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Sixty-eighth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1403

Introduced by

Representatives Heilman, K. Anderson, Christensen, Frelich, Murphy, M. Ruby

Senators Barta, Beard, Boehm, Clemens, Weston

1   A BILL for an Act to create and enact a new section to chapter 14-09 of the North Dakota

2   Century Code, relating to prohibiting governmental entities from interfering with parental rights.

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

4   **SECTION 1.** A new section to chapter 14-09 of the North Dakota Century Code is created

5   and enacted as follows:

6   **Interference with parental rights prohibition - Cause of action.**

7   1.   Notwithstanding any other provision of law, a governmental entity may not interfere

8   with the fundamental right of a parent to direct the upbringing, education, health care,

9   and mental health of the parent's child, unless the governmental entity demonstrates

10   the interference:

11   a.   Furthers a compelling governmental interest; and

12   b.   Is narrowly tailored and is the least restrictive means available to further the

13   compelling governmental interest.

14   2.   If a parent's fundamental rights protected by this section are violated, a parent may

15   assert that violation as a claim or defense in a judicial proceeding and may obtain

16   appropriate relief against the governmental entity. The prevailing party in an action

17   filed pursuant to this section is entitled to reasonable attorney fees and costs.

     3. Exception of liability. K12 public schools and employees are exempt of

     liability when are in good faith acting 'in loco parentis' The term "in loco

     parentis" is a Latin phrase that translates as "in place of a parent" or "instead of

     a parent" and refers to how schools' teachers and school administrators are

     expected to act with reference to students and other minors. In other words,

     the employees of a K-12 school are charged by the parents of the students to

     act on their behalf while the students are there.