

Introduced by

Senators Miller, Sitte

Representatives Weiler, Wrangham

1 A BILL for an Act to amend and reenact sections 14-09-00.1 and 14-09-29 of the North Dakota  
2 Century Code, relating to parenting rights and responsibilities; to provide for retroactive  
3 application; and to declare an emergency.

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

5 **SECTION 1. AMENDMENT.** Section 14-09-00.1 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **14-09-00.1. Definitions.**

8 As used in this chapter, unless the context otherwise requires:

- 9 1. "Decisionmaking responsibility" means the responsibility to make decisions concerning  
10 the child. The term may refer to decisions on all issues or on specified issues, but not  
11 child support issues.
- 12 2. "Equal parenting time and residential responsibility" means each parent has the  
13 parent's child or children in the parent's care exactly fifty percent of the time and each  
14 parent has the responsibility to provide a home for the parent's child or children  
15 exactly fifty percent of the time.
- 16 3. "Parental rights and responsibilities" means all rights and responsibilities a parent has  
17 concerning the parent's child.
- 18 ~~3-4.~~ "Parenting plan" means a written plan describing each parent's rights and  
19 responsibilities.
- 20 ~~4-5.~~ "Parenting schedule" means the schedule of when the child is in the care of each  
21 parent.
- 22 ~~5-6.~~ "Parenting time" means the time when the child is to be in the care of a parent.
- 23 ~~6-7.~~ "Primary residential responsibility" means a parent with more than fifty percent of the  
24 residential responsibility.

1     ~~7-8.~~ "Residential responsibility" means a parent's responsibility to provide a home for the  
2             child.

3             **SECTION 2. AMENDMENT.** Section 14-09-29 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5             **14-09-29. Parental rights and responsibilities - Best interests and welfare of child.**

- 6             1. A court issuing an order that deals with parenting rights and responsibilities of a child  
7 entered under this chapter shall award the parental rights and responsibilities  
8 concerning the child to a person, agency, organization, or institution as will, in the  
9 opinion of the court, promote the best interests and welfare of the child. Between the  
10 mother and father, whether married or unmarried, there is no presumption as to whom  
11 will better promote the best interests and welfare of the child.
- 12            2. If the court finds that a parent has perpetrated domestic violence and that parent does  
13 not have residential responsibility, and there exists one incident of domestic violence  
14 which resulted in serious bodily injury or involved the use of a dangerous weapon or  
15 there exists a pattern of domestic violence within a reasonable time proximate to the  
16 proceeding, the court shall allow only supervised parenting time with that parent  
17 unless there is a showing by clear and convincing evidence that unsupervised  
18 parenting time would not endanger the child's physical or emotional health.
- 19            3. If any court finds that a parent has sexually abused the parent's child, the court shall  
20 prohibit contact between the abusive parent and the child until the court finds that the  
21 abusive parent has successfully completed a treatment program designed for such  
22 sexual abusers and that supervised parenting time is in the child's best interests.  
23 Contact between the abusive parent and the child may be allowed only in a  
24 therapeutic setting, facilitated by a therapist as part of a sexual abuse treatment  
25 program, and only when the therapist for the abusive parent and the therapist for the  
26 abused child agree that contact serves a therapeutic purpose and is in the best  
27 interests of the child.
- 28            4. In any proceeding dealing with parenting rights and responsibilities, there is a  
29 presumption that each parent is fit to care for the child and, in any proceeding in which  
30 that presumption is not rebutted, if requested by either parent, the court shall award  
31 equal parenting time and residential responsibility. This presumption may be rebutted

1           only upon a showing by clear and convincing evidence that awarding equal parenting  
2           time and residential responsibility would cause serious harm or detriment to the  
3           physical or emotional health of the child.

4           5. In any proceeding dealing with parental rights and responsibilities in which a parent is  
5           found to have perpetrated domestic violence, and there exists one incident of  
6           domestic violence which resulted in serious bodily injury or involved the use of a  
7           dangerous weapon or there exists a pattern of domestic violence within a reasonable  
8           time proximate to the proceeding, all court costs, attorney's fees, evaluation fees, and  
9           expert witness fees must be paid by the perpetrator of the domestic violence unless  
10          those costs would place an undue financial hardship on that parent.

11          **SECTION 3. RETROACTIVE APPLICATION OF ACT.** This Act applies retroactively to each  
12          pending and past civil action that involves or involved a determination of the parenting rights  
13          and responsibilities of a child or children in which one or more of the children are younger than  
14          eighteen years old as of the effective date of this Act and over which determination the state  
15          has jurisdiction as of the effective date of this Act. The limitations under section 14-09-06.6 on  
16          postjudgment modifications of primary residential responsibility and rule 8.2 of the rules of court  
17          on amending an interim order do not apply to the first motion filed in an action on or after the  
18          effective date of this Act, wherein the moving party seeks a redetermination of the parenting  
19          rights and responsibilities of a child or children under the presumption and evidentiary burden  
20          established by the enactment of this Act.

21          **SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.