

*State of North Dakota*

JOINT PROCEDURE COMMITTEE

CHAIR  
JUSTICE DALE V. SANDSTROM  
STAFF ATTORNEY  
MICHAEL J. HAGBURG

**20150092**  
FIRST FLOOR JUDICIAL WING  
600 E BOULEVARD AVE DEPT 180  
BISMARCK, ND 58505-0530

**FILED**  
IN THE OFFICE OF THE  
CLERK OF SUPREME COURT

October 15, 2015

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**STATE OF NORTH DAKOTA**

Honorable Gerald W. VandeWalle, Chief Justice  
North Dakota Supreme Court  
600 East Boulevard Avenue  
Bismarck, ND 58505-0530

Re: Proposed Adoption of North Dakota Rule of Court 8.14  
Supreme Court No. 20150092

Dear Chief Justice:

On March 23, 2015, the Joint Procedure Committee submitted proposed new Rule of Court 8.14 to the Supreme Court. After putting the proposal out for comment, the Court received three comments and decided to refer the proposal back to the committee for additional review. The committee reviewed the comments at its September 2015 meeting and after discussion in committee and input from Jim Fleming and Paulette Oberst of the Department of Human Services, it made additional amendments to the proposal.

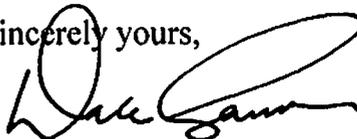
Ms. Oberst had submitted one of the comments on the proposal. She suggested that the language about terminating "an order" if the obligor is awarded primary residential responsibility was too broad because "an order" might not be limited to only establishing a monthly support obligation. She suggested the proposal be amended to clarify that only the part of an order establishing a support obligation would be terminated. The committee supported her proposed amendment and incorporated it into the proposal.

Attorney Arnold Fleck in his comment suggested that a new provision be added to the proposed rule that would automatically terminate child support orders when the youngest child covered by the order reaches the age of 18. He also suggested that the word "file" in the proposal be changed to "action" and the committee supported this proposed amendment

and made it part of the proposal. After discussion with Mr. Fleming, who explained that policy language already exists to insure that support orders are automatically terminated when a child reaches 18, the committee declined to adopt Mr. Fleck's additional amendments.

In his comment, attorney Michael McIntee raised a concern about the use of the term "or custody" in the proposal. He suggested that the term by itself is too vague and that "placement by an appropriate government agency" be added after it. Mr. McIntee's letter also indicated that a custody change under the Uniform Juvenile Court Act might lead to a child being placed with someone other than a parent and he suggested that support payments could be suspended during this time. Mr. McIntee's comments led to a great deal of discussion by the committee and a reconsideration of whether custody under the Uniform Juvenile Court Act should be dealt with at all in the proposal. The committee was concerned that such placements are often transitory and while they can sometimes lead to a child being placed with the child support obligor, "custody" usually remains with a county social service agency. After discussion with Mr. Fleming and Ms. Oberst, the committee decided to remove reference to custody under the Uniform Juvenile Court Act from the proposal.

The committee's revised proposal for new Rule 8.14 is attached. Thank you for giving the committee the opportunity to review the comments on this proposal and to make additional amendments.

Sincerely yours,  


Dale V. Sandstrom  
Chair, Joint Procedure Committee

RULE 8.14. TERMINATION OF CHILD SUPPORT OBLIGATION

1           Unless otherwise specified by court order, a monthly child support  
2           obligation included in an order issued by a North Dakota court will terminate if the  
3           obligor under the order is awarded primary residential responsibility of the child or  
4           children on whose behalf the obligation is owed.

5           This rule applies when primary residential responsibility is changed or  
6           granted by a North Dakota court in:

7           (1) the same civil action as the previous support order;

8           (2) a separate civil action in the same county; or

9           (3) a separate civil action in a different county.

10           If primary residential responsibility is changed or granted in a separate civil  
11           action, the party awarded primary residential responsibility must file a copy of the  
12           order awarding primary residential responsibility in the prior action.

13           EXPLANATORY NOTE

14           Rule 8.14 took effect \_\_\_\_\_.

15           Sources: Joint Procedure Committee Minutes of September 24-25, 2015,  
16           pages \_\_\_\_; January 29-30, 2015, pages 10-13; September 25-26, 2014, pages 24-  
17           25.