

Sixtieth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2064

Introduced by

Judiciary Committee

(At the request of the Adjutant General)

1 A BILL for an Act to create and enact a new subsection to section 14-09-06.6 of the North
2 Dakota Century Code, relating to the modification of custody of a child with a service member
3 parent.

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

5 **SECTION 1.** A new subsection to section 14-09-06.6 of the North Dakota Century
6 Code is created and enacted as follows:

7 If a motion for change of custody is filed during the time a parent is in active duty
8 service, the court may not enter an order modifying or amending a previous
9 judgment or order, or issue a new order, which changes the child's placement that
10 existed on the date the parent was called to active duty service, except the court
11 may enter a temporary custody order that is in the best interest of the child. The
12 temporary custody order must explicitly provide that custody must be restored to
13 the service member upon the service member's release from active duty service,
14 unless the court finds by clear and convincing evidence that restoration of custody
15 would not be in the best interest of the child. If an original custody decision is
16 pending and the service member is alerted for active duty service, or is absent for
17 active duty service, the court may not issue a permanent custody order until the
18 return of the service member from active duty. The court may issue a temporary
19 custody order in the best interest of the child for the time period of the active duty
20 service. This section does not prevent a service member from consenting to a
21 modification of custody that continues past discharge or release from active duty
22 service or to agreeing to a permanent custody order before release from active
23 duty service. For purposes of this section, "service member" means a member of

- 1 the national guard or a reserve unit of the United States armed forces and "active
- 2 duty service" means an order to active duty under United States Code title 10.