

Sixty-fifth  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1392

Introduced by

Representatives Kading, Kiefert, McWilliams, Pyle, Roers Jones, Vigesaa

1 A BILL for an Act to to amend and reenact section 14-09-00.1 and subsection 1 of section  
2 14-09-29 of the North Dakota Century Code, relating to ~~a presumption of equal~~shared parenting  
3 time and responsibility; and to provide for a legislative management study.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 14-09-00.1 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **14-09-00.1. Definitions.**

8 As used in this chapter, unless the context otherwise requires:

9 1. "Decisionmaking responsibility" means the responsibility to make decisions concerning  
10 the child. The term may refer to decisions on all issues or on specified issues, but not  
11 child support issues.

12 2. ~~"Equal parenting time and residential responsibility" means each parent has the child~~  
13 ~~in that parent's care for a time that is equal to or as close to fifty percent of the time as~~  
14 ~~can be arranged based on the circumstances but which is not less than thirty-five~~  
15 ~~percent of the time.~~

16 ~~3.~~ "Parental rights and responsibilities" means all rights and responsibilities a parent has  
17 concerning the parent's child.

18 ~~3.4.~~ "Parenting plan" means a written plan describing each parent's rights and  
19 responsibilities.

20 ~~4.5.~~ "Parenting schedule" means the schedule of when the child is in the care of each  
21 parent.

22 ~~5.6.~~ "Parenting time" means the time when the child is to be in the care of a parent.

23 ~~6.7.~~ "Primary residential responsibility" means a parent with more than fifty percent of the  
24 residential responsibility.

1        ~~7.8.~~ "Residential responsibility" means a parent's responsibility to provide a home for the  
2            child.

3        8. "Shared parenting time and residential responsibility" means each parent has the child  
4            in that parent's care for a time that is as close to fifty percent of the time as can be  
5            arranged based on the circumstances but which is not less than thirty-five percent of  
6            the time.

7        **SECTION 2. AMENDMENT.** Subsection 1 of section 14-09-29 of the North Dakota Century  
8        Code is amended and reenacted as follows:

9            1. a. A court issuing an order that deals with parenting rights and responsibilities of a  
10            child entered under this chapter shall award the parental rights and  
11            responsibilities concerning the child to a person, agency, organization, or  
12            institution as will, in the opinion of the court, promote the best interests and  
13            welfare of the child.

14            b. Between the mother and father, whether married or unmarried, there is no  
15            presumption as to whom will better promote the best interests and welfare of the  
16            child.

17            ~~c. In any proceeding dealing with parental rights and responsibilities, there is a~~  
18            ~~rebuttable presumption that equal parenting time and residential responsibility~~  
19            ~~promotes the best interests and welfare of the child. If the court declines to enter~~  
20            ~~an order awarding equal parenting time and residential responsibility, the court~~  
21            ~~shall articulate in its decision the rationale for the denial of equal parenting time~~  
22            ~~and residential responsibility. In any proceeding to establish or modify a judgment~~  
23            for providing for parenting time and residential responsibility and subject to the  
24            requirements of section 14-09-06.6, if one party has requested shared parenting  
25            time and residential responsibility, the court shall consider awarding shared  
26            parenting time and residential responsibility and shall articulate in its decision its  
27            rationale for either awarding or denying the request for shared parenting time and  
28            responsibility.

29        **SECTION 3. LEGISLATIVE MANAGEMENT STUDY - PARENTING RIGHTS AND**

30        **RESPONSIBILITIES.** During the 2017-18 interim, the legislative management shall consider  
31        studying, in consultation with the family law task force of the family law section of the state bar

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1 association of North Dakota, parental rights and responsibility issues, including shared  
2 parenting, joint decisionmaking responsibility for the child, the best interest factors used by the  
3 court in making parental rights and responsibilities decisions, and the modification and  
4 enforcement of parental rights and responsibilities orders. The legislative management shall  
5 report its findings and recommendations, together with any legislation required to implement the  
6 recommendations, to the sixty-sixth legislative assembly.