

DOMESTIC RELATIONS AND PERSONS

CHAPTER 113

HOUSE BILL NO. 1190

(Representatives M. Johnson, Klemin, O'Brien, Schneider)

AN ACT to amend and reenact subsection 1 of section 14-05-24 of the North Dakota Century Code, relating to the valuation date for marital property.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 14-05-24 of the North Dakota Century Code is amended and reenacted as follows:

1. When a divorce is granted, the court shall make an equitable distribution of the property and debts of the parties. Except as may be required by federal law for specific property, ~~and subject to the power of the court to determine a date that is just and equitable,~~ the valuation date for marital property and debt is the date mutually agreed upon between the parties. If the parties do not mutually agree upon a valuation date, the valuation date for marital property and debt is ~~the date of service of a summons in an action for divorce or separation or the date on which the parties last separated, whichever occurs first~~sixty days before the initially scheduled trial date. If there is a substantial change in value of an asset or debt between the date of valuation and the date of trial, the court may adjust the valuation of that asset or debt as necessary to effect an equitable distribution and shall make specific findings that another date of valuation is fair and equitable.

Approved March 31, 2021

Filed April 1, 2021

CHAPTER 114

HOUSE BILL NO. 1319

(Representatives Klemin, Devlin, Dockter, Lefor)
(Senator Dwyer)

AN ACT to amend and reenact sections 14-07-08 and 14-07-11 of the North Dakota Century Code, relating to spousal debts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-07-08 of the North Dakota Century Code is amended and reenacted as follows:

14-07-08. Separate and mutual rights and liabilities of husband and wife.

The separate and mutual rights and liabilities of a husband and a wife are as follows:

1. Neither the husband nor the wife as such is answerable for the acts of the other.
2. Except for necessary expenses as provided in subsection 3, the earnings of one spouse are not liable for the debts of the other spouse, and the earnings and accumulations of either spouse and of any minor children living with either spouse or in one spouse's custody, while the husband and wife are living separate from each other, are the separate property of each spouse.
3. ~~The~~Except for abandonment as provided in section 14-07-11, the husband and wife are liable jointly and severally for any debts contracted by either, ~~while living together,~~ for necessary household supplies of food, clothing, and fuel, medical care, and for shelter for themselves and family, and for the education of their minor children.
4. The separate property of the husband or wife is not liable for the debts of the other spouse but each is liable for their own debts contracted before or after marriage.

SECTION 2. AMENDMENT. Section 14-07-11 of the North Dakota Century Code is amended and reenacted as follows:

14-07-11. Spouse liable for support - Exception.

An abandoned spouse is not liable for the support of the other spouse unless there is an offer to return on the part of the abandoning spouse or the abandonment is justified by misconduct. ~~Neither party is liable~~A party is not an abandoned spouse if ~~the other party resides elsewhere~~ for the support of the other when living separate by agreement unless the support is stipulated in the agreement~~medical or behavioral health treatment~~.

Approved March 29, 2021

Filed March 30, 2021

CHAPTER 115

SENATE BILL NO. 2132

(Senators Kreun, Poolman, K. Roers, Vedaa)
(Representatives Ista, O'Brien)

AN ACT to amend and reenact section 14-09-09.38 of the North Dakota Century Code, relating to the child support obligation of an incarcerated parent.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-09-09.38 of the North Dakota Century Code is amended and reenacted as follows:

14-09-09.38. Child support obligation of incarcerated parents.

1. A monthly support obligation established under any provision of this code and in effect after December 31, 2017, expires by operation of law upon incarceration of the obligor under a sentence of one hundred eighty days or longer, excluding credit for time served before sentencing.
2. Notwithstanding subsection 1, a monthly support obligation may be established for an obligor ~~who is~~ incarcerated under a sentence of one hundred eighty days or longer if the obligation is based on actual income of the obligor and the moving party makes a prima facie showing ~~that~~ the obligor's income exceeds the minimum amount provided in the guidelines established under section 14-09-09.7.
3. As used in this section, "incarceration" means placement of an obligor in a custodial setting in which the obligor is not permitted to earn wages from employment outside the correctional facility, and does not include probation or work release.
4. The expiration of a monthly support obligation under subsection 1 does not affect any past-due support ~~that is~~ owed before the expiration of the obligation.
5. The child support agency shall notify the obligor and obligee of the expiration of a monthly support obligation under this section, including a description of how the obligation can be re-established after the obligor is released from incarceration.
6. If a monthly support obligation has expired under this section and the child support case is still open with the child support agency when the obligor is released from incarceration, the child support agency shall re-establish a monthly support obligation as provided in this chapter without requiring a request or application for services.

Approved April 16, 2021

Filed April 16, 2021

CHAPTER 116

HOUSE BILL NO. 1264

(Representatives Hanson, M. Johnson, Klemin, Roers Jones)
(Senators Bakke, Dwyer)

AN ACT to amend and reenact sections 14-09.2-01, 14-09.2-02, 14-09.2-04, and 14-09.2-06 of the North Dakota Century Code, relating to parenting coordinators.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-09.2-01 of the North Dakota Century Code is amended and reenacted as follows:

14-09.2-01. Parenting coordinator - Definition.

A parenting coordinator is a neutral individual authorized to use any dispute resolution process to resolve ~~parenting time~~ disputes between parties arising under a parenting plan or court order. The purpose of a parenting coordinator is to resolve ~~parenting time~~ disputes by interpreting, clarifying, and addressing circumstances not specifically addressed by an existing court order. A parenting coordinator:

1. May assess for the parties whether there has been a violation of an existing court order and, if so, recommend further court proceedings.
2. May be appointed to resolve a one-time ~~parenting time~~ dispute or to provide ongoing ~~parenting time~~ dispute resolution services. ~~Parenting time dispute also means a visitation dispute under existing orders.~~
3. Shall attempt to resolve a ~~parenting time~~ dispute by facilitating negotiations between the parties to promote settlement and, if it becomes apparent that the dispute cannot be resolved by an agreement of the parties, shall make a decision resolving the dispute.

SECTION 2. AMENDMENT. Section 14-09.2-02 of the North Dakota Century Code is amended and reenacted as follows:

14-09.2-02. Appointment of parenting coordinator.

In any action for divorce, legal separation, paternity, or guardianship in which children are involved, the court, upon its own motion or by motion or agreement of the parties, may appoint a parenting coordinator to assist the parties in resolving ~~issues or disputes~~ related to the parenting time plan or court order. A party, at any time before the appointment of a parenting coordinator, may file a written objection to the appointment on the basis of domestic violence having been committed by another party against the objecting party or a child who is a subject of the action. After the objection is filed, a parenting coordinator may not be appointed unless, on the request of a party, a hearing is held and the court finds that a preponderance of the evidence does not support the objection. If a parenting coordinator is appointed, the court shall order appropriate measures be taken to ensure the physical and emotional safety of all parties and children.

SECTION 3. AMENDMENT. Section 14-09.2-04 of the North Dakota Century Code is amended and reenacted as follows:

14-09.2-04. Agreement or decision binding.

Within five days of notice of the appointment, or within five days of notice of a subsequent ~~parenting time~~ dispute between the same parties, the parenting coordinator shall meet with the parties together or separately and shall make a diligent effort to facilitate an agreement to resolve the dispute. The parenting coordinator may confer with the parties through a telephone conference or other means. A parenting coordinator may make a decision without conferring with a party if the parenting coordinator makes a good-faith effort to confer with the party. If the parties do not reach an agreement, the parenting coordinator shall make a decision resolving the dispute as soon as possible but not later than five days after receiving all of the information necessary to make a decision and after the final meeting or conference with the parties. The parenting coordinator shall put the agreement or decision in writing and provide a copy to the parties. An agreement of the parties or a written decision of the parenting coordinator is binding on the parties until further order of the court.

SECTION 4. AMENDMENT. Section 14-09.2-06 of the North Dakota Century Code is amended and reenacted as follows:

14-09.2-06. Confidentiality.

1. If there is an ongoing dispute between the parties regarding a specific written decision of the parenting coordinator, the written decision must be filed with the court and served upon the parties.
2. Statements made and documents produced as part of the parenting coordinator process, other than the written decision of the parenting coordinator, which are not otherwise discoverable are not subject to discovery or other disclosure and are not admissible into evidence for any purpose at trial or in any other proceeding, including impeachment. Parenting coordinators and lawyers for the parties, to the extent of their participation in the parenting coordinator process, may not be subpoenaed or called as witnesses in court proceedings. Notes, records, and recollections of parenting coordinators are confidential and may not be disclosed unless:
 1. a. The parties and the parenting coordinator agree in writing to the disclosure; or
 2. b. Disclosure is required by law or other applicable professional codes. Notes and records of parenting coordinators may not be disclosed to the court unless after a hearing the court determines that the notes or records should be reviewed in camera. Unless the court determines that the notes and records contain information regarding acts that may be a violation of a state or federal criminal law, the notes and records may not be released.

Approved March 29, 2021

Filed March 30, 2021

CHAPTER 117

SENATE BILL NO. 2265

(Senators Davison, Hogan)

AN ACT to create and enact a new section to chapter 14-10 of the North Dakota Century Code, relating to allowing unaccompanied homeless minors to access health care without parental consent.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 14-10 of the North Dakota Century Code is created and enacted as follows:

Unaccompanied homeless minor's consent for health care.

1. As used in this section, "unaccompanied homeless minor" means a minor fourteen years of age or older living in one of the situations described in 42 U.S.C. 11434a(2) and who is not in the care and physical custody of a parent or legal guardian.
2. An unaccompanied homeless minor may consent to, contract for, and receive medical, dental, or behavioral health examinations, care, or treatment without permission, authority, or consent of a parent or guardian. Acceptable documentation demonstrating an individual is an unaccompanied homeless minor includes:
 - a. A statement documenting such status, signed by a director or designee of a governmental or nonprofit entity that receives public or private funding to provide services to individuals who are homeless;
 - b. A statement documenting such status, signed by a local educational agency liaison for homeless children and youth designated pursuant to 42 U.S.C. 11432(g)(1)(J)(ii), a local educational agency foster care point of contact designated pursuant to 20 U.S.C. 6312(c)(5)(A), or a school social worker or counselor;
 - c. A statement documenting such status, signed by an attorney representing the individual in any legal matter; or
 - d. A statement documenting such status, signed by the individual and two adults with knowledge of the individual's actual circumstances.
3. This section does not authorize an unaccompanied homeless minor to consent to an abortion or otherwise supersede the requirements of chapter 14-02.1.
4. An unaccompanied homeless minor who is a parent may consent to, contract for, and receive medical, dental, and behavioral health examinations, care, or treatment for the minor's child.

5. A physician or other qualified professional licensed to practice in this state who provides medical, dental, or behavioral health examinations, care, or treatment to an unaccompanied homeless minor under this section may not be held liable in any civil or criminal action for providing such services without having obtained permission from the minor's parent or guardian. This section does not relieve the physician or other qualified professional from liability for negligence in the diagnosis or treatment of an unaccompanied homeless minor.
6. Identification of an individual as an unaccompanied homeless minor automatically does not mean the individual is a neglected child as defined in section 50-25.1-02.
7. This section does not supersede the mandatory reporting requirements of section 50-25.1-03.

Approved March 31, 2021

Filed April 1, 2021

CHAPTER 118

SENATE BILL NO. 2340

(Senators Bakke, Hogan, Piepkorn)

AN ACT to amend and reenact subsection 1 of section 14-15-01 of the North Dakota Century Code, relating to termination of parental rights.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁴⁶ **SECTION 1. AMENDMENT.** Subsection 1 of section 14-15-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Abandon" means:
 - a. As to a parent of a child not in the custody of that parent, failure by the noncustodial parent significantly without justifiable cause to:
 - (1) Communicate through physical contact or oral conversation with the child; or
 - (2) Provide for the care and support of the child as required by law.
 - b. As to a parent of a child in that parent's custody:
 - (1) To leave the child for an indefinite period without making firm and agreed plans, with the child's immediate caregiver, for the parent's resumption of physical custody;
 - (2) Following the child's birth or treatment at a hospital, to fail to arrange for the child's discharge within ten days after the child no longer requires hospital care; or
 - (3) To willfully fail to furnish food, shelter, clothing, or medical attention reasonably sufficient to meet the child's needs.

Approved April 16, 2021

Filed April 16, 2021

⁴⁶ Section 14-15-01 was also amended by section 48 of House Bill No. 1247, chapter 352.