

**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:

Jill Bjerke, Chairman
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Park River, ND 58270

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Grafton, ND 58237

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Grafton, ND 58237

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Park River, ND 58270

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Grafton, ND 58237

PETITION TITLE

This initiated measure would amend section 14-09-06.2 of the North Dakota Century Code to create a presumption that each parent is a fit parent and entitled to be awarded equal parental rights and responsibilities by a court unless there is clear and convincing evidence to the contrary; the measure would also provide a definition of equal parenting time.

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 MATERIAL IS NOT UNDERSCORED OR OVERSTRUCK, THE MATERIAL IS EXISTING LAW THAT IS NOT BEING CHANGED.

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

SECTION 1. AMENDMENT. Section 14-09-06.2 of the North Dakota Century Code is amended and reenacted as follows:

1. It is the policy of the State of North Dakota that no requesting biological or adoptive parent shall be denied equal parental rights and responsibilities, equal parenting time, equal primary residential responsibility, and equal decision making responsibility of a child in a custody case. It is the policy of the State of North Dakota to presume that parents are fit and an award to both parents of equal parental rights and responsibilities, equal parenting time, equal primary residential responsibility, and equal decision making responsibility of a child is in the best interest of the child. The presumption of fitness as a parent shall only be rebutted upon a showing by clear and convincing evidence. The court shall support departures from equal parenting time with written findings of fact and conclusions of law. Fit parents may petition the court for a hearing which the court shall grant to support this statute. The provisions of this section control other provisions of state law that conflict with or are contrary to its provisions. For the purpose of parental rights and responsibilities, the best interests and welfare of the child is determined by the court's consideration and evaluation of all factors affecting the best interests and welfare of the child. These factors include all of the following when applicable:

- a. The love, affection, and other emotional ties existing between the parents and child and the ability of each parent to provide the child with nurture, love, affection, and guidance.
- b. The ability of each parent to assure that the child receives adequate food, clothing, shelter, medical care, and a safe environment.
- c. The child's developmental needs and the ability of each parent to meet those needs, both in the present and in the future.
- d. The sufficiency and stability of each parent's home environment, the impact of extended family, the length of time the child has lived in each parent's home, and the desirability of maintaining continuity in the child's home and community.
- e. The willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child.
- f. The moral fitness of the parents, as that fitness impacts the child.
- g. The mental and physical health of the parents, as that health impacts the child.
- h. The home, school, and community records of the child and the potential effect of any change.
- i. If the court finds by clear and convincing evidence that a child is of sufficient maturity to make a sound judgment, the court may give substantial weight to the preference of the mature child. The court also shall give due consideration to other factors that may have affected the child's preference, including whether the child's preference was based on undesirable or improper influences.
- j. Evidence of domestic violence. In determining parental rights and responsibilities, the court shall consider evidence of domestic violence. If the court finds credible evidence that domestic violence has occurred, and there exists one incident of domestic violence which resulted in serious bodily injury or involved the use of a dangerous weapon or there exists a pattern of domestic violence within a reasonable time proximate to the proceeding, this combination creates a rebuttable presumption that a parent who has perpetrated domestic violence may not be awarded residential responsibility for the child. This presumption may be overcome only by clear and convincing evidence that the best interests of the child require that parent have residential responsibility. The court shall cite specific findings of fact to show that the residential responsibility best protects the child and the parent or other family or household member who is the victim of domestic violence. If necessary to protect the welfare of the child, residential responsibility for a child may be awarded to a suitable third person, provided that the person would not allow access to a violent parent except as ordered by the court. If the court awards residential responsibility to a third person, the court shall give priority to the child's nearest suitable adult relative. The fact that the abused parent suffers from the effects of the abuse may not be grounds for denying that parent residential responsibility. As used in this subdivision, "domestic violence" means domestic violence as defined in section 14-07.1-01. A court may consider, but is not bound by, a finding of domestic violence in another proceeding under

chapter 14-07.1.

k. The interaction and interrelationship, or the potential for interaction and interrelationship, of the child with any person who resides in, is present, or frequents the household of a parent and who may significantly affect the child's best interests. The court shall consider that person's history of inflicting, or tendency to inflict, physical harm, bodily injury, assault, or the fear of physical harm, bodily injury, or assault, on other persons.

l. The making of false allegations not made in good faith, by one parent against the other, of harm to a child as defined in section 50-25.1-02.

m. Any other factors considered by the court to be relevant to a particular parental rights and responsibilities dispute.

2. In any proceeding under this chapter, the court, at any stage of the proceedings after final judgment, may make orders about what security is to be given for the care, custody, and support of the unmarried minor children of the marriage as from the circumstances of the parties and the nature of the case is equitable.

3. “Equal parenting time” is defined as a rebuttable presumption of approximate and reasonable equal time-sharing of a child with both of the child’s parents or a mutually agreed and signed parenting plan between the parents.

INSTRUCTIONS TO PETITION SIGNERS

You are being asked to sign a petition. You must be a qualified elector. This means you are eighteen years old, you have lived in North Dakota thirty days, and you are a United States citizen. All signers must add their complete residential address or rural route or general delivery address and the date of signing. Every qualified elector signing a petition must do so in the presence of the individual circulating the petition.

QUALIFIED ELECTORS

Month, Day, Year	Name of Qualified Elector	Residential Address or Complete Rural Route or General Delivery Address	City, State, Zip Code
1			ND, 58
2			ND, 58
3			ND, 58
4			ND, 58
5			ND, 58
6			ND, 58
7			ND, 58
8			ND, 58
9			ND, 58
10			ND, 58
11			ND, 58
12			ND, 58
13			ND, 58
14			ND, 58
15			ND, 58

Month, Day, Year	Name of Qualified Elector	Residential Address or Complete Rural Route or General Delivery Address	City, State, Zip Code
16			ND, 58
17			ND, 58
18			ND, 58
19			ND, 58
20			ND, 58
21			ND, 58
22			ND, 58
23			ND, 58
24			ND, 58
25			ND, 58
26			ND, 58
27			ND, 58
28			ND, 58
29			ND, 58
30			ND, 58

STATE OF NORTH DAKOTA)
)ss.
COUNTY OF _____)
(County where signed)

I, _____, being sworn, say that I am a qualified elector; that I reside
(circulator)

at _____;
(address)

that each signature contained on the attached petition was executed in my presence; and that to the best of my knowledge and belief each individual whose signature appears on the attached petition is a qualified elector; and that each signature contained on the attached petition is the genuine signature of the individual whose name it purports to be.

(signature of circulator)

Subscribed and sworn to before me on _____, 20_____, at _____, North Dakota.
(city)

(NOTARY SEAL / STAMP)

(signature of notary)
Notary Public
My commission expires: _____