

Sixty-eighth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1362

Introduced by

Representatives Christensen, Bosch, Heilman, Kasper, Koppelman, Lefor, Meier, M. Ruby

Senators Boehm, Larsen, Paulson, Wobbema

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 recognizing a parent's interest in their child's upbringing.

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 **Parent's interest in child's upbringing.**

7 **1. As used in this section:**

8 **a. "Parent" means parent or legal guardian not including a school or other institution**
9 **serving in loco parentis; and**
10 **b. "Stakeholder" means a person that has a vested interest in the success of the**
11 **organization or system.**

12 **2. Notwithstanding any other provision of law:**

13 **a. A parent possesses a fundamental liberty interest in the care, custody, and**
14 **management of the parent's child and, at all times, retains a vital interest in**
15 **preventing the irretrievable destruction of family life.**
16 **b. It is in the best interest and welfare of a child to be raised under the care and**
17 **supervision of the child's parents.**
18 **c. A child's need for a normal family life in a permanent home and for positive,**
19 **nurturing family relationships usually is best met by the child's parents.**
20 **d. The integrity of the family unit and the right of a parent to conceive, raise,**
21 **manage, train, educate, and reasonably discipline the parent's child should be**
22 **constitutionally protected.**

- e. The right of a fit, competent parent to raise the parent's child without undue government interference is a fundamental liberty interest and is fundamental public policy of this state.
 - f. The fundamental liberty interest of a parent is recognized, protected, and does not cease to exist simply because a parent may fail to be a model parent or because the parent's child is placed in the temporary custody of the state.
 - g. There is a rebuttable presumption that a parent's decisions are in the parent's child's best interests.
 - h. A fundamentally fair process must be provided to a parent if the state moves to challenge or interfere with parental rights.
 - (1) A government entity must support any actions or allegations made in opposition to the rights and desires of a parent regarding the parent's child by sufficient evidence to satisfy a parent's constitutional entitlement to heightened protection against government interference with the parent's fundamental rights and liberty interests and, concomitantly, the right of the child to be reared by the child's parent.
 - (2) Before adjudication of unfitness, government action in relation to a parent and the parent's child may not exceed the least restrictive means of alternatives available to accomplish a compelling state interest.
 - (3) Until the state proves parental unfitness, and the child suffers, or is substantially likely to suffer, serious detriment as a result, the child and the child's parent share a vital interest in preventing erroneous termination of their relationship and the state may not presume a child and the child's parent are adversaries.
3. It is the public policy of the state that:
- a. A parent retains the fundamental right and duty to exercise primary control over the care, supervision, upbringing, and education of the parent's child;
 - b. A child has the right to protection from abuse and neglect; and
 - c. The state retains a compelling interest in investigating, prosecuting, and punishing abuse and neglect.

- 1 4. The state's education systems are supportive and secondary to the primary role of a
2 parent. The legislative assembly is the primary stakeholder in the establishment,
3 maintenance, and success of the state's education systems. The department of public
4 instruction is the primary stakeholder in the state's public education system. The board
5 of a school district is a secondary stakeholder in the state's public education system.