

Introduced by

1 A BILL for an Act to amend and reenact section 14-05-22 of the North Dakota Century Code,
2 relating to child visitation guidelines.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 14-05-22 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **14-05-22. Custody of children - Visitation rights - Costs.**

- 7 1. In an action for divorce, the court, before or after judgment, may give ~~such~~
8 direction for the custody, care, and education of the children of the marriage as
9 ~~may seem~~ necessary or proper, and may vacate or modify the ~~same~~ direction at
10 any time. Any award or change of custody must be made in accordance with ~~the~~
11 ~~provisions of~~ chapter 14-09.
- 12 2. After making an award of custody, the court ~~shall~~, upon request of the noncustodial
13 parent, shall grant ~~such~~ rights of visitation as that will enable the child and the
14 noncustodial parent to maintain a parent-child relationship that will be beneficial to
15 the child, unless the court finds, after a hearing, that visitation is likely to endanger
16 the child's physical or emotional health.
- 17 3. If the court finds that a parent has perpetrated domestic violence and that parent
18 does not have custody, and there exists one incident of domestic violence which
19 resulted in serious bodily injury or involved the use of a dangerous weapon or there
20 exists a pattern of domestic violence within a reasonable time proximate to the
21 proceeding, the court shall allow only supervised child visitation with that parent
22 unless there is a showing by clear and convincing evidence that unsupervised
23 visitation would not endanger the child's physical or emotional health.

- 1 4. If any court finds that a parent has sexually abused the parent's child, the court
2 shall prohibit all visitation and contact between the abusive parent and the child
3 until the court finds that the abusive parent has successfully completed a treatment
4 program designed for such sexual abusers, and that supervised visitation is in the
5 child's best interest. Contact between the abusive parent and the child may be
6 allowed only in a therapeutic setting, facilitated by a therapist as part of a sexual
7 abuse treatment program, and only when the therapist for the abusive parent and
8 the therapist for the abused child agree that it serves a therapeutic purpose and is
9 in the best interests of the child.
- 10 5. In any custody or visitation proceeding in which a parent is found to have
11 perpetrated domestic violence, and there exists one incident of domestic violence
12 which resulted in serious bodily injury or involved the use of a dangerous weapon
13 or there exists a pattern of domestic violence within a reasonable time proximate to
14 the proceeding, all court costs, attorneys' fees, evaluation fees, and expert witness
15 fees must be paid by the perpetrator of the domestic violence unless those costs
16 would place an undue financial hardship on that parent.
- 17 6. Although a visitation schedule mutually agreed upon by both parents is preferable
18 to a court-imposed solution, when the court determines a visitation schedule, the
19 court shall consider implementing the following provisions:
- 20 a. The visitation schedule must maximize the continuity and stability of the
21 child's life; special consideration must be given by each parent to make the
22 child available to attend family functions including funerals, weddings, family
23 reunions, religious holidays, important ceremonies, and other significant
24 events in the life of the child or in the life of either parent which may
25 inadvertently conflict with the visitation schedule.
- 26 b. Each parent is entitled to an equal division of major religious holidays
27 celebrated by the parents, and the parent who celebrates a religious holiday
28 the other parent does not celebrate has the right to be together with the child
29 on the religious holiday.

- 1 c. The noncustodial parent shall pick up the child at the times specified and
2 return the child at the times specified, and the child's regular school hours
3 may not be interrupted.
- 4 d. The custodial parent shall have the child ready for visitation at the time the
5 child is to be picked up and shall be present at the custodial home or shall
6 make reasonable alternate arrangements to receive the child at the time the
7 child is returned.
- 8 e. Visitation may not be withheld due to either parent's failure to comply with a
9 court-ordered visitation schedule.
- 10 f. The custodial parent shall notify the noncustodial parent within twenty-four
11 hours of receiving notice of all significant school, social, sports, and
12 community functions in which the child is participating or being honored, and
13 the noncustodial parent is entitled to attend and participate.
- 14 g. The noncustodial parent is entitled to direct access to all school reports,
15 including preschool and day care reports and medical records, and must be
16 notified immediately by the custodial parent in the event of a medical
17 emergency.
- 18 h. Each parent shall provide the other parent with a current address and
19 telephone number within twenty-four hours of any change.
- 20 i. Each parent shall permit and encourage liberal telephone contact during
21 reasonable hours and uncensored mail privileges with the child.
- 22 j. Parental care is presumed to be better care for the child than surrogate care
23 and the parties shall cooperate in allowing the noncustodial parent, if willing
24 and able, to provide child care.
- 25 k. Each parent shall provide all surrogate care providers with the name, current
26 address, and telephone number of the other parent and the custodial parent
27 shall provide the noncustodial parent with the name, current address, and
28 telephone number of each surrogate care provider unless the court for good
29 cause orders otherwise.
- 30 l. For emergency purposes, whenever the child travels with either parent, the
31 following must be provided to the other parent:

- 1 (1) An itinerary of travel dates;
- 2 (2) Destinations;
- 3 (3) Places where the child or traveling parent can be reached; and
- 4 (4) The name and telephone number of an available third person who is
- 5 knowledgeable of the child's location.
- 6 m. When visitation has not taken place for an extended period of time and the
- 7 child lacks an appropriate bond with the noncustodial parent, both parents
- 8 shall consider the possible adverse effects upon the child and gradually
- 9 reintroduce an appropriate visitation plan for the noncustodial parent.