

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.