

## **CHAPTER 27-21**

### **DIVISION OF JUVENILE SERVICES**

#### **27-21-00.1. Definitions.** As used in this chapter:

1. "Placement hearing" means a review of the placement of a child by a team of at least three individuals, selected by the division director, who have not had a direct involvement with the child. The child, or the child's representative, must be given the opportunity to inform the reviewing team of the child's interest and concerns. A summary record of these proceedings must be made.
2. "Temporary placement" means the placement of a child who may be a danger to self or others in a facility or setting for a short period of time until the most appropriate placement can be determined for the child. A temporary placement may also be the prompt removal of a child from a placement into an alternative setting until another more appropriate setting can be found.

**27-21-01. Creation of division of juvenile services - Director.** A division of juvenile services is hereby created and established with the powers and duties prescribed by this chapter. The division of juvenile services must be created within the department of corrections and rehabilitation, and its chief administrative officer must be appointed by the director of the department of corrections and rehabilitation and must be known as the director of the division of juvenile services. On July 27, 1989, each child committed to the custody of the state youth authority will, by operation of law, be committed to the custody of the division of juvenile services subject to the order committing the child.

**27-21-02. Division of juvenile services - Powers and duties.** The division of juvenile services is the administrative agency which shall take custody of delinquent and unruly children committed to its care by the juvenile courts. Upon committing a child to the custody of the division of juvenile services, the juvenile court, law enforcement officers, and other public officials shall make available to the division of juvenile services all pertinent data in their possession with respect to the child. Upon taking custody or if authorized by the court prior to receiving custody of a child, the division of juvenile services shall process the child through such diagnostic testing and evaluation programs as may be necessary to determine the treatment and rehabilitation which is in the best interest of the child and in the best interest of the state. In doing so, the division of juvenile services may utilize the psychological, addiction, psychiatric, career and technical education, medical, and other diagnostic and testing services that are available, examine all the pertinent circumstances, and review the reasons for the child's commitment. Upon completion of the diagnostic testing and evaluation of a child committed to its custody, the division shall make disposition under subsection 1, 2, or 3 and inform the court of its disposition. Upon completion of the diagnostic testing and evaluation of a child not in its custody, the division shall develop and recommend to the juvenile court an individualized treatment and rehabilitation plan for the child. This plan must include recommendations for the disposition of the child as follows:

1. Placement in the care of the child's parent, relative, guardian, or in a foster home or suitable private institution licensed by the state for the care or treatment and rehabilitation of children;
2. Placement in the care of the North Dakota youth correctional center or in a career and technical education, training, or other treatment and rehabilitation institution for children or young adults within this state; or
3. Placement in the care of a career and technical education, training, or other treatment and rehabilitation institution for children or young adults in another state in the event that adequate facilities for the child's treatment and rehabilitation are not available within this state and the committing juvenile court concurs in the placement.

4. If the division of juvenile services receives any money on behalf of a child committed to its custody and care under this section for child support, payments in excess of foster care maintenance payments, or money received from the social security administration, the division may establish an account for the child and use the money in a manner it determines will serve the best interests of the child, including setting aside any amounts for the child's future needs or making all or part of the money available to the person responsible for meeting the child's daily needs to be used for the child's benefit.

**27-21-02.1. Placement procedures.** The division of juvenile services shall retain custody of the child as granted by the authority of the committing court and the Uniform Juvenile Court Act. The court in an order committing the child to the division may require court approval before a placement may be made to a more restrictive setting. All other placements may be made by the division at any time it appears to be in the child's best interest and in the best interest of the state.

1. A child, child's parent, or guardian who objects to a placement to a more restrictive setting made by the division may request a placement hearing to review the placement.
2. In an emergency, or for reasons of safety and security, the division may temporarily place a child in an appropriate facility. A child, child's parent, or guardian who objects to the temporary placement may request a placement hearing to review the placement determined by the division.
3. The division may conduct a permanency hearing, as authorized by section 27-20-36, if an appropriate permanency plan may be carried out without exceeding the division's authority.

**27-21-03. Temporary care.** The division of juvenile services may, if other means are unavailable, place a child committed to its custody in the temporary care of the North Dakota youth correctional center or a career and technical education, training, medical, psychiatric, psychological, or other institution suitable for children within this state for not more than sixty days, in order to provide for diagnostic testing and evaluation and other assessments pending disposition under section 27-21-02.

**27-21-04. Creation of state youth authority advisory board - Members - Meetings - Powers and duties.** Repealed by S.L. 1989, ch. 157, § 12.

**27-21-05. Division of juvenile services to report to the committing juvenile court.** Within ten days after the completion of diagnostic testing and evaluation of a child, the division shall develop and recommend an individualized treatment and rehabilitation plan to the committing juvenile court unless the recommendation is temporary care pursuant to section 27-21-03. The division shall review each placement and the current status of each child committed to the division at least every three months to determine whether a change in placement or program is necessary for the continued accomplishment of the treatment and rehabilitation plan of the child, and shall report the findings to the committing juvenile court.

**27-21-06. Division of juvenile services to contract with facilities in other states for care.**

1. The division of juvenile services may contract and make placements with the appropriate agencies or departments of other states in order that they may receive care of committed children for career and technical education, training, or other treatment and rehabilitation purposes contemplated by this chapter. Before contracting with any agency or department of another state, the director of the division, or the director's designee, shall assess the facilities that are offered by such department or agency, and, after contracting, forward to the committing juvenile

court a summary on the facilities that are furnished by such agency or department and such other information pertaining thereto as may reasonably be requested.

2. Any contract or placement entered into must provide for:
  - a. Its duration.
  - b. Payments to be made to the other state for maintenance and extraordinary medical and dental expenses of children received, and for participation in or receipt of rehabilitative or correctional services, facilities, programs, or treatment not reasonably included as part of normal maintenance.
  - c. Participation in programs of youth employment, the crediting of payments received by children on account thereof, and the crediting of proceeds from the disposal of any products resulting from such programs.
  - d. Transportation of children to and from the other state.
  - e. The right of the director, or the director's designee, to have at all reasonable times access to any institution in which a child in its care may be placed, either temporarily or otherwise, for the purpose of inspecting the facilities thereof and visiting the child under commitment to the division of juvenile services.
  - f. The submission of reports by each institution in accordance with section 27-21-07 concerning the progress of treatment or rehabilitation of each child placed in its care.
  - g. Such other matters as may be necessary and appropriate to fix the obligations, responsibilities, and rights of both states.

Children under the custody of the division of juvenile services who are in the care of an institution of another state are at all times subject to the jurisdiction of this state, and at any time may be removed therefrom for change of placement as provided in section 27-21-02. All children placed in care in another state must be treated in a reasonable and humane manner and must be treated equally with other children placed in care in the same institution. Placement of a child in another state does not deprive the child of any legal rights the child would have had if placed in an institution in this state.

**27-21-07. Report by caretaker to division of juvenile services.** Any person, agency, department, or career and technical education, training, or other treatment and rehabilitation institution, either within or outside of this state, that has received care of a child under this chapter, other than temporary care, shall:

1. Submit to the director of the division, in such form as the director may reasonably prescribe, a quarterly report of the progress of the child; and
2. Submit to the director of the division, in such form as the director may reasonably prescribe, any interim report of the progress of the child that the director deems necessary in the interest of the child.

Quarterly and interim reports must be made available to the committing juvenile court.

**27-21-08. Planning - Development.** The division of juvenile services shall provide treatment and rehabilitation programs and services and aid in the development of new or improved means of prevention, control, supervision, and management of children committed to its custody.

**27-21-09. Cooperation with other agencies and departments of the state - Right to inspect facilities of state institutions - Right to examine children.** The division of juvenile

services shall cooperate with and receive the cooperation of the department of human services, the department of public instruction, the department of career and technical education, the juvenile courts, the state department of health, and such other agencies and departments of the state as may be necessary to carry out the objectives of this chapter. The division of juvenile services may inspect at all reasonable times the facilities of those institutions within the state it is authorized to utilize under this chapter, and may examine any child it has placed in the care of such institution, and may contract with public and private agencies to provide services for them or to retain from them required services to meet the purpose and objective of this chapter.

**27-21-10. Cooperation with federal agencies and departments.** Repealed by S.L. 1989, ch. 157, § 12.

**27-21-11. Transfer of students from the North Dakota youth correctional center to other institutions.** The director of the division of juvenile services may transfer students of the North Dakota youth correctional center to the state hospital whenever the director is satisfied, upon investigation and following appropriate standards of due process, that such transfer is advisable. If any student, so transferred, is maintained at the expense of the county from which the student was committed, the cost of the student's maintenance in the institution to which the student is transferred must be charged to such county and must be collected therefrom upon notice to the county auditor of said county by the director.

**27-21-12. Division of juvenile services files and records confidentiality.**

1. The files and records of the division of juvenile services relating to a juvenile committed to the division may not be disclosed directly or indirectly to any person, organization, or agency, except as provided in this section.
2. Notwithstanding any other provisions of law relating to confidentiality, except for the confidentiality requirements of federal drug and alcohol treatment and rehabilitation laws, the division may disclose all or part of a juvenile's files and records, including juvenile court orders, medical, psychological, education, and treatment and counseling records, to individuals employed by the following if the knowledge is reasonably necessary in the best interest of the juvenile and for the protection of others:
  - a. The district court or juvenile court.
  - b. A parent or legal guardian of the juvenile, the parent's or legal guardian's counsel, or the juvenile's counsel, when the juvenile court has committed the juvenile to the custody of the division of juvenile services, and the records are relevant to a proceeding under chapter 27-20 or to a placement hearing under section 27-21-02.1, or when disclosure is necessary for the juvenile's treatment and rehabilitation plan. If the juvenile court determines that it is against the best interests of the juvenile to disclose records to a parent or legal guardian, the juvenile court may issue an order prohibiting disclosure and describing the records that may not be disclosed.
  - c. An employee or agent of any division of the department of corrections and rehabilitation when necessary to carry out the duties of the department.
  - d. The department of human services or a county social service agency.
  - e. A licensed hospital or medical facility, a public or private treatment facility, or a residential care or treatment facility, when necessary for the evaluation, treatment, or care of a juvenile in the custody of the division of juvenile services.
  - f. A law enforcement agency when the division has reasonable grounds to believe the juvenile has committed a delinquent act or has threatened to

commit a delinquent act involving serious bodily injury, or when the juvenile is required to register, or is registered, under section 12.1-32-15.

- g. A school district or multidistrict special education program in which the juvenile is enrolled.
  - h. The office of the attorney general.
  - i. The risk management division of the office of management and budget and investigators, consultants, or experts retained by the state for the purpose of investigating and defending claims under chapter 32-12.2.
3. A person, agency, or institution receiving information or records under this section may not redisclose the information or records and shall maintain the confidentiality of the information or records.
  4. The division may disclose nonidentifying information for research and statistical purposes.
  5. The division may disclose the files and records of a juvenile under subdivision f or g of subsection 1 of section 27-20-51.
  6. The division shall disclose information to the extent necessary to comply with section 12.1-34-02.
  7. In all other cases, records and files of the division of juvenile services relating to a juvenile committed to its custody may only be open to inspection upon written leave of the juvenile court upon a showing in writing of a legitimate interest, but only to the extent necessary to respond to the legitimate interest.
  8. The records of the division relating to an individual who is or has been in the custody of the division may be disclosed to any court or probation staff for use in conducting a presentence investigation in a criminal case in which the individual is a defendant.
  9. The records of the division relating to an individual who is or has been in the custody of the division may be disclosed to the United States social security administration upon written authorization for disclosure by the individual's parent or legal guardian if the individual is a child, or if the individual is no longer a child, by the individual.