Sixty-eighth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1113

Introduced by

Judiciary Committee

(At the request of the Supreme Court)

A BILL for an Act to amend and reenact sections 14-09-06.3 and 14-09-06.4 of the North Dakota Century Code, relating to parenting investigators and guardians ad litem.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-09-06.3 of the North Dakota Century Code is amended and reenacted as follows:

14-09-06.3. ~~Custody~~Parenting investigations and reports - Costs.

1. In contested proceedings dealing with parental rights and responsibilities the court, upon the request of either party, or, upon its own motion, may appoint a parenting investigator and order an investigation and report concerning parenting rights and responsibilities regarding the child. ~~The court shall designate a person or agency responsible for making the investigation and report, which designees may include the human service zone, public health officer, school officials, and any other public agency or private practitioner the court deems qualified to make the investigation~~The supreme court shall adopt rules establishing the minimum qualifications of a parenting investigator and maintain and make available to the public a roster of individuals eligible to serve as a parenting investigator. The roster must include each individual's name, address, and telephone number. The parenting investigator appointed must be on the public roster of those eligible to serve as a parenting investigator.
2. The investigator may consult any person who may have information about the child and any potential arrangements for parenting rights and responsibilities, and upon order of the court may refer the child to any professional personnel for diagnosis.
3. The ~~court~~parenting investigator shall ~~mail~~file the investigator's report ~~to~~with the court and serve the report on counsel and ~~to~~ any party not represented by counsel at least thirty days before the hearing. The investigator shall make available to any such

counsel or party the complete file of data and reports underlying the investigator's report and the names and addresses of all persons whom the investigator has consulted. A party may call the investigator and any person whom the investigator has consulted for cross-examination at the hearing. A party may not waive the party's right of cross-examination before the hearing.

4. ~~The court shall enter an order for the costs of any such investigation against either or both parties, except that if~~If the parties are indigent, the court shall enter an order stating the expenses of any such investigation must be borne by the county where the child resided at the time the action was commenced or if a modification of parental rights and responsibilities, at the time the motion to modify is served.

5. Following the decision by the court regarding parenting rights and responsibilities, the parenting investigator must be discharged of the investigator's duties as investigator.

6. A parenting investigator ~~is immune from civil liability for damages for acts or omissions of ordinary negligence arising out of that individual's duties and responsibilities as a parenting investigator.~~appointed under this section who acts in good faith in making a report to the court is immune from any civil liability resulting from the report. For the purpose of determining good faith, the good faith of the parenting investigator is a disputable presumption.

SECTION 2. AMENDMENT. Section 14-09-06.4 of the North Dakota Century Code is amended and reenacted as follows:

14-09-06.4. Appointment of attorney guardian ad litem ~~or investigator~~ for child in proceedings involving parental rights and responsibilities - Immunity.

1. In any action for an annulment, divorce, legal separation, or other action affecting marriage, when either party has reason for special concern as to the future of the minor child, and in any action when the parenting rights and responsibilities concerning the child is contested, ~~either party to the action may petition the court for the appointment of a~~ the court, upon motion of the court or by motion or agreement of the parties, may appoint an attorney guardian ad litem to represent the child concerning parenting rights and responsibilities. ~~The court may appoint a guardian ad litem or investigator on its own motion.~~

2. If appointed, ~~a~~ an attorney guardian ad litem shall serve as an advocate of the child's best interests. ~~If appointed, the investigator shall provide those services as prescribed by the supreme court.~~

3. The court may direct either or both parties to pay the attorney guardian ad litem ~~or investigator~~ fee established by the court. If neither party is able to pay the fee, the court may direct the fee to be paid, in whole or in part, by the county where the child resided at the time the action was commenced. The court may direct either or both parties to reimburse the county, in whole or in part, for such payment. ~~Any~~

4. An attorney guardian ad litem ~~or investigator~~ appointed under this section who acts in good faith in making a report to the court is immune from any civil liability resulting from the report. For the purpose of determining good faith, the good faith of the attorney guardian ad litem ~~or investigator~~ is a disputable presumption~~is immune from civil liability for damages for acts or omissions of ordinary negligence arising out of that individual's duties and responsibilities as an attorney guardian ad litem~~.