

IN THE SUPREME COURT
STATE OF NORTH DAKOTA

NOTICE OF COMMENT

Supreme Court No. 20210174

**Amendments to North Dakota Rules of Juvenile Procedure
1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 11.1, 12, 13, 15, 16, 17, 18, 19**

[¶1] On June 11, 2021, the Juvenile Policy Board submitted proposed substantive amendments to North Dakota Rule of Juvenile Procedure 2. The proposal is available at <https://www.ndcourts.gov/supreme-court/dockets/20210174>. Individuals who do not have internet access may contact the Office of the Clerk of the Supreme Court to obtain a copy of the proposal.

[¶2] **IT IS HEREBY ORDERED**, any person wishing to comment on North Dakota Rule of Juvenile Procedure 2 may do so by email to Petra H. Mandigo Hulm, Clerk of the Supreme Court, at supclerkofcourt@ndcourts.gov or in writing addressed to 600 E. Boulevard Ave., Bismarck, ND 58505-0530, no later than **July 23, 2021**.

[¶3] The Supreme Court of the State of North Dakota convened this 23rd day of June, 2021, with, the Honorable Jon J. Jensen, Chief Justice, and the Honorable Gerald W. VandeWalle, the Honorable Daniel J. Crothers, the Honorable Lisa Fair McEvers, the Honorable Jerod E. Tufte, Justices, directing the Clerk of the Supreme Court to enter the above order.

/s/ Petra H. Mandigo Hulm
Clerk
North Dakota Supreme Court

1 RULE 2. HEARING TIME

2 (a) Hearing Time.

3 (1) Detention Hearing.

4 (A) The court must hold a detention hearing within 24 hours of the time a child is
5 placed in detention to determine whether there is probable cause that a child committed
6 an offense and that continued detention is required.

7 (B) The court must make findings that alternatives to detention were considered
8 and why secure detention was required and alternatives were not appropriate.

9 (C) If a case is not disposed of within 60 days and the child remains in detention,
10 an additional detention hearing must be held to determine if the child's continued
11 detention is required under N.D.C.C. § ~~27-20-14~~ 27-20.4-06.

12 (2) Shelter Care Hearing. The court must hold a shelter care hearing within 96
13 hours of the time a child is placed in shelter care to determine whether there is probable
14 cause for the child to remain in shelter care.

15 (3) Petition Hearing. After the petition has been filed, the court must set a hearing,
16 except in a continued foster care matter under N.D.C.C. § ~~27-20-30.1~~ 27-20.3-16, in
17 which a hearing is optional. In a juvenile guardianship matter, the court may not set a
18 hearing until the petition has been approved. Under N.D.C.C. § 27-20.1-08, a petitioner in
19 a juvenile guardianship matter, may request the court waive the hearing requirement.

20 (A) Unless a continuance is granted under Rule 2(c), the initial hearing on the

21 petition must be held within 30 days after the filing of the petition.

22 (B) If the child is in detention, the time for the initial hearing on the petition must
23 be held within 14 days after the child has been taken into custody.

24 (C) If a child is in protective care, the petition must be filed within 30 days after
25 the child has been taken into protective care. The adjudication hearing on the petition
26 must be held within 60 days of the initial removal.

27 ~~(C)~~(D) If Except in a termination of parental rights case, if an initial hearing is
28 held, the adjudication hearing must be held within 30 days of the initial hearing. Unless a
29 continuance is granted under Rule 2(c).

30 (E) In a termination of parental rights case, the adjudication hearing must be held
31 within 150 days of the initial hearing.

32 ~~(D) If a child is in shelter care, the petition must be filed within 30 days after the~~
33 ~~child has been taken into shelter care. The hearing on the petition must be held and~~
34 ~~findings made within 60 days of the initial removal.~~

35 (b) Weekends and Holidays. If the period of time for a hearing expires on a
36 Saturday, Sunday or legal holiday, the hearing must be held on the next day that is not a
37 Saturday, Sunday or legal holiday.

38 (c) Continuance. The court may continue a hearing under Rule 9.

39 (d) Reliable Electronic Means. A judge or referee may conduct a hearing,
40 conference, or other proceeding, or take testimony, by using contemporaneous audio or
41 audiovisual transmission by reliable electronic means.

42 EXPLANATORY NOTE

43 Rule 2 was adopted effective March 1, 2010; amended effective May 1, 2015;
44 ~~amended effective October 1, 2019; _____.~~

45 Paragraph (a)(1) was amended, effective May 1, 2015, to require the court to make
46 findings on alternatives to detention and to require an additional detention hearing if a
47 case is not disposed of within 60 days and the child remains in detention.

48 Paragraph (a)(3) was amended, effective May 1, 2015, to clarify that a petition
49 hearing is not required in a continued foster care matter under N.D.C.C. § ~~27-20-30.1~~ 27-
50 20.3-16.

51 Paragraph (a)(3) was amended, effective _____, to provide that, in a
52 juvenile guardianship matter, the court may not set a hearing until the petition has been
53 approved.

54 Paragraph (a)(3) was amended, effective _____, to move language relating
55 to children in protective care to paragraph (a)(3)(C) and to add a new paragraph (a)(3)(E)
56 specifying that, in a termination of parental rights case, the adjudication hearing must
57 occur within 150 days of the initial hearing, unless a continuance is granted.

58 Paragraph (a)(3)~~(C)~~(D) was amended, effective October 1, 2019, to clarify that, if
59 an initial hearing is held in a case not involving termination of parental rights, the
60 adjudication hearing must occur within 30 days, unless a continuance is granted.

61 Subdivision (d) was added, effective May 1, 2015, to allow hearings and other
62 proceedings involving children to be conducted using contemporaneous audio or

63 audiovisual transmission by reliable electronic means. The standards in N.D. Sup. Ct.
64 Admin. R. 52 apply when reliable electronic means are used.

65 Rule 2 was amended, effective _____, to update terminology and
66 statutory references consistent with the July 1, 2021, amendments to the Juvenile Court
67 Act, N.D.C.C. chs. 27-20.2, 27- 20.3, and 27-20.4.

68 SOURCES: Juvenile Policy Board Minutes of June 11, 2021, page _____; January
69 26, 2021, pages _____; July 31, 2019, page 1; June 21, 2019, pages 1-2; April 12, 2019,
70 pages 1-2; March 22, 2019 pages 4-5; September 5, 2014, page 2; February 20, 2009;
71 August 8, 2008; May 9, 2008; February 29, 2008; September 21, 2007; April 20, 2007.
72 Joint Procedure Committee Minutes of April 26, 2019, pages 10-12; January 29-30, 2015,
73 pages 6-7; September 25-26, 2014, pages 4-5.

74 STATUTES AFFECTED:

75 ~~SUPERSEDED: N.D.C.C. § 27-20-22.~~

76 CONSIDERED: N.D.C.C. §§ ~~27-20-14; 27-20-15; 27-20-16; 27-20-17~~ 27-20.1-
77 08; 27-20.4-06; 27-20.4-07; 27-20.4-08; 27-20.4-09; 27-20.3-16.

78 CROSS REFERENCE: N.D.R.Juv.P. 9 (Continuance); Unified Judicial System
79 Policy 409 (Juvenile Court Time Standards); N.D. Sup. Ct. Admin. R. 52
80 (Contemporaneous Transmission by Reliable Electronic Means).