 4 = Formal Court Order with removal of custody from the parents / guardian

4a = Non-secure custody³: Custody to human service zone (<13 years) or Division of Juvenile Services

4b = Secure custody: Custody to Division of Juvenile Services and includes use of ND Youth Correctional Center.

Deviation from the Matrix: Court officers may not recommend a deviation higher in the matrix without director or supervisor approval. Deviation from the matrix is documented in CMS contacts, contact type of “Intake”.

G. Disposition Recommendation Factors

When developing a least restrictive disposition recommendation under the juvenile court mission of balanced and restorative justice, the assigned juvenile court officer will consider the following factors along with the Disposition Matrix:

1. The best interests of the child;
2. The results of the child’s YASI full assessment including the child’s protective factors, static and dynamic risk factors and identified needs;
3. The referred offense(s) and any aggravating or mitigating circumstances;

¹ Includes MIP/MIC

² Youth must meet juvenile drug court criteria and reside within a region with a juvenile drug court

³ See definition at Section III(C)

4. The impact on the victim and any requested restitution or other wishes of the victim;
5. The risk to public safety the child poses;
6. The extent to which enhanced involvement and supervision of the child may diminish public safety concerns;
7. Evidence of a repeated pattern of behavior by the child;
8. Any statutorily mandated dispositions (such as 24/7 sobriety program, notice to North Dakota Department of Transportation or mandatory transfer to adult court);
9. Whether the child meets criteria for Juvenile Drug Court where program is available.
10. The results of any court-ordered or filed with the court evaluations that indicate a need for out-of-home placement in order to access an appropriate level of treatment.

H. Right to Counsel

Parties may employ their own counsel or apply for legal counsel at public expense. Applications for court appointed counsel should be reviewed as per local practice. (N.D.C.C. §27-20-26) See also the Indigent Defense section of this manual or the website for the North Dakota Commission on Legal Counsel for Indigents at <https://www.nd.gov/indigents/>

I. Deprivation Case Type – Human Service Zone Initiated Petitions

Deprivation petitions are initiated with an affidavit or letter from the human service zone agency directly to the state’s attorney with a copy to the juvenile court as an advisement. A juvenile court officer does not review and sign for approval on deprivation petitions under N.D.C.C. § 27-20-19. Terminations of parental rights, guardianships and other actions arising out of prior deprivation adjudication must receive a new clerk of court file number per child. Note that at least ten days before a hearing is held on a termination of parental rights, a copy of the petition and summons must be provided to the Department of Human Services. (N.D.C.C. §27-20-45(7)) Multiple children in one family may be included in one petition for deprivation, provided that all the parties are the same. Each child on the deprivation petition must have their own case number. (See N.D.R. Juv. P. 2 and N.D.R.Juv.P. 3.)

CMS Caseload Assignments: Each child is assigned to the director of juvenile court or assigned juvenile court officer caseload in CMS for case management during the time period that the deprivation case is open and pending with the court. Each of these cases is flagged with a “D” in CMS for deprivation. The assigned court officer is responsible for making sure ICWA is flagged if ICWA may or does apply, checking and responding to time standards, relating sibling cases and generally ensuring accurate and timely case closure in both database systems.

Foster Parent Notification: The custodial agency of a child is responsible for providing foster parents, pre-adopt parents or relative caregivers with a notice of hearing and information about their opportunity to be heard at any hearing regarding a child placed in their home and a copy of this written notice should be provided to the juvenile court for the file. (N.D.R.Ct. 4.2, N.D.R.Juv.P. 15(c).)

Continued Foster Care Cases: Under N.D.C.C. §27-20-30.1, continued foster care services are available to eligible current and former foster care children up to the age of 21. Upon juvenile court receiving the “18+ Continued Foster Care Agreement” and an affidavit from the custodial agency (social services, tribal social services, or DJS), a petition must be prepared. A new Odyssey case is opened with the Clerk of Court under the case type “Continued Foster Care Services.” The petition,

along with the 18+ foster care agreements and the affidavit, must be filed and a court date scheduled if necessary. If a child has aged out of the foster care system, they can request to return to foster care within the first six months. If a child is requesting to remain in foster care upon reaching the age of 18, a hearing should be held so permanency can be addressed and permanency language included in the 18+ order. If the child wishes to remain in care beyond the time frame of the initial 18+ order, a permanency hearing is required to extend the order.

- Children under 18+ orders are not under the “custody” of an agency.
- There must be a court order that gives a public agency placement and care responsibility filed within 90 days of the effective date on the 18+ Continued Foster Care Agreement.
- See N.D.C.C. § 27-20-30.1 for required court order language.
- Permanency Orders must be the result of an actual hearing.
- 18+ cases are entered in CMS as a new referral.
- The placements tab in Odyssey is not utilized in 18+ cases.
- ICWA does not apply.
- DJS children who wish to utilize 18+ will go through social services in the county where they are living or were living before they aged out.
- The signing petitioner of the case may be the county state’s attorney, a human service zone worker, or a representative of the department of human services or the child.

J. Release of Information to Defense Counsel

The process of information or document release to defense counsel should be done in keeping with the formal discovery process for petitioned hearings. (See Rule 12, N.D.R.Juv.P.) In cases of detention hearings, which are scheduled at times within a matter of hours, the juvenile court officer may provide a copy of the police report to both state’s attorney and defense attorney. In some areas of the state the police report may be scanned into Odyssey using the event code of “report”.

K. Removal for Placement Hearings

This process is to be used in cases when the child is already under the custody of a human service zone or the Division of Juvenile Services, and there is no placement language in the original order or the child was not removed the day of the hearing, and the child now requires placement in foster care. ASFA requires that there be a review hearing and a change in the language of the court order to include components related to “reasonable efforts” to keep the child in the home and to make a finding that “it is contrary to the welfare of the child to remain in the parental home” and “independent living” language if child is 14 or older.

Non-emergency Placement: If the placement is not an emergency, the best practice is for the custodian to present an affidavit to the State’s Attorney (with copy to Juvenile Court) requesting a modified disposition and placement hearing. This affidavit should include a detailed summary of all “reasonable efforts” made to date and any other pertinent information in the case since adjudication. The affidavit is filed and a hearing arranged either through motion and brief practice or the filing of a petition for removal under the same file number, whatever practice is preferred in the district. A hearing will be scheduled via the calendar control clerk or court administrator’s office to coincide as closely as the court calendar allows with the date that placement will be available. At the hearing, the court will hear evidence for the need for the change in status and, if granted, the order will be drafted, including all required language.

Emergency Placement: If the placement is needed on an emergency basis, the agency caseworker will provide an affidavit - Request for Removal of Juvenile to the Juvenile Court. A hearing will be scheduled as soon as possible before a judge or judicial referee. (Note that this may or may not be before the assigned hearing officer due to time constraints and hearing officer availability.) Parties will be notified verbally or in writing as time allows. The Human Service Zone worker, DJS caseworker, or juvenile court officer will testify as to the need for placement. The court may give an interim placement order if any party contests and may allow for time for proper service and a full hearing in the matter at a future date. The court must serve an order on all parties. Represented parties are served through their attorney. (Rule 7, N.D.R. Juv. P.)

L. Modifications of Orders

Review Hearings: The process of a review of a formal court order, made under Rule 16, N.D.R.Juv.P., begins upon the receipt of a written request or motion of a parent, child, court officer, state's attorney or custodial agency. The request must state the changed circumstances that, in the best interest of the child, require a modification or review of the current court order. Upon receipt of the written request, the juvenile court officer will submit it to the judge or referee and, if the request for review is granted, will contact the calendar control clerk or judge's staff to schedule a review hearing before the judge or referee who heard the original matter. A date is set and a notice of review hearing is served on the parties. (See 27-20-36(4)(a) N.D.C.C.) Any affidavit submitted by the social worker, court officer or Division of Juvenile Services case manager or written request of a parent or child is also served upon the parties. After the hearing, an order is prepared at the direction of the judge or referee, reviewed by counsel upon request and signed by the judge or referee. The order is filed and served upon the parties. (See Rule 7, N.D.R. Juv. P.)

Permanency Hearings: Upon the receipt of a Division of Juvenile Services or Human Service Zone Affidavit for Request for Permanency Hearing, a Motion, Notice, or Petition for Permanency Hearing is filed. For ASFA purposes, the matter must be placed on the record, regardless of the responding party's consent to the matter. After the hearing, an order is prepared at the direction of the judge, reviewed by counsel upon request and signed by the judge or referee. The order is filed and served upon the parties. (N.D.R. Juv. P. 7.)

Order to Show Cause (OTSC): The order to show cause process is used in juvenile court cases filed under Chapter 27-20 primarily with children who have reached the age of 18 and are not complying with their juvenile court ordered conditions despite efforts by the court officer to encourage compliance by the juvenile. This option is typically used as a last resort. If an 18 year old or older youth is found in contempt, the child may be detained at an adult detention center. Parents may also be found in contempt for failing to appear or participate in their child's treatment. (See N.D.C.C. § 27-20-27.1, N.D.R.Juv.P. 10(a)(3) and BP Manual 6.17) Guardians of minor children can also be subject to an order to show cause for failure to file an annual report under guardianship cases filed in juvenile court under Chapter 27-20.1.

Requests for Early Release

It is best practice and the most efficient use of judicial and agency resources to release children early from probation or custodial orders when all conditions have been met and the child is treated and rehabilitated. The court officer, prosecutor, defense attorney, agency worker, child or family may request early release.

- **Formal probation:** The juvenile court officer should request an early release from formal probation once all conditions are met and there is no pending referrals or outstanding restitution. The juvenile court officer completes the “Affidavit Requesting for Early Termination” macro or similar written request in affidavit form for the judge or referee to review and consider.
- **Custodial cases:** DJS and Human Service Zone workers may bring an affidavit (a standard affidavit) to juvenile court at any time prior to the expiration of the order. The juvenile court officer will review the affidavit for any pending referrals and/or outstanding restitution. If there are no objections from any party, the documents are presented to the judge or referee for review and consideration of early release. If any party objects with the early release, a hearing will be scheduled before a judge or juvenile referee for the parties to be heard.

M. Pick Up Orders

Juvenile pick up orders may be used for failure to appear at a formal court hearing under N.D.C.C. §27-20-15(2). They may also be used when the surroundings of a child are endangering the child’s health or the welfare of others either upon the issuance of the summons under N.D.C.C. § 27-20-22 or at other times. In all cases, the juvenile court officer should flag the case in CMS with an “R” for pick up Order. The original order should then be routed to the support staff for entry into CMS, filing, and mailing. A pick-up order that has been issued must be filed with the clerk of court’s office within the same work day. Hearings on pending pick-up orders will only be scheduled upon notice from the detention center that the juvenile has been processed, unless otherwise directed by the judge or referee.

Quarterly, there should be a review of the status of any outstanding pick-up orders with the state’s attorney, judge or referee. If the judge or referee decides that the order should be kept active, the order may remain active until the juvenile is 20 years of age. If the pick-up order is for a petitioned felony offense for which the statute of limitations has not expired, the order should remain active until such time as the statute of limitations expires.

Once a child has been apprehended or a request to vacate has been signed by the judge or referee, the juvenile court officer shall notify the appropriate law enforcement agencies that the pick-up order is no longer active and file the order with the clerk’s office within 24 hours. The order should be routed to the administrative assistant for entry into CMS, filing, and mailing.

Odyssey Warrants Report: An Odyssey “Warrants Activity and Outstanding Warrants” report must be reviewed every work day by the Director, Juvenile Court Officer III or other designated juvenile court officer to ensure that pick up orders that have been removed, satisfied or quashed are removed from the system. Should a person be wrongfully arrested on an outstanding juvenile pick up order, the unit risk manager must be notified immediately and a risk management report completed.

Failure to Appear for Formal Court Proceeding: After proper service and failure to appear to a formal court proceeding, the court may issue a pick-up order directing that any law enforcement officer may take the child into custody. If the child or a family member contacts the juvenile court office, the child or family member should be directed to report to law enforcement. If the underlying charge in the petition is an unruly charge, the pick-up order must direct that the child be taken to a non-secure

facility and held until the child can be brought before the court. (See N.D.C.C. §27-20-15(2) and N.D.R.Juv.P. 5(a)(3) and 10)

Pick Up Order Upon Issuance of a Summons: If it appears from an affidavit filed or from sworn testimony before the court that the conduct, condition, or surroundings of the child are endangering the child's health or welfare or those of others, or that the child may leave or be removed from the jurisdiction of the court or will not be brought before the court, notwithstanding the service of the summons, the court may order a law enforcement officer to serve the summons and take the child into immediate custody and bring the child before the court, attendant care or detention. (N.D.C.C. § 27-20-22(3) and N.D.R.Juv.P. 5(b).)

Pick Up Orders Based on Affidavit: The court officer completes the detention screening tool prior to requesting a pick up and hold order and staffs the request with a supervisor. The results of the screening tool are entered into CMS on the TESTS screen. The juvenile court officer or legal custodian completes an affidavit requesting that a pick up and hold order be issued. If a pick up and hold order is granted based upon an affidavit, the identifying information page that accompanies the pick-up and hold order should be completed by either the juvenile court officer or legal custodian. Copies of the pick-up order and the identifying information page should be routed immediately to the appropriate law enforcement agencies. (See N.D.C.C. §§ 27-20-06(1)(e), 27-20-13.)

N. Judicial Bypass Proceedings

When an application for a judicial bypass under the Abortion Control Act (see N.D.C.C. § 14-02.1-03.1,) is received in juvenile court, the director of juvenile court or designee will notify the clerk's office by phone or email. The clerk's office will set up the restricted case in Odyssey under the case type of Juvenile Special Proceeding. Note the following:

- No documentation is entered in the CMS database
- The application for judicial bypass and order granting or denying the bypass are prepared by assigned juvenile staff (macros are available).
- A juvenile court officer may meet with the child to assist in the completion of the application.
- All applications for judicial bypass must be heard by a judge or referee within 48 hours of receipt of the application, excluding Saturdays and Sundays. (N.D.C.C. §14-02.1-03.1(2).)
- Juvenile court officers have the option of not completing the application with the child, but must immediately request a substitute juvenile court officer.
- Upon completion of the application, the juvenile court officer will file the application with the clerk's office and obtain court date.
- Requests for change of venue must be heard before a judge or referee per N.D.C.C. § 14-02.1-03.1(2).

O. Transport Orders

Transport orders are necessary to assure appearances in court of those children in out-of-home placements. Transport orders for placement following arrest by law enforcement are not necessary as they have the authority to make appropriate placement pursuant to arrest. Transport orders for placement following hearing or during the duration of the order may be necessary if the child cannot be otherwise safely transported.

The juvenile court officer shall prepare transport orders (the form is available in the macros) when necessary to assure appearances at shelter care, detention, and petition hearings in circumstances when the child is in an out of home placement such as group care, residential facility, or detention facility. Under N.D.C.C. §27-20-06(1)(j) a director of juvenile court has the authority to issue an order to transfer a child to and from a location. The powers and duties of a Director of Juvenile Court can be delegated to court officers as the director designates.

Transports should be done by the sheriff's department of the county of residence or by county sheriff's department (in contested matters) where the offense is being prosecuted.

The juvenile court should order any transportation necessary following a hearing. The referee or judge may be requested to include in the order that if the parents of the child are unable to transport the child or it is not in the child's best interest for them to do so, that a county deputy shall transport the child to any place designated by the custodian during the duration of the order.

When possible, efforts should be made to determine if transport may be done safely by parents, legal custodians including Division of Juvenile Services, Human service zone, or facility staff.

P. Interstate Compact Cases

Court officers enter all required information into the Juvenile Interstate Data System (JIDS), following Interstate Compact procedures and contact the N.D. Interstate Compact Administrator, for guidance and technical assistance. Rules, forms, and manual information should be accessed online through the J.I.D.S. system at the Association of Interstate Compact Administrators website:

www.juvenilecompact.org

Q. Transfer to Adult Court

Section 27-20-34, N.D.C.C., allows for children to be sent or request to be sent to the adult criminal justice system through a legal action called "transfer". The prosecution of any child as an adult for an offense committed while the person was less than 14 years of age is prohibited. (N.D.C.C. §12.1-04-01.) Transfer hearings must be expedited if the child is in detention.

Once transferred to adult court jurisdiction and convicted of the same offense charged and giving rise to the transfer, a child is then subject to adult court jurisdiction. (N.D.C.C. § 27-20-34(4) as "any transfer operates to terminate the juvenile court's jurisdiction over the juvenile with respect to any future offense if the child is ultimately convicted of the offense giving rise to the transfer".). The juvenile court officer should monitor the status of the adult court file and document in CMS when completed.

Note that transferred children tried as adults face the same punishments as adults, including placement in adult jails, adult prisons or placement on adult probation. (N.D.C.C. §12.1-32-13.) They are subject to the same sentencing guidelines as adults. (N.D.C.C. §12.1-32-02(1)(c)(4).) Studies of juvenile transfers show that recidivism rates are higher among children transferred than those retained in the juvenile system therefore recommendations to transfer must be approved by a supervisor.

Voluntary Transfer Criteria: A transfer to adult court is voluntary when it is requested by the child prior to a judicial determination at the conclusion of a transfer hearing.

Voluntary Transfer Procedures: If the child is over the age of 16 years and requests a voluntary transfer, the option of voluntary transfer may be discussed. It should be explained that the child has the right to counsel and must specifically waive that right. A petition, citing the allegations of delinquent behavior, and including all customary sections of a petition (i.e. verification, approval, summons, etc.) is then filed, if the petition has not already been filed. The citations and reports are forwarded to the appropriate court (municipal or district) and the state's attorney.

Involuntary Transfer Criteria: The criteria for determining the consideration of an involuntary transfer includes:

1. The child is over the age of fourteen, and has allegedly committed an automatic transfer offense. N.D.C.C. § 27-20-34(1)(b) lists automatic transfer offenses: murder or attempted murder, gross sexual imposition or attempted gross sexual imposition by force or threat of imminent death, serious bodily injury or kidnapping.
2. The child is not amenable to treatment in the juvenile system, and /or has received all the available benefits of the juvenile court system, including out-of-home placement. It is customary that the prior placing agency (i.e. DJS) of the child is in support of the transfer. The specific standards for determining amenability are provided under N.D.C.C. §27-20-34(3). Amenability to treatment evaluations for indigent youth can be provided by the North Dakota State Hospital. Counsel requesting the evaluation or the juvenile court officer assigned can contact the program supervisor at the North Dakota State Hospital in Jamestown, North Dakota to arrange the evaluation.
3. The child is not treatable in an institution for the mentally challenged or mentally ill.
4. If the child has two previous felony adjudications, and the alleged conduct is also a felony offense.

Involuntary Transfer Procedures: After determining the appropriateness of a transfer, a petition is prepared, and is processed in the usual and customary manner, except that a "Notice of Transfer" is included in the petition giving notice to the parties of the intent to transfer the charge to adult court. The transfer hearing is commenced prior to any hearing on the merits of the case. These are separate and distinct hearings. A first appearance is scheduled. If the transfer is resisted by any party, a further date is scheduled for hearing on the merits of the transfer. The case is forwarded by the States Attorney to the appropriate court of jurisdiction. (See J drive, Transfer to Adult Court folder for chart and time line of the court process.)

R. Contempt of Court

The Juvenile Court may sanction a person for contempt of court, in accordance with the laws and procedure relating to contempt, for disobeying an order of the court or for obstructing or interfering with the proceedings of the court or the enforcement of its orders. (Chapter 27-10 N.D.C.C.) A party may be held in contempt upon a court's own motion or upon motion of any party as a result of intentional misconduct in the courtroom, failure to appear after being properly served, or for failure to obey an order of the court. (27-10-01.1, N.D.C.C. and Rule 10, N.D.Rules of Juv. Pro)

Parent Failure to Appear: If the Court finds that sufficient notice and service was given, the judge or judicial referee may issue a bench warrant under Rule 10(a)(3) for failure to appear. Adults are held

at local county jail and appear before the juvenile court judge or referee that issued the bench warrant. The adult bench warrant is filed within the juvenile file in Odyssey.

Child Failure to Comply with Court Order: A child who has reached the age of 18 may be held in contempt and ordered to the county jail for as long as the contemnor continued the contempt or six months, whichever is shorter. (27-10-01.4 N.D.C.C.) Some criteria to consider are whether the child has been on formal probation for a minimum of six (6) months, active efforts have been made to assist the juvenile in completion of the requirements, youth scores 13 or higher on the detention screening tool or is 18 years of age or older and is noncompliant with a court order, and youth is a risk to the public. The action steps for the juvenile court officer are:

1. File for a review of probation and use a supporting affidavit
2. Request a finding of contempt of court and request a period of jail time be suspended for a period of time such as 30 days in jail suspended for 60 days in which to cure the contempt.
3. Assist the child in becoming compliant with the court order.
4. If the child is still non-compliant with the conditions of the order, request a bench warrant imposing the suspended jail time.

Note that N.D.C.C. 27-20-24(5) states that hearings to hold a person in contempt of court are open to the public. All media requests should be referred to the Unit Court Administrator's office. Local practice may dictate otherwise and staff should consult with their supervisor before making a recommendation or pursuing a contempt of court sanction.

S. Testimonial and/or Document Subpoenas

A subpoena commands a witness to attend and testify in court. It is commonly used to obtain evidence from individuals who are not parties to a lawsuit. A subpoena may also command the production of documents or objects and is sometimes titled, *Subpoena Duces Tecum*. Upon receipt of a subpoena or *subpoena duces tecum* (a subpoena to produce documents), juvenile staff shall immediately notify a supervisor and provide them a copy of the subpoena or court order. Timely compliance is critical as failure to comply can result in the person or agency being found in contempt of court. (See also N.D. Supreme Court Policy 139 – Lawsuits against Employees)

Since information obtained during the course of employment at the juvenile court is protected and may be subject to privilege, it is best practice for staff upon taking the stand to request that the judge or judicial officer to order them to testify. Some sample language to refer to is as follows:

"Under 27-20-51 of the North Dakota Century Code and Rule 19 of the North Dakota Rules of Juvenile Procedure, all files and records of the juvenile court are closed to the public. However, if the court determines that this information is necessary for the determination of the issues before the court today, and orders me to testify regarding this confidential information, I can do so."

If the judicial officer orders the court officer to testify or produce documents, they must do so. Note that judge and court personnel work material such as probation notes, draft documents and personal calendars are not to be released. Refer to Administrative Rule 41, Section 5 which lists court records that are excluded from public access.

If a subpoena is received to attend a deposition or administrative hearing where a judicial officer will not be in attendance, the supervisor shall notify the unit administrator and state court administrator who can consult with court counsel and determine response options.

VIII. Guardianships of Minor Children under Chapter 27-20.1

The juvenile court has exclusive original jurisdiction of proceedings to grant, modify, or terminate the guardianship of a child, with the exception of appointments of a guardian for a child, governed by chapter 30.1-27, made through a will after the death of the parents.

A. Referral Processing

A “private guardianship” referral is entered into CMS (referral source is “other”), the case assigned in CMS to the director or assigned court officer, and a paper working file is made. If the allegations detail possible juvenile deprivation, a child abuse and neglect report to human service zone should be filed by the court officer.

B. Case Initiation

Any person interested in the welfare of the child and who has information or knowledge of the facts alleged can file a petition for guardianship of a minor under Chapter 27-20.1. There are four types of facts about parents that could lead to such a petition:

- 1) Parent(s) have died without a will (27-20.1-06(n)(1) NDCC)
- 2) Parent(s) are consenting in writing to the guardianship (27-20.1-06(n)(2) NDCC)
- 3) Parent(s) rights have previously been terminated (27-20.1-06(n)(3) NDCC)
- 4) Parent(s) have deprived the child as the term deprived is defined in 27-20-02. (27-20.1-06(n)(4))

If parents die with a will that proposes a guardian for the child, the case should be filed in district probate court and chapter 30.1-27 governs. If a case is initiated in probate court in error, the case is transferred from district court to juvenile as required in 27-20.1-03. Note that such a transfer may result in the child being taken into immediate shelter care (27-20.1-03 NDCC) and also requires juvenile court to immediately appoint a guardian ad litem.

A guardianship does not terminate the parent’s parental rights.

Appointment of Lay Guardian ad Litem: Upon filing of the case, the juvenile court appoints a lay guardian ad litem by obtaining the name from the agency holding the lay guardian ad litem contract, preparing, filing, and serving the order appointing a lay guardian ad litem. (N.D.C.C. §50-25.1-08 and Rule 17, N.D.R.J.P) Note that there is a state-wide Odyssey form appointing a guardian ad litem under Chapter 27-20.1 and that form differs from the order appointing used in regular Chapter 27-20 proceedings so it is important to select the right form depending on the case. In cases where the written consent of both parents is filed with the court and the hearing requirement waived, the deadline for the lay guardian ad litem report is twenty (20) days from the appointment. Juvenile court staff should adjust the time standard in Odyssey accordingly. A private party may choose to hire their own attorney guardian ad litem to investigate and file a report, but that would not change the requirement for the court to appoint a lay guardian ad litem under court rule.

Case Flag for ICWA: The Indian Juvenile Welfare Act may apply and the director or other assigned court staff should flag the case for ICWA if it appears from the supporting documents that the child is a Native American child under the Act. If it is unclear whether or not ICWA applies, the case should be flagged and the comment line can read “further inquiry needed”.

Case Flag for Access to Family Mediation Program: Parties in a contested custody action are entitled or may be court ordered to cooperate with family mediation as required under Rule 8.1 of the North Dakota Rule of Court. Each juvenile guardianship filed under Chapter 27-20.1 should initially start off as flagged for assessment of whether a family mediator is required. A judge or referee can determine at any point in the process to involve a family mediator.

Immediate Danger to Child Indicated: If the child or children are in immediate danger and require protection, a shelter care hearing can be set (N.D.C.C. §27-20-13) and an emergency temporary guardianship considered by the court.

Self-Represented or *Pro Se* Petitioners: It is important to treat pro se filers of guardianship petitions equally and impartially. Court staff cannot give legal advice but can refer people to the self-help section of the North Dakota Courts website or give out the Self-Help Center (<https://www.ndcourts.gov/legal-self-help/minor-guardianship>) brochure and phone number. Guardianship forms for the pro se are available on the self-help section of the website. Court staff can print out forms for pro se filers without access to computers. The following is an approved example of dialog appropriate to assist pro se filers:

*“There are three different form sets available for asking the court to appoint a guardian. I’ll give you the basic requirements of each, and you can decide which fits your circumstances:
1. All parents consent in writing (except TPR); 2. All parents are deceased or TPR; 3. The child is a deprived child (if the other two form sets do not apply).”*

Attorneys and self-represented individuals must independently determine if the forms available on the center website are legally sufficient and suitable for their case. The ND Court system does not have forms that have been designated official or mandatory. Every effort is made to keep the forms and instructions up to date, but there is no guarantee. Court staff can answer questions about how to complete the forms or the process to file the forms but cannot recommend phrasing, specific wording, or recommend what information to include. Consult your supervisor when a self-represented user indicates they are not capable of writing or typing the words themselves.

C. Director Review of Petition for Guardianship after Filing

It is a statutory duty of the director of juvenile court to receive and examine petitions to establish, modify, or terminate a guardianship of a minor filed under chapter 27-20.1. (27-20-06(1)(I) NDCC) This duty may be delegated by the director to a juvenile court officer III or II under North Dakota Supreme Court Policy 401 (VI).

Review for Director Approval Process

Step One: Petitioners file the petition and any supporting affidavits or other documents with the clerk of court in the county where the child resides or is present when it commences.

Step Two: Upon filing, the clerk of court should case detail in Odyssey to the attention of the juvenile court director or designee. These cases appear on the daily case detail report.

Step Three: The director or designee reads all filed documents. Compare the contents of the petition to the statutory requirements of 27-20.1-06. (There is a checklist form that can be used to assist the reviewer in this process which is located at: [J:\Shared Juvenile Files\Fillable forms\NEW juvenile guardianships under 27-20.1\Checklist for Contest of Petition 27-20.1-06.docx](#) This form is for internal office use and should not be file into the court file.) Search CMS and Odyssey for related cases. The director should approve or deny the petition using the Odyssey statewide form entitled “**JV Guardianship Notice Petition Review by Juv Ct Director (27-20.1)**”. To use this form, one must be inside the guardianship case in Odyssey, select “Forms” from the upper, right-hand corner of the screen, search and select “JV Guardianship Notice Petition Review by Juv Ct Director (27-20.1)”. You will need to fill in the child’s date of birth and then select from the three options of 1) approve, 2) deny with a reason given, or 3) deny based on insufficient information and give thirty days to provide the missing information.

If the petition is denied for failure to include the required statutory elements, those elements missing should be listed in the notice and the petitioner be given 30 days to correct the filing. That denial for insufficiency is filed in Odyssey (using that same form regarding Notice of Review by Juv Ct Director) and served on the party submitting the petition. A time standard should be set to review the file in 30 days. If child safety during the pendency is in question or child deprivation alleged, a child abuse and neglect report should be filed with child protective services. The Odyssey case file should remain open and pending until either an amended petition is filed and approved or the 30 day time frame has passed without sufficient information provided, at which point the case can be closed by the clerk or juvenile court staff.

D. Waiver of Hearing Requirement Process

For petitions filed under circumstances where the parents are deceased without a will, the parents are consenting in writing to the guardianships, or the parent’s rights have been terminated or a combination of these factors, the petition may request that the hearing requirement be waived by the court. If the child is an alleged deprived child, the juvenile court must hold at least one in-court hearing. The process outlined for the petitioner to follow is detailed at 27-20.1-08(3) NDCC. Even if the hearing requirement is waived, a lay guardian ad litem is appointed and the deadline for the guardian ad litem report to be filed with the court is twenty days after the date of appointment. (27-20.1-08(3)(d) NDCC). It is important for the court officer assigned the case that the time standard for the guardian ad litem report be manually moved to this deadline. Twenty days are counted to include holidays and weekends.

E. Right to Indigent Defense

At any point in this process the court may appoint an attorney to represent the child. A parent who is indigent and unable to employ legal counsel is entitled to counsel at public expense. An indigent parent is one who meets the definition of indigent under the guidelines adopted by the commission on legal counsel for indigents.

F. Criminal Background Checks of Proposed Guardians

Prior to final appointment as a legal guardian under chapter 27-20.1, the individual seeking appointment, and any other adult living in the household, must be subject to an assessment that includes a criminal background check. (N.D.C.C. §50-11.3-01) This is to show the court that they are a “fit and willing” individual as defined in 27-20-02. Pro se petitioners or attorneys with questions about the process to obtain criminal background checks on prospective guardians of minors should all be directed to the Criminal Background Check Unit of the Department of Human Services and the web page located at:

<http://www.nd.gov/dhs/services/childfamily/cbcu/guardianship-index.html>

The results of the background check will be sent electronically to the local juvenile court. Upon receipt, the results are promptly filed with the court and copies provided to parties.

G. Length of Guardianship Orders

An order appointing or reappointing a guardian is effective for up to one year unless the court, upon a finding of good cause, sets a different time frame. In that case, an order will not be effective for more than three years. (27-20.1-17 NDCC) Otherwise, a guardian’s authority and responsibility terminates upon the death, resignation, or removal of the guardian, or upon the child’s death, adoption, marriage, or attainment of the age of majority, eighteen. The only exception to this would be for cases arising out of continued foster care cases, in which case the age of majority is twenty-one. (27-20.1-17(2) N.D.C.C.)

Extensions of Guardianships

Sixty days before the expiration of the court order, the court sends out a request for information from the guardian regarding the need for continued guardianship. There is a form in Odyssey called “Information Related to Continuation of Guardianship” and typically this will be sent out by the juvenile court staff unless this duty is directed to clerk staff by the court administrator. A hearing must be held and it is best practice that the child appear unless excused by the court. If no one appears for the hearing, the clerk should case detail the file to juvenile court staff and a child abuse and neglect report (SFN 960) should be filed with the Human Service Zone.

Resignation and Return of Child to Parent: A resignation of a guardian does not terminate a guardianship – only the Court can terminate the guardianship. It is best practice to have a hearing or a minimum, the parents could retain counsel or apply for indigent defense counsel to assist them in filing a 3.2 Rule of Court Motion which would effectuate the termination of the guardianship and return to parental custody if the motion time passes without objection or request for hearing.

H. Responsibility for Document Preparation and Service of Process

The service and drafting of legal documents, other than the Notice of Assignment, Order Appointing Lay Guardian ad Litem and Notice of Right to Intervene, will typically be the responsibility of the moving party, the petitioner in the case. If the Petitioner is *pro se*, the service of the initial summons and petition are served by the juvenile court office staff and after service of the summons, other court documents prepared by the pro se party may be served by the juvenile office staff.

I. Emergency Guardianship Process

Upon the filing of a petition for guardianship of a child, a petitioner may request an emergency guardianship. Typically that will be done through either an ex parte motion or request for emergency guardianship hearing. The petitioner must prove to the court that compliance with the procedures of this chapter will likely result in substantial harm to the child's health, safety, or welfare. If the court appoints an emergency guardian without an emergency hearing or notice to the parties, then notice of the emergency appointment is done by the guardian within 48 hours. The court then schedules and holds an emergency hearing within 96 hours after the emergency appointment. All of the notice and scheduling for these hearings would be done by the moving party. (27-20.1-18 N.D.C.C.)

J. Annual Reports

If guardians failed to file a required annual report, the court can issue an order to show cause and set a hearing. If the child is age 14 or older, they too, along with the guardian, must be served a copy of the order to show cause. In all cases, the unit juvenile court director must receive a copy from the court. The purpose is to ensure child safety and to alert the juvenile court director who may choose, in appropriate circumstances, to take the child into custody and request a shelter care hearing.

K. Order to Show Cause Process

If a guardian fails to file the annual report, the judicial officer can direct an Order to Show Cause (OTSC) hearing be scheduled. (27-20.1-15(2)(e)(9) N.D.C.C.) There is an Odyssey form specific for Order to Show Cause hearings in these types of cases. This document may be prepared and served by the juvenile court staff. A time standard should be created to check prior to the hearing to see if the annual report is submitted. If it is submitted by to the OTSC hearing, the assigned judicial officer may choose to remove the hearing from the calendar. A lay guardian ad litem is not reassigned and ordered on to the case at this point unless directed by the judge or referee. If the guardian fails to appear for the OTSC hearing, a welfare check, phone call, report to child protection services by the director or designee, or an emergency custody order may be directed by the court but it is best practice that a child abuse and neglect report (SFN 960) be filed so that the child's welfare and whereabouts can be assessed given the guardian's failure to stay in contact and appear at court.

CMS data entry: If a guardianship is terminated at the Order to Show Cause hearing, the termination is added into CMS as a referral type of Disposition Modification (level D) with a disposition of "Juvenile Guardianship Terminated".

IX. Delinquent/Unruly Case Assessment and Supervision

Structured screenings and assessments are critical for effectively serving North Dakota's children and their families. Timely assessment and interventions that fit the individual needs of each child and family have been proven to change lives for the better, reduce the likelihood of new offenses and improve the quality of life for the child and the community. Effective assessments assist the Juvenile Court in determining appropriate intake, disposition, and supervision strategies and to ensure proper matching of treatment programming.

North Dakota utilizes the following tools: Youth Assessment and Screening Instrument (YASI), Massachusetts Youth Screening Instrument, Version 2 (MAYSI-2), and the North Dakota Human

Trafficking Screening Tool. A trauma screening, the University of Minnesota's Traumatic Stress Screen for Children and Adolescents (TSSCA).

A. Youth Assessment Screening Inventory (YASI)

North Dakota courts adopted the Youth Assessment Screening Inventory (YASI) instrument to assess each child, identify youth who should be diverted from the system, inform the case planning process and identify opportunities and interventions that can best help youth to achieve success. Court officers who cover rural areas of the state should have access to lap top computers, or tablets, with remote internet access (VPN or Pulse Secure) to enable timely entry and scoring of YASI the day of the interview.

Introduction: The purpose and use of the YASI is explained to the child and parents. A standard sample explanation is available in [..\\..\\YASI](#) and the child's participation in the YASI and any resulting YASI case plan should be included in standard probation conditions.

Exceptions: A YASI pre-screen is not typically completed on children who have an unruly violation and no prior delinquent referrals (this includes MIC/MIP referrals), driving-related infractions, and children under the age of twelve, or having a mental health diagnosis interfering with the completion of the interview, or language barriers that make the results inaccurate. Each unit may decide to utilize the YASI pre-screen with status-only offenders for purposes of assessing risk and needs of that child. The YASI in this circumstance is used as an information gathering and case planning tool and would still be flagged in CMS as "YASI waived". One should consult their supervisor for direction. Should one be directed to complete a YASI pre-screen on a status only youth, the age of first offense would be the age of status referral date.

Pre-Screen at the Informal Adjustment: It is best practice to conduct a YASI pre-screen after receiving an admission of a delinquent offense at the informal adjustment, or of an unruly offense from a child with prior delinquent referrals. The information should be gathered in a semi-structured, discussion format. Once the information is gathered, it should be entered while the family is in the room and a pre-screen score obtained. Based on the results of the pre-screen, the result of the conference is guided by the pre-screen matrix grid. This should be explained to the youth and family and as in other informal adjustment conferences, if they disagree with the proposed agreement, the informal is concluded and the matter reviewed with the state's attorney. If a child reoffends after case closure (release from supervision), a "new" YASI pre-screen must be completed, rather than completing a reassessment. The court officer may "copy forward" the most recent assessment to begin the new YASI or start from scratch.

Pre-Screen Case Planning Grid:

If the youth scores low risk, with moderate or high protective factors, the outcome of the informal adjustment should be "released with a warning" unless there is an amount of victim restitution owed. Then unsupervised probation may be warranted to structure and monitor the payment of victim restitution.

If the youth is low risk with low protective factors, it is recommended that the outcome include an educational / skills component for the youth and family or referral to a local service provider as appropriate.

If the youth is moderate or high risk to reoffend, the youth is placed on supervised probation and scheduled for a full YASI assessment in the next thirty days. Specific interventions are left open until completion of the full assessment and case plan. With the youth and parent input, the case plan goal and corresponding interventions will be selected that best address the youth's specific criminogenic risks and needs.

Once the YASI pre-screen has been completed, the results are recorded in the TESTS screen of CMS and the corresponding overall risk score flag entered on the caseload screen.

Table 1 Informal Adjustment Pre-Screen Case Planning Grid

Pre-Screen	<u>Overall Risk</u>		
	Low Risk	Moderate Risk	High Risk
High Protective	Admin (release with warning)	Moderate (full screen)	High (full screen)
Moderate Protective	Low (release with warning)	Moderate (full screen)	High (full screen)
Low Protective	Low (educational program)	Moderate (full screen)	High (full screen)

Full Screen: Children scoring moderate or high on the pre-screen, go on to have a full screen. The full-screen should be completed as soon as possible and at least within 30 days of the child being placed on reporting probation. If the full screen is not completed within the 30 day time frame, the reason for the delay is to be documented in CMS contacts. The full screen should be completed in one, or at the most, two meetings, in order to accurately capture that period of time. Ideally the full screen would be completed face-to-face. It may be necessary or natural to follow the questions in sequence as sometimes the flow of the conversation may dictate otherwise. The full-screen results will be recorded in the test screen, and the corresponding overall risk flag on the caseload screen. The dynamic risk score will also appear on the test screen after answering the second question in the test.

Case Plan: A YASI case plan shall be should be completed within 45 days of a child being placed on reporting probation when the YASI full screen has been warranted and the juvenile falls within the moderate or high risk category of supervision as determined by the YASI pre-screen grid. If the case plan cannot be completed within 45 days, the reason for delay should be documented in CMS contacts.

Once the case plan has been completed, the juvenile court officer will sign the document and present the plan at a staff meeting or to the supervisor, and record the completion in the programs screen in CMS. The supervisor will approve the case plan if appropriate and return the document back to the assigned court officer. The court officer will review the case plan with the child and parent/guardian and have them sign the case plan. If the parent is unable to be physically present to sign the document, the probation officer will review the plan via phone and document in CMS.

In formal cases, the case plan can be filed in the Odyssey filed as a “report” and in informal cases, the case plan can be scanned into the documents tab of CMS.

Included in the case plan will be the corresponding level of supervision. Supervision can be increased or decreased at the discretion of the court officer and their supervisor.

A YASI case plan form can be found in the J Drive at: <..\..\Fillable forms\Reporting Probation Case Plan ConditionsII.pdf>

Reassessments: Court officers should view assessment as a process, as not a one-time activity. Reassessments will be done at a minimum of every three (3) months, for moderate and high scored youth and at case closure. If low risk youth are on supervised probation, a reassessment would be completed every three months and upon case closure. Each child’s YASI will be updated on an ongoing basis if there is new information obtained or a new referral received. The reassessment and case closure results must be entered in CMS on the TESTS screen and the overall risk flag entered on the caseload screen. The corresponding dynamic risk score will also appear on the test screen after answering the second question of the test. If a child reoffends after case closure (release from supervision), a “new” YASI prescreen must be completed, rather than completing a reassessment. The court officer may copy forward the most recent assessment to begin the new YASI or start from scratch. It is also recommended that a reassessment be entered at the time a youth is terminated from juvenile drug court.

Collaboration: The Division of Juvenile Services or human service zone agency should receive a copy of the prescreen and/or full screen at the time they receive custody of a juvenile or prior to receiving custody with proper releases of information signed by the youth and parent.

YASI Subcommittee: A YASI specialist will be selected in each administrative unit to ensure quality control and be available for staff questions on YASI. The state YASI committee will develop a continuous quality improvement process to audit assessments, train new staff as well as provide on-going training and overall ensure that the instrument has inter-rater reliability.

B. Massachusetts Youth Screening Instrument (MAYSI-2)

The MAYSI-2 is designed as a screening tool which should be delivered at the first intake of probation or at the first opportunity within the first 30 days of a child (ages 12-17) being placed on reporting probation. The MAYSI-2 can be administered to children individually or in small groups if the group is monitored and controlled to avoid communication between children during the test-taking. The MAYSI-2 may be waived with approval of the court officer’s supervisor, but this decision of waiver must be documented in CMS.

Level of Response to MAYSI-2 Results:

“CAUTION”: When a child scores above the caution cut-off on a given scale, the child has scored at a level that can be said to have “possible clinical significance”. “CAUTION” PROTOCOL - For a “caution” result, the court officer continues to monitor the situation with the assistance of the parent. Document all actions taken in CMS contact notes with hard copies for the file.

“WARNING”: Warning cut-off scores are intended to alert staff that the child has scored exceptionally high in comparison to other children in the juvenile justice system. They should be considered most likely to be in need of attention for mental health problems because they are reporting problems at a level that far exceed the average for children in juvenile justice settings and therefore, getting their mental health needs met should be given a high priority.

Warning Protocol: The court officer will make a recommendation to the parent, both verbally and in writing that the child requires immediate monitoring and immediate consultation with a mental health provider. The court officer must document this in CMS contact notes. The court officer can assist the parents in contacting a mental health provider. If the court officer feels the child is in immediate danger and parents are not willing or to seek out a mental health professional, the court officer shall immediately complete an abuse and neglect report (SFN 960) for medical neglect and fax to the local county social service agency or phone the on-call social worker and request assistance. Parents should be advised that a report is being filed with social services unless that poses an immediate safety risk to the court officer. If the child is already involved in mental health services, the court officer will notify the therapist/psychologist or psychiatrist of the results of the MAYSI for caution and warn scores provided a release of information is on file or obtainable. There may be cases when the “caution” and “warning” zones are explained by specific circumstances. The child may be experiencing a depressed mood because of some significant recent loss or because of an emotional reaction to other stressors, for example, a death in the family, taking final tests, preparing for a job interview, or stress related to the court proceedings or intake process. After further questioning (see second screenings P. 5) and consultation with parents or other collateral person, it is determined that is a “false/positive score”, documentation should be put in CMS and explanation given to the parent and child. No referral is required but it is important to continue to monitor the situation and direct the parents to monitor the situation.

Second Screenings: This is a very brief, structured question-answer process whereby the court officer can check on the potential meanings of child’s responses where they exceeded the caution and warning cut-off scores. These structured questions help the court officer to decide if this is a case of a “false-positive” which does not require immediate intervention. ONLY use the second screening form for the scales on which the child has scored above a caution or a warning. IMPORTANT: Children are not given these forms to fill out themselves. Each form has three or four questions that the court officer asks the child, in interview fashion, then writes down the responses in the spaces provided. The second screening form does not provide a way for staff to score the response as the first screening form provides; rather, they simply help the court officer access the relevant information necessary to make the decision of whether further intervention is necessary. It will be each staff member’s own judgment, in consultation with your supervising Court Officer III or Juvenile Director that will lead to the ultimate determination. The MAYSI-2 Second Screening Form Summary sheet should be placed in the file, a copy given to the supervisor and notes concerning the outcome placed in CMS.

C. Traumatic Stress Screening (TSSCA)

The goal of the trauma screening is to identify traumatized youth who have emotional, behavioral, learning or relationship difficulties due to traumatic stress reactions and will need a further trauma assessment. This screening will complement, rather than replicate, the content of the other screenings or assessments performed such as YASI, MAYSI-2 or Human Trafficking.

The screening used by the North Dakota juvenile courts is called “Traumatic Stress Screen for Children and Adolescents” (TSSCA).

Many court-referred youth have been exposed to traumatic events. They present with problems that require court officer professional assistance to modify their behavior and protect the community. Traumatic experiences can change the brain in ways that cause youth to think, feel and behave differently. Restoring healthy development and functioning as well as assisting youth in ensuring personal safety will be a key goal in working with youth who have experienced trauma.

Timing: A screening for trauma should take place as early as possible and at least within the first 30 days of being placed on supervised probation or upon order of the court.

Trauma Screening Steps:

1. Obtain informed consent from the youth and parents/custodians unless participation is court mandated or agreed to in the informal adjustment. To obtain informed consent, explain the purpose of the screening to the youth and parents/custodians, including how the information will help the youth and how you will protect his/her legal rights and best interests. Specifically, inform the youth (1) whether the purpose of the screening is to inform adjudication or disposition decisions or to determine needs for services; and (2) whether you will keep his or her responses private or need to release them to the court, counsel or other juvenile justice staff.
2. Ensure the screening is administered in a manner sensitive to diversity, including the youth’s and family’s language, culture, gender, identity and ability. For example, if you don’t think the youth is able to understand or complete the screening, you can ask the questions and record the answers given to you by the parent or caregiver. Or you may need to utilize an interpreter if the youth’s verbal skills in English pose a barrier to adequate gathering of the information. Review this issue with a supervisor and document this decision in CMS contacts and on the tool itself.
3. If the youth has experienced trauma but the screening does not indicate any significant current trauma-related symptoms, inform the youth and family about the effects of traumatic stress and ways to cope effectively.
4. A referral should be made for a comprehensive trauma-informed assessment if the screening indicates a likelihood of significant traumatic stress problems (Follow scoring guidelines on the tool) and document that referral in CMS contacts.
5. Keep the paper copy in the file and document the delivery and results of the screening in the Tests tab of CMS, Trauma Screening (TSSCA).

Some practical information and assistance on this topic should be made available to youth by the court officer. Below are some examples that should be considered depending on the youth and the situation.

Practical Assistance: Ensure immediate physical safety and file child abuse and neglect report as appropriate, help youth and family identify most immediate need(s), help to clarify need(s), help develop an action plan, continued follow-up and support, and ensure referral to appropriate services.

Connection with Social Supports: facilitate access to primary positive support persons, model supportive behavior, discuss support seeking and giving, help problem-solve obtaining and giving support, engage youth in activities.

Information on Coping: Give basic information on stress reactions, teach simple relaxation techniques, address negative emotions such as shame or guilt, refer to anger management class, provide information or referral on coping with grief, and provide information or referral to services to assist with sleep or other health related issues. Utilize available office hand-outs or brochures on coping with trauma.

D. Human Trafficking Screening

Human trafficking is a form of modern-day slavery in which traffickers use force, fraud or coercion to control victims for the purpose of engaging in commercial sex acts or labor services against the victim's will.

Screening Tool: Every child should be screened for human trafficking risk factors. (The Rapid Indicator Tool as approved by the Juvenile Policy Board in June of 2016 is saved in the J drive, "sex and labor trafficking" folder.) This screening tool should be filled out within the first 90 days of a child being placed on a caseload. The court officer should be familiar with the risk factors and re-score the tool when suspecting possible human trafficking taking place. The screening tool can also be used with children prior to being placed on probation, for example, a child placed in attendant care or detention.

Disclosure: If a child discloses that they are being subjected to human trafficking by a parent or custodian, inform your direct supervisor and make immediate contact with social services and law enforcement. The child should remain at the juvenile court office until social services and law enforcement arrival. Any information regarding the victim can be released and shared with the Human Trafficking Navigator under §27-20-51. The child should either be placed in protective custody by law enforcement or the Court Officer should issue a Temporary Custody Order. In CMS, under OFFICER SAFETY tab, document the youth as a sex/labor trafficked victim. If a child discloses that they are being "trafficked" by someone other than a parent immediate contact should be made with human service zone and local law enforcement. In collaboration with social services and law enforcement a determination should be made about whether the child is safe to return home or whether the law officer will take the child in to protective custody or the court officer issue a temporary custody order. Document this information in CMS contacts and in officer safety tabs. Make referral to regional human trafficking navigator for further assessment.

Scoring: If the child only has one indicator, make note in CMS contacts and monitor for other signs during your future appointments and court interactions with the child.

Two or More Indicators: If the youth has two or more indicators, the court officer will immediately make a referral to social services or law enforcement for further assessment as directed by your local trafficking protocol document and notify supervisor. Further the court officer will immediately flag the youth in the CMS OFFICER SAFETY tab document as "Suspected sex/labor trafficking". Add any pertinent notes in the comment box and make sure the box "Is Active?" is selected. If it is later learned that trafficking has been ruled out, go back to the Officer Safety tab and de-select "is active" and note in the comment box how that was ruled out.

E. Caseload Standards

Delinquent / Unruly Caseload

A court officer should maintain a maximum reporting probation caseload of 30 children who score moderate or high on the YASI. Of those 30 children, a maximum of 10 should be high scoring on YASI and maximum of 20 moderate scoring on YASI is the best practice. Children scoring low on the YASI would not be considered as part of this number. Recognizing that a YASI may be waived due to mental health issues, language barriers or age, every effort should be made to complete the pre-screen based on the information that can be reliably obtained. This will assist in maintaining proper caseload standard. Consideration should be given to reduce the maximum caseload for the court officer that is supervising a juvenile drug court caseload, intensive supervision probation caseload, or in a primarily rural area which requires excessive travel.

Deprivation / Guardianship of Minors / Q RTP Reviews Caseload

A juvenile court director, or assigned court officer, can maintain a maximum deprivation / Guardianship of Minors / Q RTP Reviews caseload of no more than 80 children at any one time. The assigned officer is responsible for reviewing court documents, making sure cases are flagged accurately, checking and responding to time standards, relating sibling cases, and generally ensuring accurate and timely data entry and case closure in both systems.

F. Delinquent Interventions and Responses

The most effective interventions target the criminogenic risk factors that *can* be changed (dynamic) while increasing protective factors. Factors that cannot be changed (static) such as prior legal history or history of child abuse and neglect are examples of indicators of risk. Using the YASI assessment as a guide and based upon the availability of programs in a given area, children should be referred to or given appropriate programming, services or interventions.

Children scoring low risk should not be assigned to programming with moderate and high risk children. Children scoring moderate or high would be referred to programming based on their YASI needs and to more intensive programs.

Table 2 Responses to Criminogenic Risk Factors

Possible Responses to Criminogenic Risk Factors

Criminogenic Need	Response Options
Anti-Social history	Develop non-criminal alternatives to risky situations, structure 40-60% of day
Anti-Social cognitions	Assist child to identify anti-social thinking, to recognize risky thinking and feelings, assist youth to adopt a positive alternative identity
Anti-social companions	Reduce association with delinquents or criminals, enhance/reward/promote contact with pro-social peers
Anti-social personality	Build problem solving, self-management, and coping skills
Family conflict/dysfunction	Reduce conflict, build positive relationships and communication, enhance supervision
Substance use	Reduce usage, reduce supports for abusive behavior, enhance alternatives to abuse, recognize/reward non-usage
School / Employment	Promote employment seeking / school attendance, teach job skills or study skills, connect with mentor or tutor
Use of free time	Enhance involvement and satisfaction in pro-social activities

Programs or Services Based on YASI Identified Criminogenic Risk Factors: The types of services offered should be directed to the behavior, attitudes and situations that were most directly linked to the presenting problem or referral offense. Availability will depend on region and will require creativity on the part of the court officer to deliver in outreach areas.

Table 3 Examples of Programs Based on Criminogenic Risk Factors

Domain	Examples of Programs or Services or Interventions to Address Identified Risk			
Family	Parenting skills classes	Intensive In-home	Family Counseling	Intensive In-home Services
School	Tutor	Mentor	GED or online learning	Job Corps
Community	Victim Empathy	Offender Accountability Conferences	Meaningful Community Service	Service club involvement or volunteer work
Substances	Chemical Awareness Program	Drug and Alcohol testing	Intensive Out Patient (IOP)	Juvenile Drug Court
Mental Health	Human Service Center Intake	Individual counseling	Psychological evaluation	Trauma groups
Violence Aggression	Victim Empathy	Anger Management	Psychological or Psyche-sexual evaluation	Intensive Supervision Probation (ISP)
Attitudes	Cognitive restructuring class	Journals	Peer groups	Workbooks (Carey Guides)
Skills	Local extension classes or community education	sexual health class	Social Skills training or classes	Guided goal setting or use of journal or workbooks (Carey Guides)
Employment – Use of Free Time	Extracurricular activities	Day report or community service	Structured job search / job	House arrest / GPS / ISP

Protective Factors: Protective factors, factors that reduce a child’s risk, will vary for each child and their situation. As with risk factors, protective factors can be static, such as high intelligence or dynamic, such as increasing activities with positive peers or parents. Below is a partial list of protective factors to look for in each case, develop and support.

Table 4 Protective Factors

Connectedness to family or other positive adults	Frequent activities with parents or other caregivers
Academic achievement at school	Commitment to school
Intolerant attitude towards deviance	Ability to discuss problems with parents
Positive social orientation	High intelligence
Religiosity	Involvement in extracurricular activities

G. Drug Testing

Court officers must follow Rule 18(d) of the North Dakota Rules of Juvenile Procedure regarding drug screening of appropriate children. The child must be informed of the right to refuse the testing. The court officer must obtain the child’s consent via the Acknowledgement of Rights form prior to

administering each drug test. (This form is available in the macro named “Drug Testing Form.”)

Items needed: Collection package, Chain of Custody form, Specimen bag, and ball point pen.

Procedures for Oral Fluid Drug Testing:

Step 1: Donor must refrain from consumption of food for 10 minutes prior to collection of sample. Check the donor’s mouth to make sure it is empty. There is no need to remove tongue or lip piercings.

Step 2: Open the collection package. Allow the donor to remove the collection pad stick from the pouch, holding the plastic handle. Do not allow the donor to touch the pad end of the stick.

Step 3: Instruct the donor to position the collection device between cheek and bottom gum line or above the tongue. The donor should attempt to saturate the pad by spitting on it. Instruct the donor not to chew, suck, bite, or remove the pad during collection.

Step 4: While collecting the sample, the Chain of Custody form is to be completed. The collector/observer is to complete “Verification of Donor”, “Special Requests”, and sections 1 and 4 of the Chain of Custody form. The donor is to complete sections 2 (to include donor initials in the both black boxes) and 3.

Step 5: The collection device should remain in the mouth until the volume indicator, located at the end of the collection stick, turns blue in color. After the tip turns blue, instruct the donor to remove the collection device.

Step 6: Remove the red cap from the test tube and have the donor insert the saturated collection device in the tube, pad first. The collector/observer is then to place the red cap on the collection tube until it “snaps” into place.

Step 7: Place one sticker from section 2 of the Chain of Custody form over the top and down the sides of the collection tube.

Step 8: Place the sealed collection tube in the specimen bag along with the white Chain of Custody form. Seal the specimen bag by removing the blue plastic strip. Place the second sticker from section 2 of the Chain of Custody form on the outside of the specimen bag. Maintain the yellow copy of the Chain of Custody form in the donor’s working juvenile court file.

Step 9: Mail to laboratory for confirmation, if necessary or as appropriate.

Procedures for Urine Testing

Step 1: Secure bathroom if not observing the test. Remove all products. Tape faucet & toilet handle. Add bluing agent to toilet water.

Step 2: Have child sign “Acknowledgement of Rights” form (see Macro). Have child empty pockets. Appropriately deal with any contraband. Have child remove outer clothing, such as hats, coats, sweatshirts. Have child wash hands to ensure that there are no adulterants on hands

Step 3: Hand child a urine cup. Staff puts on gloves and takes other appropriate safety measures, such as safety glasses. Child voids in cup. Child hands cup to staff

Step 4: Staff secures sample. Check temperature strip if available. Check for adulteration. Cup may have strip included or use adulteration detection strip.

Step 5: Follow testing procedure specific to test kit for results. Always check test kit expiration date and discard any expired tests. Child signs form acknowledging results of test

Step 6: Disposal of used test kit. Empty urine into toilet. Place kit into a quart size, plastic, zip lock baggie. Dispose into garbage designated for hazardous disposal. If testing in a school, do not dispose of used kit in the building.

H. Probation Supervision Guidelines

The intensity of probation supervision of a child is based upon the results of their individual risk assessment and case plan using the Youth Assessment Screening Inventory (YASI) and other screening tools.

Low Risk: Assigned court officer should have minimal contact (ex. monthly) at the discretion of the court officer and the supervisor.

Moderate Risk: Assigned court officer shall have 3-4 contacts with the child or other professional working with the child every month, with a minimum of two being face-to-face with the child. Supervision may be decreased if the compliance with probation warrants such decreases and is deemed appropriate by the court officer and supervisor. This probation compliance must be well documented in CMS.

High Risk: Assigned court officer shall have a minimum of one weekly face-to-face contact with the child. Other contacts during the week can consist of contact with other professionals working with the child. Supervision may be decreased if the compliance with probation warrants such decreases and is deemed appropriate by the court officer and supervisor. This probation compliance must be well documented in CMS.

YASI Waived: This category is a child currently on supervised probation, but after consultation with supervisor it is agreed to waive the completion of the YASI due to age (child under the age of 12), unruly status only (this includes MIC/MIP), or having a mental health diagnosis interfering with the completion of the interview, or language/cultural barriers that make the results inaccurate. Supervision level is determined by the assigned court office and the supervisor and is documented in CMS.

I. Use of the Dynamic Supervision Grid

After a youth is placed on supervised probation and a full assessment score reached and the case flagged in CMS on the caseload screen, the dynamic factors will change, sometimes week to week or month to month.

In staffing the required supervision level with a supervisor, the Dynamic Supervision Grid below, Table 5, may be used to fluidly adjust the appropriate level of supervision needed. Any changes in supervision approved by the supervisor should be documented in CMS contact notes.

This score does not change the overall case flag in CMS but is used as a supervision guide in conjunction with discussion with your supervisor. This may come up at a review of probation hearing or in discussions with family and treatment providers.

Table 5 Dynamic Supervision Case Planning Grid

		Dynamic Risk (Need)					
Dynamic Protective	Dynamic Protective	Very High Need	High Need	Moderate High Need	Moderate Need	Low Moderate Need	Low Need
	Very High Protective	Moderate	Moderate	Low	Low	Admin	Admin
	High Protective	Moderate	Moderate	Moderate	Moderate	Low	Admin
	Moderate High Protective	High	High	Moderate	Moderate	Low	Low
	Moderate Protective	High	High	Moderate	Moderate	Moderate	Low
	Low Moderate Protective	High	High	Moderate	Moderate	Moderate	Moderate
	Low Protective	High	High	High	Moderate	Moderate	Moderate

J. Graduated Responses to Noncompliance

During the course of probation, court officers may be made aware of undesirable behaviors and/or violations of conditions of probation. Best practice is to implement graduated responses prior to requesting a review hearing.

Documentation of Graduated Sanctions: To document a response to a behavior, sometimes referred to as probation violation, the assigned juvenile court officer should enter a CMS Contact type of “Violations” and select the level of the violation in the “Followup Type” drop down. A short summary of the response to the violation is typed on the “followup comment” text block. More detail can be added in the comments section. This documentation requirement excludes the youth participating in the juvenile drug court programs.

Examples of Violations by Level: Table 6 below provides some examples of categories of noncompliance with probation supervision and possible appropriate intermediate responses for court officers. (See Appendix F, Graduated Sanctions and Incentives)

Table 6 Examples of Undesirable Behaviors and/or Probation Violations by Level

Minor	Occasional or isolated incidents unrelated to the offense behavior for which the youth is on probation and where there is no victim impact. Youth is still responding to probation expectations and is otherwise engaged in positive activities. <i>(Examples: occasional truancy, disrespect of parent/guardian rules, missed appointment with Court Officer, 1x missed cognitive restructuring/educational program, isolated status offenses, 1x positive drug screen.)</i>
Moderate	A preliminary pattern of behavior that is interfering with success in school, home, treatment, and the community. This behavior may be related to the underlying probation offense or may involve a secondary law violation unrelated to the original probation offense. This may indicate an increased risk that the youth may re-offend. <i>(Examples: multiple minor violations with no apparent response to consequences; repeated contact with co-defendants/negative peers; an on-going pattern of missed treatment or Court Officer appointments; frequent status offenses, multiple positive UA's, 2x missed cognitive restructuring/educational program.)</i>
Serious	Youth has demonstrated a significant pattern of noncompliance of probation conditions and has failed to respond to multiple interventions. Youth has committed two or more misdemeanor law violations or felony level law violations. Minor violations followed by repetitive sanctions will not be defined as serious. <i>(Examples: behavior that demonstrates extreme disregard of probation conditions; failure to respond to the authority of the Court; unauthorized contact with the victim; or termination from a treatment program for non-compliance.)</i>

Graduated Sanctions by YASI Risk Level: Table 7 is a guideline and court officers should staff all moderate and serious incidences of noncompliance with their supervisor and document all responses or sanctions assigned in CMS contacts.

Table 7 Graduated Sanctions by Risk Level

Level of Violation Seriousness	Possible Sanctions for YASI Low Risk Youth	Possible Sanctions for YASI Moderate Risk Youth	Possible Sanctions for YASI High Risk Youth
Minor Violation	written assignment community service increased contacts structured time	written assignment community service increased contacts structured time	written assignment ⁴ community service increased contacts structured time day report
Moderate Violation	written assignment community service home detention (under supervision of parent/guardian) increased contacts	community service home detention (under supervision of parent/guardian) increased contacts curfew monitoring ⁵	community service home detention (under supervision of parent/guardian) increased contacts electronic monitoring

⁴ May be on a topic assigned by the court officer or a worksheet from the Carey Guides designed to address risk factors, triggers, thinking errors and other conditions leading to the undesired behavior

⁵ May be in the form of voice verification, GPS location tracking, or home visits by court officer or case aide

	structured time	cognitive program structured time day report	curfew monitoring cognitive program structured time day report, ISP ⁶
Serious Violation	community service increased contacts home detention (under supervision of parent/guardian) structured time	community service home detention (under supervision of parent/guardian) curfew monitoring ⁷ electronic monitoring increased contacts cognitive program review filed structured time day report ISP	community service home detention (under supervision of parent/guardian) curfew monitoring electronic monitoring increased contacts structured time day report ISP review filed pick up order

K. Probation Case Management Strategies

North Dakota juvenile court officers will focus probation on interventions that promote personal growth, positive behavior change, and long-term success for youth who pose the most risk for serious offending.

Targeting Offender Needs and Risks

Based on the offender's YASI results, the court officer should prioritize supervision and treatment resources for higher risk offenders and target intervention to criminogenic needs. In other words, focus very little, if any, attention or resources on the lower risk youth and when case managing a moderate or high risk offender, make sure to target the offender's specific needs that relate most closely to illegal or criminal behavior thus reducing recidivism.

Court Officer Responsivity

It is the best practice that court officers be responsive to each child's temperament, learning style, motivation, culture, and gender when matching the offender to appropriate treatment services. Court officers should communicate with youth in developmentally appropriate and culturally competent language. Avoid use of abstract legal language and ensure that each youth understands the process, their rights, and their responsibilities as required in each court order, informal adjustment and case plan. It is the responsibility of each court officer to make sure youth on their caseload are clear about what is required of them to complete probation or required programming.

Structuring Time

It is the best practice to include in the case plan of a high risk child, a plan to structure 40-70% of their free time during the initial 3-9 months of supervision. The child should be held accountable to the specific case plan goal of structuring free time by means of day reporting programs (if available

⁶ Intensive Supervision Program

in the region), tracking, community service, curfews, employment, Intensive Supervision Programs (ISP) and/or by keeping daily journals or logs reporting their compliance with structured time goals.

Intensive Supervision Probation Programs (ISP's)

Intensive Supervision Probation Programs are community-based, nonresidential alternatives that provide a high degree of supervision over a child to ensure public safety. ISP's are used post-adjudication and have strict conditions of compliance and high levels of contact from the court officer. This will typically involve a variety of risk-control strategies such as multiple weekly face-to-face contacts, drug and alcohol testing, home visits or electronic monitoring. To participate this will require the child and family to sign a release of information for the Division of Juvenile Services (DJS) so that the case can be staffed with DJS to discuss options. ISP is for high risk children only and serves as a method to protect the child and community while preventing costly out-of-home placement.

Positive Reinforcement

It is the best practice that court officers identify and reinforce the strengths of the child on their caseload. Staff should be trained to identify positive behaviors and consistently provide positive feedback to the children on their caseload. In each supervision case examine how you can encourage that particular child to succeed. Provide incentives that reward and motivate the child to reach short-term and long-term goals in the case plan. It can be just as important to reward positive behavior as it is to respond to unwelcome behavior. Some examples of incentives can be verbal praise, a handshake, lowered supervision levels or required office visits, donated coupons to local restaurants or movie theaters or letters or calls of praise to parents. Each office should discuss what no-cost incentives are available in their local jurisdiction. Note that setting positive goals or milestones to complete should not serve as another opportunity to sanction a child. Just as in response time to undesirable behaviors, response time to positive behaviors should be certain, immediate, and tailored to be effective for that individual child. Ensure that documentation of positive behaviors and court officer positive reinforcement is documented to the same extent you would document responses to noncompliance. (See Appendix F, Graduated Sanctions and Incentives)

Support in Natural Communities

It is the best practice that court officers seek out natural support in the community for the child on their caseload. To do so, the court officer must collaborate with community partners such as law enforcement, social services, treatment providers, and schools. These relationships and supports are enhanced by processes such as offender accountability conferences, community accountability boards, meaningful community service projects, mentoring etc. Identifying and involving these community stakeholders in the community supervision process is critical to offender success.

L. CMS Contacts Entry

At minimum, the court officer should enter their contacts with a child or regarding a child's case within 72 hours of the contact being made. Any case activity should be documented by juvenile court staff in CMS. Case notes are considered work product and cannot be released pursuant to Administrative Rule 41(5)(e)(9). Notes should be clear, concise and factual.

M. In State Courtesy Probation Supervision

When a child moves to a different jurisdiction, a letter or email is to be sent to the court where the juvenile is residing requesting courtesy supervision. (An exception to this is for Sioux County North Dakota as the entire county consists of the Standing Rock Indian Reservation. North Dakota State Courts only have jurisdiction over nonnative youth residing in Sioux County. Contact the Bismarck Juvenile Court Office if you have a case requiring disposition or supervision in Sioux County) Along with the letter the sending court will also send a copy of documents that are not available in Odyssey or CMS. The sending court will be responsible for ensuring that all CMS information is updated prior to sending the case. The receiving court should send a letter/email accepting supervision to the sending court. Once the case has been received it will be the responsibility of the receiving court to enter all CMS data such as contacts and completion of conditions.

Upon completion of the conditions, the receiving court will send a letter/email to the sending court informing them that the conditions have been completed. The case will be maintained on both the sending court officers and receiving court officer's case load per CMS policy.

Any violations of the court or informal adjustment conditions shall result in a consultation with the referring court to make a decision on how to handle the violation. Delinquent violations in the new jurisdiction should be handled through the normal course of intake and action.

N. Case Audits

The director of juvenile court or the JCO III is responsible for conducting routine case audits. The auditor shall audit all of the assigned case files of each juvenile court officer twice a year and audit the files using the CMS File Audit form found in the macros and in the appendix of this manual. In particular, the auditing court officer is reviewing the file for compliance with CMS Manual data entry procedures and compliance with Best Practices Manual supervision guidelines and case supervision practices as well as for appropriate case decision-making.

Running a Current Caseload List: The first step of the biannual case audit is for the supervisor to run a current "caseload list by PO" out of CMS. To do this, go to the caseload of the JCO selected for audit. Go to the REPORTS tab. At the top of the screen, under "Probation/Parole" selected, "Case Load List by PO". The list generated will include the name of each juvenile assigned to that JCO, all demographic information, all programs the youth is currently involved in, end date, and current supervision level. Print this generated list and use it as you audit files.

For each case on the caseload, review for accuracy the following:

CMS Screens: Contacts, Referrals, Tests, Programs, Flags, and other screens as applicable

YASI Caseworks: YASI assessment and reassessments

Paper File: Case plan (check that it is completed, signed and cross reference with CMS contacts to see that progress is being made on the case plan at each visit)

Case Management: Review for effective use of intermediate incentives and sanctions and utilization as appropriate of the Carey Guides

Once the audit form and caseload list with supervisor notes is completed it is returned to the court officer whose files were audited for comment and a copy of the form is kept by the supervisor. It is important for supervisors to use the audit process as a time not only to notice inconsistencies, errors or training issues, but also to give positive feedback and praise to staff for high level performance.

Audit of Intake and Disposition Matrix Decisions: Each calendar year a case intake and disposition audit will be performed by the directors of juvenile court to ensure compliance with the intake and disposition decision-making tools. Each juvenile court director will annually take a random sample of 10% of referrals received, or at minimum 25 cases from each JCO III office region and examine for adherence to the intake matrix and disposition matrix. They will make notes about any irregularities and discuss those with the staff who performed those duties.

O. Deprivation / TPR / Guardianships of Minors Case Supervision

Open and pending deprivation, termination of parental rights, and juvenile guardianships are assigned in CMS to the director or designee. The purpose of the case assignment is to monitor time standards, ensure accurate CMS and Odyssey data entry and handle any court process questions that arise during the case. The assigned case supervisor would also receive, review and address Odyssey reports such as overdue time standards, docket currency, event code reports, filing reports and case detail reports. When the final disposition is entered in the case, the file is moved to “inactive” in the CMS “assign” tab, the case “unflagged”, and removed from the supervisor’s monthly case load. This should occur within the same calendar month as the conclusion of the case. If the case later comes up for a permanency hearing or other court action, the case is opened and reassigned for supervision. Note that each judge or referee may be reviewing their own Odyssey reports regarding juvenile deprivation cases and that our case supervision may be in addition to the hearing officer oversight. Each administrative unit may be responsible for different tasks in the Odyssey file and one should consult their supervisor. Case supervision of Guardianships of Minor Children under Chapter 27-20.1 will include review the filing of petitions for required contents, setting time standards for expiration, monitoring the annual report and order to show cause process, and answering general questions about the process for parties and counsel.

P. Docket Currency

Juvenile Court Directors are responsible for at minimum a quarterly review of all overdue open formal cases to ensure that each has a future hearing, time standard, or under advisement event on the case, and that the time clock for the case is correct. If a future hearing isn’t set, there should be a time standard set and/or the case detailed to the person responsible for setting the next court date. If there are other duties in a particular region that are performed by the juvenile court office staff, it would be expected that the director review for timely completion.

Q. Home Visits

When home visits are necessary, the case should be staffed with your supervisor and all potential safety concerns are discussed in advance of the first visit. It is best practice for court officers to only make home visits to conduct probation visits when all other alternatives have been exhausted. The exceptions may be when the juvenile is on intensive supervision or in juvenile drug court and the family has been put on notice that home visits are part of the plan, and also to conduct required ICJ home studies. It is best practice to visit the home of a juvenile when a parent/guardian will also be

present. If this is not possible, the court officer must remain outside of the interior of the home and visit in a common area such as the apartment hallway or entry steps. If the visit is unannounced and it is not clear if a parent or guardian will be at home, it is best practice that another court officer or law enforcement officer goes along for the meeting. It is the responsibility of each juvenile court office to ensure that the juvenile staff that may do home visits are all trained in proper safety precautions.

X. Victims of Delinquent Acts

A. Notification and Contact

At the time of the referral intake, the court officer will evaluate the referral for any identifiable victim(s) and direct the assigned support staff to send the appropriate form letter. The court officer handling the case will be the contact person for the victim in the matter and any contacts with the victim will be documented in CMS. It is important to note in CMS if the victim has invoked their Marsy's law rights. The only place the database has to record this at this time is by making a note in the offender youth's CMS contact notes. Select "Victim" as the "Type of Contact".

State's attorneys are responsible for victim notice and contact in the context of formal proceeding. (See N.D.C.C. § 12.1-34-04(4) and Article I, Section 25 of the North Dakota State Constitution)

Prior to any informal adjustment and at the direction of the court officer, support staff will send out a victim letter to each identifiable victim notifying the victim of court action, informing them of their rights under N.D.C.C. §12.1-34-02 and Article I, Section 25 of the North Dakota State Constitution and requesting restitution information and a victim advocate if one is available in that jurisdiction.

B. Participation in Court Proceedings

Victims are entitled to all rights afforded them under N.D.C.C. Chapter 12.1-34 and Article I, Section 25 of the North Dakota State Constitution. For the purposes of juvenile court, "proceedings" are defined to include Informal Adjustment conferences. Therefore, victims are entitled to attend informal adjustment conferences and all other rights afforded them in petitioned proceedings. The best practice is to not admit victims to the informal adjustment conference room until the child and parents have had their rights explained, the charge(s) set forth and been given an opportunity to admit or deny. If the child denies the charge, the matter is concluded and the court officer conducting the informal can speak with the victims about the further process of states attorney review for petition. If the child admits the charge, the victim(s) are shown into the room and given an opportunity to give their impact statement. Note that child victims in a sex crime case can have guardian ad litem appointed for them under 12.1-20-16.

C. Restitution

Restitution is collected in the form of a money order and received either by the court officer or the juvenile court support staff. As assigned, juvenile court staff enters the information into CMS. Assigned staff promptly disperses the money order to the victim(s) along with a cover letter. The offender paying the restitution receives a receipt at the time of the payment. (See also Rule 18(b) Restitution in the N.D. Rules of Juv. Pro.)

The assigned probation officer will motivate a child owing restitution to make timely payments and assign reasonable payment schedules. Children who fall behind on their restitution payments can be summoned back into juvenile court on either a formal Order to Show Cause, review or for another informal adjustment conference as requested by the court officer or DJS worker and approved by the Court Officer III or Director of juvenile court. If an order is close to expiration and restitution is not fulfilled, the court officer will staff with their supervisor and state's attorney to determine how to proceed. In DJS cases where restitution is unpaid, the DJS worker shall notify the juvenile court 60 days prior to the order expiration in order to staff with the state's attorney on how to proceed.

DJS workers should notify the juvenile court office when a child on their caseload makes restitution payments so that CMS entry can occur.

All restitution paid in Offender Accountability Conferences will be recorded in CMS.

Any collected restitution for a victim whose whereabouts become unknown must be sent to the North Dakota Unclaimed Property Fund, as maintained by the North Dakota State Treasurer's Office.

D. Money Judgments

An order of restitution needs to be in place for a specific dollar amount. It is important for any future collection or reference that all victim statements, documentation and offender receipts of payments be filed with the clerk of court. Reasonable attempts need to be made to collect the money through this procedure. Juvenile court officers may make recommendations to the court regarding whether parents should be included in the restitution order. The financial information of the parents and child should be reviewed by the court to make that determination. (N.D.C.C. § 27-20-31.2(1) and Rule 18(b) N.D.R.Juv.P.) Wage assignments can also be done at a restitution hearing. After six months of no payments at all or at any time it becomes apparent or reasonable to assume that the court officer will not be able to collect the money, or when the child turns 18 years of age, a determination can be made to turn the restitution order into a judgment. (See N.D.C.C. § 27-20-31.1(2).) If a civil judgment is ordered by the referee/judge, the appropriate paperwork will be filed with the clerk of court by the state's attorney office for pursuit of a judgment. In informal adjustment cases, the same procedure can be used after filing of a petition or request for restitution hearing. If formal proceedings are not going to be pursued, a letter shall be sent to the victim notifying of the option to seek release of the offender's name for purposes of pursuing a small claims action.

E. No Contact Orders (NCO)

At the request of a party, the victim(s), or upon the court's own motion, a No Contact Order (NCO) can be issued in a formal juvenile case (See 27-20-50 N.D.C.C.) or agreed to as part of an informal adjustment agreement

Informal Adjustments: In an informal adjustment, the child and parents can agree to a no contact order with a victim and the terms of that no contact either spelled out in the informal adjustment or as a stand-alone written agreement, a copy of which can be given to the victim and to law enforcement if necessary. Keep in mind, an informal adjustment is a consent agreement and violations of agreements to not have contact in an informal adjustment may not have the same repercussions as a violation of a formal court order. All violations of a NCO of an informal adjustment must be reviewed with your supervisor.

Petitioned Cases: In a petitioned case, a no contact order can be issued as soon as the first detention hearing or first appearance on a petition. It can also be issued as part of the final disposition. The no contact order is best as a stand-alone document so that a copy can be given to victim(s), law enforcement, and the school (but only if necessary because both youth attend the same school or same school events) without unnecessarily disclosing other terms of the court order. Also, by filing as a separate document (separate from the detention order or disposition order) the Odyssey event code of “No Contact Order” is used at filing to signal to the clerk of court to flag the file as “no contact order”. In formal cases, the court must find that the contact between the respondent and the victim is or may be detrimental or harmful to the child; and will tend to defeat the execution of an order of disposition. (§27-20-50 N.D.C.C.) Due notice must be given to the child respondent that a no contact order is being sought and they must be given an opportunity to be heard. Typically the file petition contains language that indicates whether or not a NCO is being requested or a separate motion can be made and a hearing held on the issue.

In a guardianship of a minor child under Chapter 27-20.1, the court can issue a protective order under 27-20.1-20 N.D.C.C.

Forms: The Macros have sample NCO forms that can be used. Search “No Contact Order” in the macros or J Drive, Fillable Forms. For an informal adjustment, it can be written into the informal agreement but a separate, stand-alone, document is recommended if a copy is given to victims or schools, if the parties attend the same school district and the court orders states that the school be notified.

Odyssey NCO Flag: The juvenile court officer will check to see that the flag is correctly entered in Odyssey after the NCO is filed. It is flagged properly when a flashing red exclamation point is attached to the respondent child’s name in Odyssey. If the case is not flagged correctly you should case detail the file to clerk action and request that the case be flagged for “No Contact” flag based on the filed NCO document. If a court officer notices a NCO flag in Odyssey attached to a juvenile that no longer has an active NCO, it is critical to inform the county clerk of court immediately to request an updated status. This is a time sensitive and an important task as a respondent’s liberty interest and victim’s safety is at stake. Employees who fail to check and update NCO status can be subject to corrective action. Note that a time standard exists in Odyssey for the purposes of checking NCO status and should be set to the expiration date or have a “check status” time standard set. A daily or weekly report should be set to review the accuracy of the No Contact Event flag in Odyssey.

Case Closure and Impact on NCO in either Informal Adjustment or Petitioned Case: At case closure, if the juvenile court officer is applying for early release from probation or releasing a youth early from an informal adjustment agreement, it will be important to contact the victim to see if they want the NCO to continue or if it can also be closed early. Make sure to document that communication with the victim in CMS contacts, using the contact type of “victim”, and be clear in your affidavit of early release exactly what court action you are requesting in regards to the NCO. If the NCO is terminated, it is critical that either the county victim witness coordinator or the assigned juvenile court officer inform the victim(s). That too should be documented in CMS.

XI. Indigent Defense and Guardians ad Litem

A. Application and Approval Process for Indigent Defense

The North Dakota Commission on Legal Counsel for Indigents provides indigent defense services in those matters in which a person has a constitutional, statutory or rule based right to counsel, if “indigent” based on parent’s income. In juvenile cases a party has a right to counsel provided by the Commission under the following circumstances:

- Parent, legal guardian, or custodian in the dispositional stage of any juvenile proceedings regarding allegations of unruliness or delinquency (N.D.C.C. § 27-20-26(1); or
- Parent, legal guardian or custodian, in a deprivation matter under the juvenile court act (N.D.C.C. § 27-20-26(1); or
- Children in any juvenile case at custodial, post-petition and informal adjustment stages (N.D.C.C. § 27-20-26(1)); or
- Parent in a termination of parental rights proceeding under N.D.C.C. Ch. 27-20.
- Parent in a termination of parental rights proceeding under N.D.C.C. Ch.14-15, except for a parent who consents to termination of parental rights for a juvenile being placed for adoption by a licensed juvenile placing agency.
- Parties in a guardianship action brought under the Uniform Juvenile Court Act (N.D.C.C. § 27-20-26); or
- Interstate Compact on Juvenile matters when required pursuant to N.D.C.C. § 27-22-02; or
- Child in an abortion proceeding brought under N.D.C.C. Ch.14-02.1; or
- Upon appeal of any case in the categories listed above.

Right to Counsel in Guardianship of Minor Child Cases: In guardianship of minor child cases filed under Chapter 27-20.1, there is no right to counsel for the petitioner. There is a right to counsel in these cases for the parents. (27-20.1-09 N.D.C.C.)

Parties requesting indigent defense counsel shall fill out the application to determine their eligibility for each “case assignment”. This application must be filed in Odyssey. As of January 1, 2020, all juvenile indigent defense case counsel assignments are done by the state office of Indigent Defense located in Valley City. It is critical that the right event codes for the application and notice of eligibility be filed with the court as these event codes are reported out daily to the statewide case assignment team of the ID Commission. This case assignment will remain until the closure of the case. If the case is reopened a new application will need to be submitted. The burden of showing that he or she qualifies for indigent defense services is upon the applicant. Applications for counsel should be reviewed by the district court designee and a determination made based upon specific guidelines for such appointment and waiver of fees. A copy of the indigent defense application will be mailed with the summons and petition or recommendations.

B. Determining Financial Responsibility

A child is not considered indigent if the child’s parent can provide for full payment of legal services. (N.D.C.C. § 27-20-26(2).) Therefore, if counsel is sought for a child, the custodial parent(s) should complete the application. Both parents may have a right to custody of a child. If so, both parents should complete the application. If the custodial parent(s) refuse to complete the application, the court should order the parent(s) to do so. If the parent does not do so, or is absent from the

jurisdiction, the child can fill out the application with the parent's information to the best of the child's ability. The person who is responsible for reviewing the applications should then write on the application that the parents refused to complete the application or that the parent is absent from the jurisdiction.

A parent whose rights have been terminated, a step-parent or a guardian is not legally responsible for an applicant who is under the age of 18.

In a matter where counsel is sought for a "juvenile" under the age of 20 for a delinquent act committed when the child was under the age of 18, the child should complete an application for indigent defense services. The child should use the application captioned "For an Adult in a Juvenile Case". This is the same form that a parent who is seeking an attorney for him/herself in a juvenile matter would use.

C. Indigent Defense for Shelter Care/Detention Hearings

If there is a conflict between the child and the parents in an unruly or delinquent matter, an attorney should be provided for the child. The parents should complete the application for indigent defense services to determine if the child is indigent and eligible for indigent defense counsel. If the child is not indigent, the parent(s) may be ordered to provide counsel for the child, or private counsel may agree to provide representation upon the understanding that the court will order the payment of attorney's fees by the parent(s).

If the child is placed into shelter care or detention for delinquent behavior the parents must apply and qualify prior to an indigent defense attorney being appointed to represent the child for the shelter or detention hearing. If the parents do not qualify, they will be informed that they will need to retain an attorney for their child, or private counsel may agree to provide representation upon the understanding that the court will order the payment of attorney's fees by the parent(s). If the parents choose to represent their child and the child appears and requests counsel, the court may order that a private attorney be appointed for the child and that the parents pay the attorney's fees.

D. Indigent Defense Counsel for Petitioned Hearings

Indigent defense counsel must be appointed under Chapter 27-20: 1.) for a child, when the child's parent(s) have completed application(s) for indigent defense services and the child is determined to be indigent and qualify for services; or 2.) for a parent, when the parent has completed an application for indigent defense services and is determined to be indigent and qualify for services.

In proceedings regarding allegations of unruliness or delinquency, a child's parent, legal guardian, or custodian, if determined to be indigent, is entitled to counsel at public expense only during the dispositional stage of the proceedings. (N.D.C.C. § 27-20-26(1).)

A parent, legal guardian, or custodian is not entitled to counsel at public expense in proceedings under N.D.C.C. § 27-20-30.1 (disposition of juvenile needing continued foster care services).

The Court may order the parent(s) to provide an counsel for a child, or may order that a private attorney be appointed for the child and that the parent(s) pay the attorney's fees if the juvenile is not indigent if: 1.) there is a conflict for the parent(s) to represent the juvenile based on the allegations

in the petition; or 2.) the child has requested counsel; or 3.) other circumstances that the court deems appropriate.

Under Chapter 27-20.1, guardianship of a minor child, only the parents are entitled to apply for indigent defense counsel. (27-20.1-09 N.D.C.C.)

E. Indigent Defense for Informal Adjustment Hearings

During the Informal Adjustment stage of a proceeding only the child, if determined to be indigent, is entitled to counsel at public expense. (N.D.C.C. § 27-20-26(1).) The same qualification procedure as used for formal cases applies.

F. Complaint Procedure Regarding Indigent Defense Counsel

Court staff receiving complaints regarding an indigent defense attorney's responsiveness to clients or the court, or effectiveness in representing clients, or ability to establish a working relationship with clients, must provide the complainant with a copy of the Indigent Defense Commission's form "Complaint Procedure". (See the ID Commission website at <http://www.nd.gov/indigents/>.) This same form should be given to an applicant who is requesting assignment of a different attorney. This procedure requires that the applicant put the complaint in writing before the ID Commission will respond to it. Judicial staff concerns related to performance of counsel should be given to your supervisor.

G. Guardians ad Litem or Attorneys for Juvenile Appointments

Guardians ad Litem (GAL) from the North Dakota Guardian ad Litem Program are to be appointed for all children coming under juvenile court jurisdiction as deprived children under N.D.C.C. §50-25.1-08. (See also N.D.C.C. § 27-20-48) This includes termination of parental rights cases and juvenile guardianships filed on the basis of juvenile deprivation.

Orders appointing a guardian ad litem should indicate the time period of that appointment, through adjudication and final disposition of the case. If any continuing involvement is necessary, a party or the Guardian ad Litem should make that request at the hearing so that it can be addressed in the findings.

When a temporary custody order for emergency placement has been issued and a date and time set for the hearing, the juvenile court will contact the North Dakota GAL Program for the assignment of a lay GAL. An order appointing the GAL will be drafted and signed by the Judge or referee. (See the macros) Copies of orders, affidavits and any other relevant material will be provided the GAL assigned in advance of the hearing whenever possible. The same GAL follows the case to the petition hearing if one is scheduled whenever possible. When termination of parental rights has been filed by the state's attorney, the Judge or Referee in the case may decide that an attorney for the child should be appointed to assure that all legal issues related to the termination are considered and to represent the best interest of the child. That decision is made by the judge or judicial referee on a case-by-case basis. Note that in the event a lay guardian ad litem contacts a juvenile office to request a continuance in a hearing or an extension on the deadline for filing of the report required by Rule 17, they should be directed to e-file a written request into the file or files for which the request pertains.

XII. Offenders Against Children and Sexual Offenders

A. Registration Requirement

A child sexual offender or an offender against a child may be required to register if the child has admitted or been adjudicated of an offense under N.D.C.C. § 12.1-32-15. Registration requirements are imposed under 12.1-32-15 of the North Dakota Century Code on the following juvenile delinquency adjudications:

Sex Offenses:

- § 12.1-20-03 Gross Sexual Imposition
- § 12.1-20-03.1 Continuous Sexual Abuse
- § 12.1-20-04 Sexual Imposition
- § 12.1-20-05 Corruption or solicitation of minors
- § 12.1-20-05.1 Luring minors by computer or other electronic means
- § 12.1-20-06 Sexual abuse of wards
- § 12.1-20-07 Sexual assault (Class C Felony and Class A Misdemeanor)
- § 12.1-20-11 Incest
- § 12.1-20-12.1 Indecent exposure
- § 12.1-20-12.2 Surreptitious intrusion
- § 12.1-27.1-03.3 Creating, possession, or dissemination of sexually expressive images prohibited
- § 12.1-27.2 Sexual performances by a minor: Promoting a Sexual Performance by a Minor 12.1-27.2-04 and Possession of Certain Materials Prohibited 12.1-27.2-04.1
- Ch. 12.1-40 Sex Trafficking

Offenses against a Child (i.e. victim is a minor juvenile):

- Ch. 12.1-16 Homicide (all offenses)
- § 12.1-17-01.1 Assault (Felony only)
- § 12.1-17-02 Aggravated assault
- § 12.1-17-04 Terrorizing
- § 12.1-17-07.1 Stalking (Felony only)
- § 12.1-18-01 Kidnapping
- § 12.1-18-02 Felonious Restraint
- § 12.1-18-05 Removal of a juvenile from state in violation of a custody decree
- Ch. 12.1-29 Prostitution (all offenses)
- § 14-09-22(1)(a) or (2) Criminal Juvenile Abuse

A juvenile offender's information is listed on the public North Dakota offender registry only if the offender is high risk, delinquent (used in this context as has failed to comply with registration requirements) or has a lifetime requirement to register.

The registration period is based on an offender risk level as assigned by a team from the ND Attorney General's office. The time period is a minimum of:

- 15 years for LOW risk offenders;
- 25 years for MODERATE risk offenders:

- Lifetime for HIGH risk offenders; and

Lifetime if individual is a repeat felony sexual offender or offender against a child or has been civilly committed as a sexually dangerous individual under N.D.C.C. Chapter 25-03.3, under the laws of another state or by the federal government.

The period of registration begins after the date of disposition or after release from custody, whichever is later. If a child's risk level is reassessed it is possible that his/her registration period could be changed accordingly.

Staff should refer to the North Dakota Attorney General's website <http://www.sexoffender.nd.gov/> for more information regarding registration requirements.

B. Case Processing of Offender Registration Cases

Referrals are entered on CMS upon receipt or within five (5) business days of receipt. Support staff opens file if no file exists. Due to retention of records requirement on sex offenses, the file is marked with a colored label or tag, in order that these files are easily identifiable when files are sorted for destruction.

Consultation with State's Attorney: Following the intake process, the reports and any additional information gathered by the court officer is to be forwarded to the state's attorney's office for allegations for a petition and staffing with juvenile court. The best practice is to request that the state's attorney review for petition all felony sex offender cases. The court officer may discuss with the state's attorney the possibility of charging a lesser, non-registerable offense.

Documentation from state's attorney's office regarding any case they decline to prosecute must be placed into the child's file. The juvenile court, after staffing with the state's attorney's office, may consider the case for informal adjustment if the parties agree to have a sex offender evaluation completed prior to an informal disposition in order to determine whether registration is recommended. Parties need to be informed that if registration is recommended, the case will proceed to a formal petition hearing.

Disposition Recommendations: Dispositional recommendations must include completion of a sex offender evaluation, or psychological, social, sexual evaluation with completion of the recommended treatment program required. The evaluation should include review of all police reports, with information provided to the court related to registration requirements. Issues to be addressed should include whether the behavior was predatory or mental abnormality displayed. The court should ask the therapist/evaluator to include in the recommendations whether or not they are recommending that the juvenile be required to register.

State's attorney's office is to provide the court with information necessary, including whether the evaluation indicates the offender should be required to register, and the court must make specific findings on the record if they deviate from requiring registration.

If an offender evaluation is not completed prior to court adjudication, the court should delay disposition until after that evaluation is complete.

Time for Assessment: Note that “Natalee’s Law”, effective as of August 1, 2019, requires that the child be assessed in a timely manner, not to exceed thirty days. (27-20-31(3) NDCC) It is best practice to add a thirty day deadline for the assessment into the court order requiring the assessment.

Upon a finding by the court that the child is required to register as a sex offender, the court shall notify the child and parents on the record of the requirements.

On community probation supervision cases, the assigned juvenile court officer shall instruct the child to report to local law enforcement for registration requirement. The assigned court officer should follow up with local law enforcement to verify the child’s registration. Obtain releases for Division of Juvenile Services and a separate release for the Attorney General’s office allowing the release of requested court documentation necessary to conduct a risk assessment for determination of level of risk to the community. All materials are then forwarded along with appropriate releases to the designated DJS contact persons.

XIII. Traffic Cases

A. Jurisdiction

Juvenile Court has jurisdiction over all criminal traffic related offenses committed by children as these offenses fall under the definition of “delinquent act” and “delinquent juvenile” in N.D.C.C. § 27-20-02. Criminal traffic offenses are felony, misdemeanor or infraction law violations. The juvenile court does not have jurisdiction over moving or nonmoving violations. Court staff should reference the most recent edition of the Classification of Offenses issued by the North Dakota Highway Patrol and North Dakota Peace Officers Association.

B. Intake of Traffic Referrals

To ensure proper documentation and due process procedures are followed all traffic violations involving points against a licensee’s driving record and required notice to DOT should be handled in Juvenile Court and not sent to available diversion programs. Nonpoint offenses or non-notice to DOT cases may be handled via diversion programs such as traffic safety courses with a preference given for those courses designated for adolescents and evidence-based such as “Alive at 25”. On applicable traffic offenses, notification should be forwarded to North Dakota DOT within 10 days of admission or adjudication, regardless of which State issued the license. (N.D.C.C. § 27-20-51(3)) Note that for youth operators of motor vehicles there is a separate section, commonly referred to as “graduated driver’s license” and located at 39-06-01.1 N.D.C.C., which sets out under which circumstances a youth will have their license cancelled by the state.

C. Drug or Alcohol Offenses While Operating a Motor Vehicle

Since an admission to this offense will result in a driving sanction via the graduated driver’s license law, the informal adjustment notice shall include a notice of the consequence for such an admission. (See macro.) If there are questions at intake about whether the juvenile was in fact an operator of a motor vehicle at the time of the drug or alcohol offenses for purposes of N.D.C.C. § 39-06-01.1, the intake court officer should have the state’s attorney review the referral before the informal adjustment notice is sent. Note that North Dakota Supreme Court Policy 406 mandates the juvenile

court to report to the Director of the N.D. Department of Transportation the name of any child who admits or is adjudicated of a drug or alcohol offense while operating a motor vehicle. The form that is used to report is title “Certificate of Traffic Offense”.

D. Driving Under the Influence/Actual Physical Control

Upon receipt of a Driving under the Influence (DUI) referral, the intake court officer shall review report to be sure that BAC lab report is attached before scheduling hearing. An informal hearing may be scheduled for first time DUI. Second time offenders should be sent to State’s Attorney with a petition request and formal hearing to be scheduled. All admitted or adjudicated DUI’s require a minimum of six months’ supervised and unsupervised probation to ensure time for the drug/alcohol evaluation and treatment to be completed. The disposition shall include all statutorily required sanctions. (See N.D.C.C. § 39-08-01.)

Note that for a first offense, the recommendation or informal adjustment agreement must include a fine of at least five hundred dollars and an addiction evaluation by an appropriate licensed addiction treatment program. The Court may suspend the imposition of a fine imposed upon terms and conditions as the court determines. (27-20-31(3) N.D.C.C.) Fines collected must be paid into the county treasury for disposition under 29-27-02.1 N.D.C.C. Typically if the DUI fine is ordered as part of a formal case, the youth pays the fine to the clerk of court’s office. If the DUI fine is as part of an informal adjustment agreement, the youth brings a money order written out to the County where the offense occurred to the juvenile office. The juvenile court officer mails or delivers it with a cover letter to the County Treasurer’s office of the county where the offense occurred. There is a form letter in the Macros called “letterDUIfine”.

Upon the completion of the DUI hearing, the juvenile court staff sends the “Certificate of Traffic Offense” to DOT within ten days of hearing. This notice will prompt cancellation of license following the suspension already sent by law enforcement.

E. Zero Tolerance DUI

Referrals citing a child with “Zero Tolerance DUI” may be received from law enforcement. Note that “Zero Tolerance” is an administrative sanction only. Therefore, these referrals should be handled as MIC “driver” violations.

F. Vehicular Manslaughter and Negligent Homicide

Vehicular manslaughter and negligent homicide cases should be adjudicated formally. The court officer must recommend a drug and alcohol evaluation and treatment if drugs or alcohol are involved.

G. 24/7 Sobriety Program

Children who admit or are found to have committed either the delinquent act of DUI or the unruly act of Minor Consuming Alcohol and having an alcohol concentration of at least .02 within two hours of driving or being in physical control of a motor vehicle must be required to participate in the 24/7 Sobriety Program. (See NDCC 27-20-10(4) and 27-20-31(8)) The 24/7 Sobriety Program may also be used in offense appropriate cases even though it is not mandated by law.

Informal Adjustments: Add to any other requirements of an informal adjustment the conditions that, “Youth successfully complete all requirements of the 24/7 Program”. Juvenile Court Officer should explain the program requirements and fees to the child and parents and have them sign a testing contract which details those terms. Note that each county sheriff will have their own testing times, fees, testing locations and method of payment so be familiar with the program as it exists in each county and be prepared to explain that to child and parents. Fax or email a copy of the testing contract to that county sheriff department.

Petitioned Cases: Juvenile Court Officer should add to dispositional recommendations that “Youth successfully complete all requirements of the 24/7 Program”. Immediately after the dispositional hearing requiring this program, ensure that child and parents understand the requirements of the program in that county and sign a testing contract. Fax or email a copy of the testing contract to that county sheriff department.

Condition of Release from Detention: The Judge or Judicial Referee may require a child charged with a DUI to be released from detention pending further hearing with a requirement that in the interim the child “comply with the requirements of the 24/7 Program”. Juvenile Court Officer should have the child and families complete the testing contract immediately after the detention hearing and answer any questions the family may have about the process. It is recommended that the court anticipate at that detention hearing what the consequences will be for any of the foreseen violations of 24/7 to warn and notice the child and families at the time of the hearing as well as guide the juvenile court officer in handling these violations, especially on nights and weekends.

Testing Sites and Program Fees: A current listing of the county testing sites and program fees is maintained in the shared J drive. See <J:\Shared Juvenile Files\24 7 Sobriety Program\24-7 by County>

24/7 Program Violations: The best practice for law enforcement conducting the testing is to handle violations by “citation and release” to a parent or by a paper filing of the violation with the juvenile court office. It is recommended that the program violation be either handled by the probation officer assigned if minor in nature or be brought back before the court for review of the disposition or detention order. At most, a MIC children could only be held at a local attendant care site until seen by the Court. It is anticipated that violations such as “no shows” or failures to pay program fees could be handled within the confines of probation by such consequences as extension of the program reporting time period. For adults, violations commonly result in jail. For children, it is a violation of federal law to securely detain status offenders which is the case type of the “Minor Consuming while driving a motor vehicle” cases.

XIV. Dual Status Youth

A. Dual Status Definitions

Active Involvement: Youth has current involvement with a child welfare and a juvenile justice entity. For example, an “open CPS assessment” and a “pending juvenile referral or open probation case”.

Previous Involvement: Youth has prior past involvement with a child welfare and juvenile justice entity. For example, a “closed CPS assessment” and a “closed juvenile court file”.

Open Assessment: a child protection report in follow up that has yet to be approved or denied by the Department of Human Services regional representative.

Services Required: a decision that is made by the Department of Human Services as a result of a child protection assessment that child abuse or neglect is confirmed.

Target Population: Youth who have an “open assessment” or “services required” finding and a pending or open unruly or delinquent referral.

Dual Status Youth: Youth with an “open assessment” or “services required” finding at child protection services and an unruly or delinquent referral to the court.

B. Identification Protocol

Manual Process: Twice a week a report is generated from Child Protective Services (CPS) and sent electronically to the state court’s Dual Status Youth (DSY) Coordinator. The report lists all youth with a new open assessment as well as open assessments that have been closed since the previous report. The State DSY Coordinator flags the cases in CMS as Dual Status. Juvenile Court Intake officers will make a note in CMS contacts that the youth is DSY and assign the case for purposes of setting up the multi-disciplinary team meeting (MDT) or family centered engagement meeting (FCE). Typically, the case is assigned to the former court officer who worked with the family in the past or is currently working with the family.

Delinquent/Unruly Referral Intake: Prior to making an intake decision on a new delinquent/unruly referral to juvenile court, the JCO III or assigned administrative support staff checks CMS for any referral entries of prior child protection activity.

Probation Cases: The DSY report will also be emailed by the JCO III to the juvenile court officers for review. If any youth are on the DSY report are also currently on probation supervision or are pending in juvenile court, they will contact the corresponding CPS worker within 48 hours or two business days.

Human Service Zone Identification Process: Human service zone case managers, as part of their active case management, will check with the JCO III or assigned intake officer regarding youth that they are managing on a case load within two weeks of case assignment.

C. Actions Following Identification

New Dual Status Delinquent or Unruly Referral: JCO III contacts the local human service zone office to gather information and to communicate with the assigned social worker prior to making an intake decision. Information gathered will be documented in CMS contacts.

New Dual Status Child Protection Referral: Assigned CPS worker will contact the JCO III or the JCO assigned to the youth within one week in order to gather information as part of the initial CPS assessment. If a youth is found to have a prior delinquent or unruly case, the CPS worker will contact the juvenile to request a courtesy update on the youth.

D. Information Sharing

Juvenile Court to Social Services: The following information is to be shared with Social Services: Current and historical delinquent or unruly referrals, probation case plan, services being provided, current and ongoing concerns regarding child's behaviors, level of parental cooperation with assistance in completing the case plan, safety issues in regards to the parents and the child.

Social Services to Juvenile Court: The following information is to be shared with Juvenile Court: type of abuse (current and historical), status of CPS assessment, and the subject of the report, services being provided or offered.

E. Multi-Disciplinary Team (MDT) Process

Criteria: A multi-disciplinary team (MDT) meeting must be held when there is active involvement of the child in both systems or when there is a youth in detention or another placement who cannot return home. A MDT meeting can also be held whenever the assigned social worker and juvenile court officer find the process to be necessary for a child and family's success.

Purpose: Although each MDT meeting will define its own unique purpose, the following are common goals or guidelines for an MDT meeting:

- Determine if placement of the child outside the home is necessary and/or appropriate
- Engage the child and family in services to avoid further involvement in the juvenile justice system
- Jointly assess the risk, needs, and strengths of the child and family
- Determine the appropriate roles and responsibilities required to accomplish and support the completion of the joint plan
- Plan follow up meetings to assess the status of the joint case plan

Attendees: Most commonly invited to attend an MDT or FCE are: the facilitator, parents, child, social services and juvenile court. Invited to attend are: personal supports identified by child and family and any other professionals working with the child and family. If a parent refuses to attend, the meeting can go forward without them for purposes of information sharing and future case planning. The attendees are documented and those invited who did not attend are informed of the outcome.

Process: The MDT/FCE meeting should take place prior to the next court date or next court or CPS decision. In emergency shelter care or detention cases, the MDT meeting should be held within 48 hours or two business days. The facilitator will ask the child, parents, and any legal guardian or custodian to sign a multi-agency release of information in advance of the MDT meeting. A copy of the signed release will be provided to each participant in the process prior to the start of the meeting. The juvenile court officer attending the MDT will document the results of the MDT in CMS contacts and the tests screen.

XV. Review of Child’s Placement at a Qualified Residential Treatment Program (Q RTP)

The federal Families First Prevention Services Act (FFPSA) requires children in qualified residential treatment program (Q RTP) placements receive an initial and then ongoing assessments at set time period to determine the appropriateness of placement in that setting. North Dakota began compliance with this federal law on October 1, 2019. The custodial case manager is responsible to seek the least restrictive most appropriate placement setting for each child in foster care.

A. Q RTP Terms and Definitions:

“Qualified Individual” (QI)

Means a trained professional or licensed clinician who is not an employee of an IV-E agency or affiliated with any placement setting. Beginning October 1, 2019, the agency holding the contract to train and employ the qualified individuals for purposes of these assessments is Ascend, a Maximus Company.

“Qualified Residential Treatment Placement (Q RTP)”

A Q RTP placement is a specific category of a non-foster family home placement setting that meets the definition of a child-care institution at section 472(c)(2)(A) and (C) of the Families First Act. Title IV-E generally specifies that a Q RTP placement must meet the following criteria:

- Provide a trauma-informed model of care designed to address the needs, including clinical needs, of children with serious emotional or behavioral disorders or disturbances;
- Has registered or licensed nursing staff and other licensed clinical staff who provide care within the scope of their practice as defined by state law, and who are on-site consistent with the treatment model, and available 24 hours and 7 days a week;
- Facilitates family participation in a child’s treatment program;
- Facilitates and documents family outreach and maintains contact information for any known biological family and fictive kin of the child;
- Documents how the child’s family is integrated into the child’s treatment, including post discharge, and how sibling connections are maintained;
- Provides discharge planning and family-based aftercare supports for at least six months post discharge; and
- The program is licensed and nationally accredited as required by law.

“CANS Assessment”

The Child and Adolescent Needs and Strengths (CANS) is a multi-purpose tool developed for children’s services to support decision making, including level of care and service planning, to facilitate quality improvement initiatives, and to allow for the monitoring of outcomes of services.

B. Q RTP Referral Intake

The qualified individual completes the assessment of the child and submits the assessment results and any other supporting documents electronically to the court by filing it in the Odyssey file. There is no referral entry in CMS but the child is may be assigned to the caseload of the director and flagged as a “Q RTP” case. The director will review a daily event code report from Odyssey which alerts staff to the filing of a Q RTP assessment by the Qualified Individual. Upon receipt of the

assessment, the director has five working days to review the material submitted which likely will include a summary of the decision, the universal application, the CANS assessment, and any other necessary supplemental material. These documents should not be printed for the office working file.

C. Q RTP Approvals and Review Decision Process

Rule 18.1 of the North Dakota Rules of Juvenile Procedure sets the requirements of the review decision process. The juvenile court director has five (5) working days to review the qualified individual's Q RTP Approval summary, CANS assessment and all supporting documents filed with the court. It is best practice that these submitted documents be both e-filed with the court and emailed to the court director given the time constraints of the decision process.

Review Decision Process: The director or designee should read all documents submitted and review the court CMS and Odyssey file of the child. The following questions should be answered in the Qualified Individual's report:

1. Why can't the child's needs be met by the family or in a foster home?
2. Why is Q RTP placement the most effective and appropriate level of care in the least restrictive environment?
3. How is the Q RTP placement consistent with the child's short and long term goals in his or her permanency plan?
4. What were the child and family team's placement preferences?
5. Do the Qualified Individual and child and family team agree on the placement? If not, what are the reasons the child and family team's preferences were not recommended?
6. If the child's needs cannot be met through placement in the family or a family foster home, is the Q RTP the most effective and appropriate level of care?

Any questions the director or designee have as a result of reading all the material can be directed to the custodial case manager. Given the limited amount of time given for the review, responses to any questions should be given a tight time deadline or answered immediately upon a telephone call.

The review decision is an Odyssey Form. It is prepared by the director or designee and is immediately filed with the court. Copies are provided to all parties by the juvenile court.

Approval of the Q RTP placement means that the child can continue at that level of care for the next 60 days. Denial of the Q RTP placement means that the custodial agency can either 1) move the child to a lesser restrictive placement within 30 days of the denial decision; or 2) request a hearing on the placement decision of a juvenile court director or designee. If insufficient information is filed, the director can request information of the case manager/custodian and give a short time frame such as 5 days for submission of the supplemental material. Should this occur, a time standard should be set and the case remain on the director's CMS caseload.

The decision of the director is recorded on the Odyssey form "Q RTP Review Decision" which is filed and copies provided to the case manager and parties to the case.

D. QRTP Denials by the Qualified Individual

If the QRTP Assessment filed by the Qualified Individual indicates that QRTP is denied or not appropriate, the juvenile director's Notice of Review form will not be completed as it is unnecessary. The director or designee may make an entry in the Odyssey notes tab indicating that the QRTP Assessment filed indicates a denial of the placement so no court review will be done. Any time standard for review should be completed. A note can be placed in CMS Contacts, contact type of "QRTP Review", and the case "unassigned in CMS. Be aware that the custodial agency may request a reassessment by the Qualified Individual, in which case, another QRTP Assessment may be filed with the court. It is best practice to ensure that any supplemental information given to the Qualified Individual for purposes of that reassessment also be filed with the court.

E. Judicial Hearing Process on Director Denials of QRTP placement

A request for a judicial hearing must be received in writing, within seven days of the Notice of Review Decision by the director, state the reasons for the request, and be filed with the court. The case should be detailed to the assigned referee or judge for determination on the setting of a hearing. The hearing must be held within 60 days of the initial placement. (Rule 18.1 N.D.R.J.P) The director or designee denying the QRTP placement may be called to testify in the hearing.

F. Lifetime Placement Maximums

A foster child 13 years of age and older shall not exceed placement into a QRTP for more than 12 consecutive months or 18 non-consecutive months. A foster child age 12 and younger shall not exceed placement in a QRTP for more than six (6) consecutive months. The placement maximums are specific to this level of care and not to a facility. It is the responsibility of the custodial case manager to track placement maximums. If the length of stay is greater than the federal regulation allowances, state approval from the ND Department of Human Services Executive Director is required. This process is requested by the custodial case manager.

XVI. Appendix

A. Delinquent / Unruly INTAKE MATRIX

Referral Category	Diversion Typically the method to handle the 1 st – 3 rd referrals or if the last referral > 1 year ago or if this is the first referral in new case type.	Informal Adjustment (IA) Typically after youth has already received multiple diversions unless case requires DOT notice or 24/7 program	Formal Petition Best practice to meet at least one of the 11 listed criteria below and be approved by JCO III or Director
Unruly	<ul style="list-style-type: none"> • 1st -3rd unruly referrals • Child under 12 years • Repeaters with priors in other category • Child in placement 	<ul style="list-style-type: none"> • 3 or more prior referrals • Multiple similar diverted referrals in the past 6 months 	<ul style="list-style-type: none"> <input type="checkbox"/> Denial at informal and state's attorney requires filing <input type="checkbox"/> Exhausted community resources and placement recommended
Infraction / Misdemeanor	<ul style="list-style-type: none"> • 1st – 3rd referrals • Child under 12 years • Repeaters with priors in other category • Child in placement • Restitution case to Restorative Justice 	<ul style="list-style-type: none"> • 2 or more referrals • Non-cooperative with diversion • Similar repeat diverted referrals in the past 6 months • Referral, if admitted, requires ND DOT notice or 24/7 program 	<ul style="list-style-type: none"> <input type="checkbox"/> Denial at IA and state's attorney approves filing based on sufficiency of evidence <input type="checkbox"/> Exhausted community resources and placement recommended <input type="checkbox"/> Outgoing ICJ cases where diversion in the home state is not an option
Felony drug / Felony property	<ul style="list-style-type: none"> • 1st referral • Child under 12 years • Repeater but under a different offense level • Child in placement but only after staffing with state's attorney 	<ul style="list-style-type: none"> • 2 or more referrals • Non-cooperative with diversion • Child in placement but only after staffing with state's attorney 	<ul style="list-style-type: none"> <input type="checkbox"/> Risk to public safety – in detention <input type="checkbox"/> Offense requires offender registration <input type="checkbox"/> Contested restitution <input type="checkbox"/> Meets criteria for JDC <input type="checkbox"/> JDC termination
Felony against person	<ul style="list-style-type: none"> • Child under 12 years • Child already in residential placement but only after consulting with state's attorney 	<ul style="list-style-type: none"> • Child age 12 or older but only after consulting with state's attorney 	<ul style="list-style-type: none"> <input type="checkbox"/> 3+ offenses in past 6 months <input type="checkbox"/> Non-compliant with IA reporting probation

When conducting intake, start at the lowest level possible and consider diverting multiple times prior to scheduling the first informal adjustment. Cases should have at least one prior diversion, if not two or three before being scheduled to come in for an informal adjustment.

Any offense which requires a notification to be sent to the North Dakota Department of Transportation requires at least a written admission, or informal adjustment, as notice can only be sent to ND DOT after an “admission” is received. (§39-06-01.1(1)(b) N.D.C.C. and Policy 406, ND Supreme Court Admin Policies)

Any offense which could require sex offender registration should be staffed first with the county state's attorney and if they authorize an informal adjustment or charging at a lesser offense level, that decision should be obtained in writing or at least document in CMS contacts.

Any offense which will require 24/7 Sobriety Program may result in supervised (reporting) probation to assist the youth in complying with all the requirements.

B. Informal Adjustment Pre-screen Matrix

Overall Risk

Pre-Screen Protective	Low Risk	Moderate Risk	High Risk
High Protective	Admin (release with warning)	Moderate (full screen)	High (full screen)
Moderate Protective	Low (release with warning)	Moderate (full screen)	High (full screen)
Low Protective	Low (educational program)	Moderate (full screen)	High (full screen)

C. Dynamic Supervision Grid

Dynamic Risk (Need)

Dynamic Protective

Dynamic Protective	Very High Need	High Need	Moderate High Need	Moderate Need	Low Moderate Need	Low Need
Very High Protective	Moderate	Moderate	Low	Low	Admin	Admin
High Protective	Moderate	Moderate	Moderate	Moderate	Low	Admin
Moderate High Protective	High	High	Moderate	Moderate	Low	Low
Moderate Protective	High	High	Moderate	Moderate	Moderate	Low
Low Moderate Protective	High	High	Moderate	Moderate	Moderate	Moderate
Low Protective	High	High	High	Moderate	Moderate	Moderate

D. Delinquent / Unruly Disposition Matrix

Most Serious Presenting Offense	Admin / Waived Risk Level (age <12 / abilities)	Low Risk to Reoffend	Moderate Risk to Reoffend	High Risk to Reoffend
Unruly ⁸	Level 1	Level 1 - 2b	Level 1-2b	Level 1-3b
Infraction or Misdemeanor	Level 1-2a	Level 1a – 3a	Level 2b – 3d	Level 2b – 4a
Non-Violent Felony	Level 1-3b	Level 2a – 3b	Level 2b – 4a	Level 2b – 4b
Violent Felony	Level 2a-3b	Level 2b – 3c	Level 2b – 4b	Level 3b – 4b

Level 1 = Informal Adjustment (IA) without community supervision

1a = IA counseled, warned and adjusted

1b = IA released with referral to community resources / ND DOT notice / restitution only

Level 2 = Informal Adjustment (IA) with community supervision

2a = Nonreporting probation with program(s) tied to highest identified area(s) contributing to risk

2b = Reporting probation with case plan and program(s) tied to highest identified areas contributing

Level 3 = Formal Court Order without removal of custody from parents / guardian

3a = Adjudicated no conditions / deferred disposition

3b = Reporting probation, case plan, program(s) tied to risk

3c = Intensive Supervised Probation (ISP), case plan, program(s) tied to risk

3d = Reporting probation, successful completion of juvenile drug court⁹

Level 4 = Formal Court Order with removal of custody from the parents / guardian

4a = Non-secure custody¹⁰: Custody to human service zone (<13 years) or Division of Juvenile Services

4b = Secure custody: Custody to Division of Juvenile Services and includes use of the ND Youth Correctional Center

To structure the disposition recommendation the matrix has been adopted which guides the assigned court officer to weigh offense severity along with the risk of that particular child to reoffend. Begin with the least restrictive disposition within a recommended range based on the current offense level of the most serious petitioned offense and the current YASI risk score.

⁸ Includes MIP/MIC

⁹ Youth must meet juvenile drug court criteria and reside within a region with a juvenile drug court

¹⁰ See definition at Section III(C)

E. Delinquent / Unruly Disposition Recommendation Factors

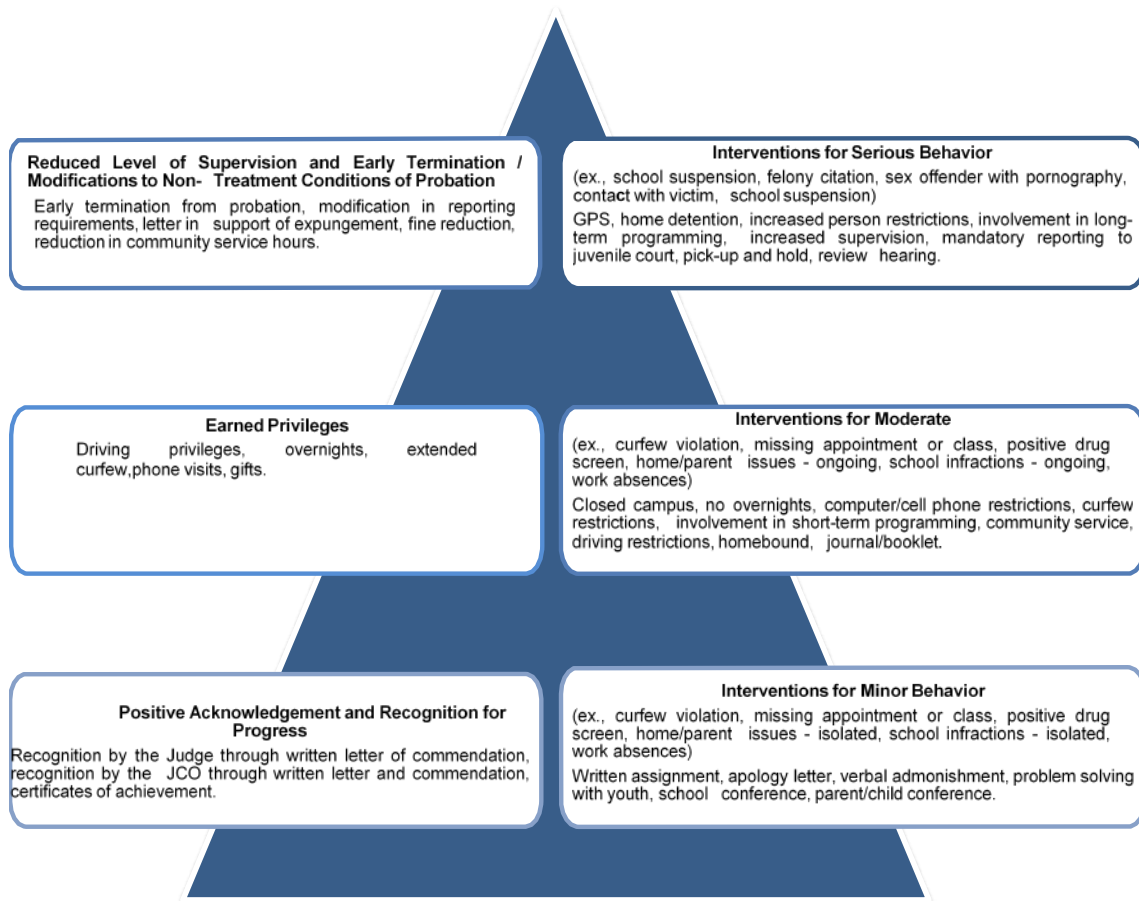
When developing a least restrictive disposition recommendation under the juvenile court mission of balanced and restorative justice, the assigned juvenile court officer will consider the following factors along with the disposition matrix:

1. The best interests of the child;
2. The results of the child's YASI full assessment including the child's protective factors, static and dynamic risk factors and identified needs;
3. The referred offense(s) and any aggravating or mitigating circumstances;
4. The impact on the victim and any requested restitution or other wishes of the victim;
5. The risk to public safety the child poses;
6. The extent to which enhanced involvement and supervision of the child may diminish public safety concerns;
7. Evidence of a repeated pattern of behavior by the child;
8. Any statutorily mandated dispositions (such as 24/7 sobriety program, notice to North Dakota Department of Transportation or mandatory transfer to adult court);
9. Whether the child meets criteria for Juvenile Drug Court where program is available.
10. The results of any court-ordered or filed with the court evaluations that indicate a need for out-of-home placement in order to access an appropriate level of treatment.

F. Graduated Incentives and Sanctions

INCENTIVES

SANCTIONS



*Short-term programming is programming that consists of three sessions or less. Long-term programming is programming that consists of four or more sessions. Programs from a lower level can be utilized in higher levels but the higher level programs cannot be used with low risk youth.

Graduated responses change by small degrees from the least to most rewarding or most restrictive.

Sanctions are interventions to respond to undesirable behaviors.

- * Consider the severity of non-compliant or delinquent behavior and risk level
- * Immediately address violations to change behavior
- * Continue to expand resources
- * Consistency and uniformity of response is encouraged

Incentives are rewards to encourage and respond to desirable behaviors.

- * Youth should progress toward achieving and then sustaining desired behavior over time
- * Immediately encourage positive behavior to reinforce
- * Assist in youth in identifying short and long term accomplishments
- * Incentives are equally as important as sanctions

- * Consistency and uniformity of response is encouraged
- * Incentives should be appealing and meaningful to the individual youth

Characteristics of sanctions and incentives:

- * Certain: known to youth and families
- * Immediate: timely (swift) response time
- * Fair and appropriate: allowed by court order/ policy and response matched to behavior
- * Tailored: individualized to match the youth and situation

Items to consider when determining response to undesirable behaviors or violations:

- * Frequency
- * Duration
- * Severity
- * Impact on victim(s)
- * Risk to community safety
- * General or overall compliance with court conditions

G. Case Audit Form

Juvenile Court Caseload Audit

Audit date: _____

Court Officer: _____

In accordance with best practices your current caseload was audited by your direct supervisor. The attached caseload report indicates notes from your supervisor with areas for improvements and/or areas of good practice. The following is a list of items reviewed by your supervisor during the audit.

CMS:

Contacts:

Referral screen:

Tests

Programs

Flags

Other screens as applicable:

Caseworks:

Yasi assessments/reassessments

Paper file:

Case plan – completed and signed

Case Management:

Effective use of intermediate incentives and sanctions

Utilization of Carey Guides

Overall comments or Suggestions by Court Officer III:

Court Officer III Signature:

Response by Court Officer II:

Court Officer II Signature:

H. Employee Acknowledgement Form

North Dakota Juvenile Court Best Practices Manual

Employee Acknowledgement

I, _____, agree that I have received the Best Practices Manual of the North Dakota Juvenile Court System.

My signature indicates that I have reviewed the _____ (year) Best Practices Manual, understand it, and have discussed any questions/concerns I may have with my supervisor or director of juvenile court in my unit.

Employee Signature

Date