INITIATIVE PETITION
TO THE SECRETARY OF STATE,
STATE OF NORTH DAKOTA

We, the undersigned, being qualified electors request the following initiated law be placed on the ballot as provided by law.

SPONSORING COMMITTEE

The following are the names and addresses of the qualified electors of the state of North Dakota who, as the sponsoring committee for the petitioners, represent and act for the petitioners in accordance with law.

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BALLOT TITLE

This initiated measure would add a new section to Chapter 14-09 of the North Dakota Century Code relating to child custody and support and would provide that in the event of a divorce or separation, each parent would be entitled to joint legal and physical custody unless first declared unfit based on clear and convincing evidence. Parents would develop a joint parenting plan, with a court becoming involved only if the parents could not agree on a plan. Child support payments would be determined base on the parenting plan and could not be greater than the actual cost of providing for the basic needs of each child.

FULL TEXT OF THE MEASURE

IF MATERIAL IS UNDERSCORED, IT IS NEW MATERIAL WHICH IS BEING ADDED. IF MATERIAL IS OVERSTRUCK BY DASHES, THE MATERIAL IS BEING DELETED. IF NO MATERIAL IS UNDERSCORED OR OVERSTRUCK, THE MEASURE CONTAINS ALL NEW MATERIAL WHICH IS BEING ADDED.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:

14-09-06.7. Shared Parenting – equal access to children.

Not withstanding any other state statute or common law, the following fundamental rights are hereby recognized for all adults and children of North Dakota, and this section shall be self activating upon voter approval.

1. Parents have a fundamental liberty interest in the care, custody and control of their children. Acknowledging the long established legal tenet that fit parents act in the best interest of their children, no parent shall be denied custody of a child without first having been declared unfit, utilizing the clear and convincing evidentiary standard. Absent a finding of parental unfitness parents retain joint legal and joint physical custody of their children. Joint physical custody of the children is defined as a rebuttable presumption of equal time sharing by the parents. In the event of a finding of unfitness of one parent, the best interests and welfare of the child is determined at the court's discretion utilizing current best interest standards as defined in existing state code.

2. Parents shall develop a joint parenting plan, or if they can not agree to such a plan, the court shall facilitate production of a parenting plan with them. These plans must take into account the fundamental liberty interest of the parents, encouraging parents to craft a plan based on their unique family circumstances. Parents may modify the parenting plan anytime without restriction by mutual agreement. Parenting plan changes as a result of court petition require the petitioner to demonstrate how the modification serves the child's best interest. Parents who have not previously had a fitness hearing my petition the court for a fitness hearing at any time. All decisions or actions under state law shall be gender and race neutral. Gender cannot be a determining factor in parenting plan formulation or modification decisions.

3. Child support payments and allocation of child support obligations will be determined according to the parenting plan, and will not be greater than the actual cost of providing for the basic needs of the child(ren).