QUICK STATUTORY REFERENCE GUIDE – FOSTER CARE COURT ORDERS – NORTH DAKOTA			
Judicial Action – Required Language & Findings *	**Legal Reference**	**When**	**a.k.a.**
Contrary to the Welfare: **Judicial determination that** "it is [would be] contrary to the welfare of [child] to remain in the home."	45 C.F.R.§1356.21(c) 42 U.S.C.§672(a)(1) NDCC §27-20-32.1	At removal and every hearing thereafter	"contrary" language
Reasonable efforts (detailed): **(1) Judicial determination that reasonable efforts were made** to prevent the removal of the child from the home and/or to safely return the child to the home; **OR** **Judicial determination that reasonable efforts are not required** to prevent the child's removal from home or to reunify the family (i.e. aggravated circumstances, etc.). When a court determines reasonable efforts to return the child home are not required, a Permanency Hearing must be held within 30 days of that determination; **AND** **(2) Judicial determination that reasonable efforts were (are) made** to place siblings together, unless it is contrary to the safety and well-being of any sibling. If siblings are not placed together, reasonable efforts findings to provide frequent visitation or other ongoing interaction.	45 C.F.R.§1356.21(b)(2) 42 U.S.C.§671(a)(15) NDCC §27-20-32.2 NDCC §27-20-02(15)(d)(e)	(1) at removal or any time aggravated circumstances are raised (2) at removal	"reasonable efforts" language "sibling language"
"Placement and care" (care, custody & control) responsibilities must rest with the public agency. The agency must be given independent authority to select the specific provider (home or facility) and make the placement. If foster care is the court's intent, a specific provider should not be named in the court order.	45 C.F.R.§1356.21(g) 42 U.S.C.§672(a)(2)	All foster care court orders	"care, custody, & control" language
Independent Living language: For youth age **14** and over, the court must find services have been/will be provided to assist [youth] in making the transition from foster care to independent living in all dispositional and permanency hearings.	42 U.S.C.§677(5)(c)	At dispositional and permanency hearings if youth is age 14 and over	"independent living" language
Foster care court orders may not exceed 12 months. No long term orders with specified caregiver are permitted.	42 U.S.C.§675(5)(c) NDCC § 27-20-36(3)	Dispositional and Permanency Hearings	"time limited" language
Permanency Hearing: When a court determines reasonable efforts to return child home are not required, a Permanency Hearing must be held within 30 days of that determination; unless permanency hearing requirements are fulfilled at the hearing in which the court determines that reasonable efforts to reunify are not required. • In all other situations, a permanency hearing is required within 12 months of the date of removal and at least once every 12 months thereafter while the child is in foster care. • The court must issue a **judicial determination** that **reasonable efforts have been made to finalize the permanency plan** for the child within 12 months of removal or from the last permanency hearing order. • Permanency hearing orders must address all statutory criteria, and a full hearing must held. • Permanency Hearing requirements as outlined above, are required every 12 months for foster children whose parental rights have been terminated or when an adoption is not yet finalized. • For children 16 years of age or older with a goal of APPLA, the court shall meet the criteria as outlined in NDCC §27-20-02(15)(f) and make **a judicial determination explaining why APPLA is the best permanency plan**. Effective 8/1/15	42 U.S.C.§671(a)(15)(E) NDCC §27-20-36(2)(b) 45 C.F.R.§1355.20(a) 45 C.F.R.§1356.21(h) Criteria: NDCC §27-20-02(15) NDCC §27-20-47(3)	At the Permanency Hearing or no later than 12 months after removal Permanency hearing when a goal of APPLA applies (limited to children ages 16 or older)	"permanency" language
Indian children: ASFA does not supercede ICWA; therefore, ICWA provisions must still be addressed and followed. In addition, the Multi-Ethnic Placement Act (MEPA) also applies in connection with ASFA provisions.	25 U.S.C 1912 42 U.S.C§622,1966b(2000)	At every hearing involving a child under ICWA	"ICWA" provisions
Guardianships are an accepted form of permanency for children and can be established as a dispositional alternative.	NDCC §27-20-48.1 NDCC §27-20-30(1)	Dispositional or Permanency Hearings	"guardianships"
Compelling reasons are required to justify the state's decision not to file a TPR when a child has been in foster care for at least 450 out of the previous 660 nights.	45 C.F.R.§1356.21(h)(3) NDCC §27-20-20.1(3) Tribal children: 45 C.F.R.§1356.21(h)(3)(iii)	When a child has been in care 450 out of the previous 660 nights	"compelling reasons"
Out of state Placement: At a hearing for a child who is placed in foster care in a different state, the court must determine whether the out-of-state placement continues to be appropriate and in the best interests of the child.	45 U.S.C.§675	At any hearing if youth is placed out-of-state	"out-of-state" language
Notice of hearing: Foster parents, pre-adopt parents, and relative caregivers must be given notice of any hearing regarding a child in their home.	45 C.F.R.§1356.21(o) 45 C.F.R.§1355.34(b)(2)(v) NDCC §27-20-38(3) N.D.R. Ct. 4.2	For every hearing	"foster parent" notice
***Note: North Dakota has submitted a state plan which conforms to the federal requirements** for **all** children in foster care. The state risks sanctions and disallowance of substantial child welfare dollars for non-compliance.			