

2021 HOUSE HUMAN SERVICES

HB 1264

2021 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee Pioneer Room, State Capitol

HB 1264
1/20/2021 904 AM

Relating to parenting coordinators

Chairman Weisz called the meeting to order at 9:04 a.m.

Representatives	Roll Call
Representative Robin Weisz	P
Representative Karen M. Rohr	P
Representative Mike Beltz	P
Representative Chuck Damschen	P
Representative Bill Devlin	P
Representative Gretchen Dobervich	P
Representative Clayton Fegley	P
Representative Dwight Kiefert	A
Representative Todd Porter	P
Representative Matthew Ruby	P
Representative Mary Schneider	P
Representative Kathy Skroch	P
Representative Bill Tveit	P
Representative Greg Westlind	P

Discussion Topics:

- Resolve family disputes
- Dispute resolution process
- Parenting time

Rep. Karla Rose Hanson, District 44 (9:04) introduced the bill, testified in favor, and submitted testimony #1762.

Cathy Ferderer, North Dakota Court System (9:14) testified neutral and submitted testimony #1632.

Additional written testimony: #970

Chairman Weisz adjourned at 9:18 a.m.

Tamara Krause, Committee Clerk

HB 1264 – relating to parenting coordinators

House Human Services Committee - Jan. 20, 2021

Rep. Karla Rose Hanson

Mr. Chairman and members of the House Human Services Committee. My name is Representative Karla Rose Hanson and I represent District 44.

HB 1264 comes to you at the request of the joint ND Supreme Court / ND Bar Association Alternative Dispute Resolution (ADR) committee.

Parenting coordinators have long been part of the alternative dispute resolution process for families; the goal is to help families resolve disputes outside of the courtroom. A parenting coordinator acts as a facilitator to assist the parties in resolving a dispute within the boundaries of their court order. A parenting coordinator is a voluntary and efficient way to resolve disputes – it is more expeditious and less expensive than going back to court for every dispute after a divorce is final.

Parenting coordinators serve as an effective tool, and this bill aims to make two small changes to build on their success.

The first change is regarding the term “**parenting time**.” Parents often have disputes about issues other than parenting time, including medical care, where children attend school, and transporting kids. This change allows parenting coordinators to apply the same successful facilitation process to these issues too.

The second change would allow the parenting coordinator to make a written decision if an agreement can’t be facilitated and to **file this report with the court** without breaching confidentiality. If there was an impasse and the parties asked the court for further assistance, providing the court with this report enables the judge assigned to the case to have all information available to make a decision – including what has been tried, the reasoning behind it, and whether other alternatives were offered – so they’re not starting from square one.

These two changes will make parenting coordinators an even more effective tool for families after a divorce. A family law attorney who serves on the ADR committee has provided testimony in support of these changes, including additional details on this valuable role, and that should be available to you in LAWS.

Thank you, Mr. Chairman and Committee Members, for considering HB 1264. I’d urge a do-pass recommendation and I’ll stand for any questions.

**HOUSE HUMAN SERVICES COMMITTEE
JANUARY 20, 2021**

**TESTIMONY ON SENATE BILL 1264
Cathy Ferderer, Family Mediation Program Administrator
Office of the State Court Administrator**

Good afternoon, Chairman Weisz and members of the House Human Service Committee. My name is Cathy Ferderer. I am the Family Mediation Program Administrator for the State Court Administrator's Office. I have been asked to present information on behalf of the Joint Committee on Alternative Dispute Resolution Committee (ADR) because the members who had planned to testify were unable to do so. The ADR committee was established in 2001 under Supreme Court Administrative Rule 43 for the purpose of studying alternative dispute methods and making recommendations for improving ADR programs in this state. The committee has six members and is staffed by the executive director of the State Bar Association. I am not a member of the committee but do attend their meetings to provide information about ADR as requested.

Senate Bill 1264 amends N.D.C.C. Chapter 14-09.2 regarding the work of parenting coordinators. For parents in high conflict over post-judgment parenting issues, parenting coordinators provided an option to avoid further court proceedings. Their purpose is to resolve parenting disputes by interpreting, clarifying, and addressing circumstances not specifically addressed by an existing court order.

The ADR Committee, has proposed the following changes to improve the work of parenting coordinators in North Dakota. The first is to expand the role. Currently, parenting coordinators are limited to assisting parents to address parenting time issues only. HB 1264 would expand the role of a parenting coordinator by allowing them to address all

disputes pertaining to parenting. Examples could include decisions regarding school activities, healthcare, transporting the children, and so on.

The second change would allow the parenting coordinator to communicate with the court on a limited basis. Currently, parenting coordinators are not permitted to have any contact with the court. The proposed change to the statute would allow the parenting coordinator to file the parenting coordinator's written decision with the court when there are ongoing disputes. This would provide judges with the specific details of the arrangements that were in place when the dispute arose so they can better understand the nature of the conflict and the efforts that have been made to resolve it.

Thank you for allowing me to present this information today and will stand for questions.



January 16, 2021

Honorable Robin Weisz
2639 First Street SE
Hurdsfield, ND 58451-9029

RE: HB 1264

Dear Representative Weisz:

My name is DeAnn Pladson and I am an attorney practicing in the area of family law since 1992. I have spent most of my career assisting families through the difficult process of divorce and finding ways to keep families out of the courtroom.

In 2009 the legislature gave the citizens of North Dakota a tool to resolve ongoing family disputes outside of court--the parenting coordinator. (Attachment One. N.D.C.C. Chapter 14-09.2, the current parenting coordinator statute). Often times after a divorce is final, the parents are left with many questions regarding what their court order really means. For example, some court orders do not specify dates or times when the parties are to exchange the children. A parenting coordinator is a voluntary, cost effective and expeditious way to resolve these disputes.

For all families, going to court is expensive, emotionally draining, takes a lot of time, and often makes matters worse rather than actually solving problems. Sometimes parents have questions that need to be addressed immediately, making the option of getting into court impossible. A parenting coordinator has special training to handle this type of conflict. (Attachment 2. Rule 8.11, North Dakota Rules of Court, Qualifications for Parenting Coordinators). They are paid privately by the parties and must make decisions within five days. The parenting coordinator works as a facilitator to try to assist the parties in resolving their dispute. If, however, the parties cannot reach an agreement on their own, the parenting coordinator makes the decision, until further order of the court. A parenting coordinator may not expand or modify a judge's

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order. A parenting coordinator may only interpret and clarify the order, facilitate an agreement between the parties, or make a decision based upon the current court order.

The purpose of HB 1264 (Attachment 3) will be to expand the role to allow parenting coordinators to assist families with more disputes, rather than limiting their role to "parenting time" disputes. Our current law only allows a parenting coordinator to address parenting time issues. However, many families experience conflict outside of this area, which would be appropriate for parenting coordination. Examples include disputes regarding where the children will attend school, choosing a medical or mental health provider, transporting the children, or exchanging information regarding expenses for the children. The amendment to the statute would permit families to use parenting coordinators for any issue related to their "parenting plan." (Attachment 4. N.D.C.C. § 14-09-30, Definition of Parenting Plan)

Additionally, the proposed amendments to the statute also give the parenting coordinator the ability to make a final *written* decision for the parties in the event an agreement cannot be facilitated, and to file this decision with the court. It is important to know that this process is highly confidential and the current law does not permit a parenting coordinator to have any communication with the court. The confidentiality is important because it prevents either party from using a parenting coordinator as a weapon in any future litigation. However, as practitioners we have realized that not being able to file our written decision with the court is problematic. In the event of an impasse, the parenting coordinator could make a decision but if the parties were to ask the court for further assistance, the court would be unaware of how the dispute arose, what efforts were made to resolve it and how the parties are moving forward with the issue. The work and the efforts of the parenting coordinator would not be known to the court, giving the parents an incentive to see how the judge would handle the matter.

House Bill 1264 will permit the parenting coordinator to file the written decision with the court without breaching confidentiality. It is intended to memorialize the written decision of the parenting coordinator for later judicial review, if necessary. It will also serve to inform the court of efforts made to resolve the issues between the parties. This information could be critical in assisting the court in making further court orders in the matter. The written decision of the parenting coordinator may be viewed as having more finality, which would encourage parties to move on from the present dispute.

I have served as parenting coordinator and I have asked for their appointment in my cases. It is an excellent resource to keep families out of the court room and to keep them from incurring significant expenses over fairly simple decisions. As family law practitioners we spend 95% of our time trying to figure out how to keep 10% of high conflict families out of court. The parenting coordinator statute works for parenting time and if HB 1264 is passed, it will be an even more effective tool for keeping peaceful families after a divorce.

I sincerely thank you for your consideration of my comments, and please do not hesitate to contact me should you have any questions.

Very truly yours,

PLADSON LAW OFFICE, P.L.L.C.

A handwritten signature in black ink, appearing to read "DeAnn M. Pladson".

DeAnn M. Pladson

CC: Rep. Karla Rose Hanson
Anna Wischer, President of SBAND Family Law Section
Cathy Ferderer, Parenting Coordinator Program Administrator

CHAPTER 14-09.2 PARENTAL RIGHTS AND RESPONSIBILITIES

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. 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.

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 parenting time. 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.

14-09.2-03. Qualifications.

The supreme court shall establish qualifications and maintain and make available to the public a roster of individuals eligible to serve as a parenting coordinator. The roster must include each individual's name, address, and telephone number.

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 decision of the parenting coordinator is binding on the parties until further order of the court.

14-09.2-05. Fees.

Before the appointment of the parenting coordinator, the court shall give the parties notice that the fees of the parenting coordinator will be apportioned between the parties. In its order appointing the parenting coordinator, the court shall apportion the fees of the parenting coordinator between the parties, with each party bearing the portion of the fees that the court determines is just and equitable under the circumstances. If a party files a pro se motion

Regarding a parenting time dispute and there is not a court order that provides for apportionment of the fees of a parenting coordinator, the court may require the party requesting the appointment of a parenting coordinator to pay the fees of the coordinator in advance. Neither party may be required to submit a dispute to a parenting coordinator if the party cannot afford to pay the fees of a parenting coordinator or an affordable coordinator is not available, unless the other party agrees to pay the fees. After the fees are incurred, a party may by motion request that the fees be reapportioned on equitable grounds. The court may consider the resources of the parties, the nature of the dispute, and whether a party acted in bad faith. Notwithstanding the provisions of section 14-09.2-06, the court may consider information from the parenting coordinator in determining bad faith.

14-09.2-06. Confidentiality.

Statements made and documents produced as part of the parenting coordinator process 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. The parties and the parenting coordinator agree in writing to the disclosure; or
2. 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.

14-09.2-07. Immunity.

A parenting coordinator is immune from civil liability for damages for acts or omissions of ordinary negligence arising out of that individual's duties and responsibilities as a parenting coordinator.

14-09.2-08. Modification or termination of appointment.

The court may terminate or modify the parenting coordinator appointment upon agreement of the parties, upon motion of either party, at the request of the parenting coordinator, or by the court on its own motion for good cause shown. Good cause includes:

1. Lack of reasonable progress over a significant period of time despite the best efforts of the parties and the parenting coordinator;
2. A determination that the parties no longer need the assistance of a parenting coordinator;
3. Impairment on the part of a party that significantly interferes with the party's participation in the process; or
4. The parenting coordinator is unwilling or unable to serve.



STATE OF NORTH DAKOTA COURTS

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RULE 8.11. Parenting Coordinators

Effective Date: 8/1/2009

(a) Roster of Parenting Coordinators. The North Dakota Supreme Court through the State Court Administrator shall maintain a roster of persons satisfying the qualifications under paragraph (b) to serve as parenting coordinators. The roster must include the parenting coordinator's name, business address, email, and telephone number. The roster must be updated and published on the North Dakota Supreme Court website. The State Court Administrator may establish a reasonable fee for placement on the roster and a reasonable yearly renewal fee. Parenting Coordinators appointed to provide services under this rule must be selected from the roster.

(b) Qualifications. To qualify as a parenting coordinator and be listed on the roster under N.D.C.C. §14-09.2-03, a person shall provide the State Court Administrator with written credentials. A parenting coordinator:

- (1) Shall have either an Associate Degree in an academic field related to child care, child development, or children's services with two years of experience in family and children services; or a Bachelor's Degree;
- (2) Shall have completed at least 12 hours of specialized parenting coordinator training which includes developmental stages of children, the dynamics of high conflict, the stages and effects of divorce, problem-solving techniques, and the dynamics of domestic violence, its impact on children and lethality assessment;
- (3) Shall have completed a minimum 40 hours of domestic relations mediation training;
- (4) Shall have no criminal conviction for, or substantiated instance of child abuse or neglect, and shall not be or have been restrained by a domestic violence protection order or disorderly conduct restraining order entered after notice and hearing; and
- (5) Shall complete at least 18 hours of parenting coordinator related training every three years after receiving the initial hours of specialized training. Parenting Investigators otherwise qualified and trained under this rule, may use either parenting investigator continuing education or parenting coordinator continuing education to meet this requirement.

(c) Role and Responsibilities. A parenting coordinator shall:

- (1) Inform the parties of the role of a parenting coordinator;
- (2) Monitor implementation of a voluntary or court-ordered parenting plan or parenting schedule as requested by the families or the court;
- (3) Facilitate the resolution of disputes regarding the implementation of the parenting plan, the schedule, or parenting time issues provided such resolution does not involve a substantive change to the court's order;
- (4) Recommend strategies for implementing the parenting plan or resolving other parenting issues that may be impacting the parenting plan;
- (5) Assist the parties in developing communication and cooperation for the purpose of effective co-parenting of the children, including helping the parents find resources to develop effective communication skills; and
- (6) Document the services provided and record agreements reached.

(d) Training. The State Court Administrator shall provide for regular training programs to satisfy the qualification requirements under paragraph (b)(2) and (5). The State Court Administrator shall provide for the development and

maintenance of a parenting coordinator manual to serve as a resource for those providing services under this rule and as a basis for parenting coordinator training programs.

(e) Evaluation. All parenting coordinators shall cooperate with any research and evaluation process undertaken by the State Court Administrator to measure the impact, outcomes, and costs of the program. This may include collecting data, providing written comments, completing surveys, or participating in focus groups.

Explanatory Note ▼

Version History ▼

Sixty-seventh
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1264

Introduced by

Representatives Hanson, M. Johnson, Klemin, Roers Jones

Senators Bakke, Dwyer

1 A BILL for an Act to amend and reenact sections 14-09.2-01, 14-09.2-02, 14-09.2-04, and
2 14-09.2-06 of the North Dakota Century Code, relating to parenting coordinators.

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

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

6 **14-09.2-01. Parenting coordinator - Definition.**

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

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

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

23 **14-09.2-02. Appointment of parenting coordinator.**

Sixty-seventh
Legislative Assembly

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

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

14 **14-09.2-04. Agreement or decision binding.**

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

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

1 **14-09.2-06. Confidentiality.**

2 1. If there is an ongoing dispute between the parties regarding a specific written decision
3 of the parenting coordinator, the written decision must be filed with the court and
4 served upon the parties.

5 2. Statements made and documents produced as part of the parenting coordinator
6 process, other than the written decision of the parenting coordinator, which are not
7 otherwise discoverable are not subject to discovery or other disclosure and are not
8 admissible into evidence for any purpose at trial or in any other proceeding, including
9 impeachment. Parenting coordinators and lawyers for the parties, to the extent of their
10 participation in the parenting coordinator process, may not be subpoenaed or called as
11 witnesses in court proceedings. Notes, records, and recollections of parenting
12 coordinators are confidential and may not be disclosed unless:

13 ~~1.~~ a. The parties and the parenting coordinator agree in writing to the disclosure; or

14 ~~2.~~ b. Disclosure is required by law or other applicable professional codes. Notes and
15 records of parenting coordinators may not be disclosed to the court unless after a
16 hearing the court determines that the notes or records should be reviewed
17 in camera. Unless the court determines that the notes and records contain
18 information regarding acts that may be a violation of a state or federal criminal
19 law, the notes and records may not be released.

Page 21 of 141 A child support order issued under any provision of this code after September 30, 1998, must require payment to the state disbursement unit.

3. A payment of child support received by a clerk of court after September 30, 1998, is deemed to be a payment to the state disbursement unit. A clerk of court receiving such child support payment after September 30, 1998, shall promptly remit or transfer that payment to the state disbursement unit.

14-09-27. State disbursement unit fund - Continuing appropriation - Correction of errors.

Repealed by S.L. 1999, ch. 141, § 26.

14-09-28. Parental custody and visitation rights and duties.

Repealed by S.L. 2009, ch. 149, § 12.

14-09-29. Parental rights and responsibilities - Best interests and welfare of child.

1. A court issuing an order that deals with parenting rights and responsibilities of a child entered under this chapter shall award the parental rights and responsibilities concerning the child to a person, agency, organization, or institution as will, in the opinion of the court, promote the best interests and welfare of the child. Between the mother and father, whether married or unmarried, there is no presumption as to whom will better promote the best interests and welfare of the child.
2. If the court finds that a parent has perpetrated domestic violence and that parent does not have residential responsibility, 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, the court shall allow only supervised parenting time with that parent unless there is a showing by clear and convincing evidence that unsupervised parenting time would not endanger the child's physical or emotional health.
3. If any court finds that a parent has sexually abused the parent's child, the court shall prohibit contact between the abusive parent and the child until the court finds that the abusive parent has successfully completed a treatment program designed for such sexual abusers and that supervised parenting time is in the child's best interests. Contact between the abusive parent and the child may be allowed only in a therapeutic setting, facilitated by a therapist as part of a sexual abuse treatment program, and only when the therapist for the abusive parent and the therapist for the abused child agree that contact serves a therapeutic purpose and is in the best interests of the child.
4. In any proceeding dealing with parental rights and responsibilities in which a parent is found to have perpetrated domestic violence, 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, all court costs, attorney's fees, evaluation fees, and expert witness fees must be paid by the perpetrator of the domestic violence unless those costs would place an undue financial hardship on that parent.

14-09-30. Parenting plans - Contents.

1. In any proceeding to establish or modify a judgment providing for parenting time with a child, the parents shall develop and file with the court a parenting plan to be included in the court's decree. If the parents are unable to agree on a parenting plan, the court shall issue a parenting plan considering the best interests of the child.
2. A parenting plan must include, at a minimum, provisions regarding the following or an explanation as to why a provision is not included:
 - a. Decisionmaking responsibility relative to:
 - (1) Routine or day-to-day decisions; and
 - (2) Major decisions such as education, health care, and spiritual development;

- b. Information sharing and access, including telephone and electronic access;
- c. Legal residence of a child for school attendance;
- d. Residential responsibility, parenting time, and parenting schedule, including:
 - (1) Holidays and days off from school, birthday, and vacation planning;
 - (2) Weekends and weekdays; and
 - (3) Summers;
- e. Transportation and exchange of the child, considering the safety of the parties;
- f. Procedure for review and adjustment of the plan; and
- g. Methods for resolving disputes.

14-09-31. Decisionmaking responsibility.

Except as provided in subsection 3, in the making of any order relative to decisionmaking responsibility:

1. If the parents have reached an agreement as to decisionmaking responsibility, the court shall accept the agreement unless the court makes written findings that the agreement is not in the best interests of the child.
2. If the parents cannot agree on an allocation of decisionmaking responsibility, the court shall enter an order allocating decisionmaking responsibility in the best interests of the child.
3. An allocation of decisionmaking responsibility is not in the best interests of the child unless the order includes a method of resolving disputes when parents do not agree on an issue.
4. If the court finds that domestic violence as defined in section 14-07.1-01 has occurred, the court shall consider such domestic violence in determining whether joint decisionmaking responsibility is in the best interests of the child. In such cases, the court shall make orders for the allocation of parental rights and responsibilities that best protect the child, the parent, or both. If joint decisionmaking responsibility is granted, even though there is evidence of domestic violence, the court shall provide written findings to support the order.

14-09-32. Parental rights and responsibilities.

1. Each parent of a child has the following rights and responsibilities:
 - a. Right to access and obtain copies of the child's educational, medical, dental, religious, insurance, and other records or information.
 - b. Right to attend educational conferences concerning the child. This right does not require any school to hold a separate conference with each parent.
 - c. Right to reasonable access to the child by written, telephonic, and electronic means.
 - d. Duty to inform the other parent as soon as reasonably possible of a serious accident or serious illness for which the child receives health care treatment. The parent shall provide to the other parent a description of the serious accident or serious illness, the time of the serious accident or serious illness, and the name and location of the treating health care provider.
 - e. Duty to immediately inform the other parent of residential telephone numbers and address, and any changes to the same.
 - f. Duty to keep the other parent informed of the name and address of the school the child attends.
2. The court shall include in an order establishing or modifying parental rights and responsibilities the rights and duties listed in this section; however, the court may restrict or exclude any right or duty listed in this section if the order states the reason in support of the restriction or exclusion. The court shall consider any domestic violence protection orders relating to the parties when determining whether to restrict or exclude any right or duty listed in this section.

Any law that refers to the "custody" of a child means the allocation of parental rights and responsibilities as provided in this chapter. Any law that refers to a "custodial parent" or "primary residential responsibility" means a parent with more than fifty percent of the residential responsibility and any reference to a noncustodial parent means a parent with less than fifty percent of the residential responsibility.

14-09-34. Electronic remittal of funds withheld under an income withholding order.

An income payer that employs more than twenty-four employees at any time and has received more than four income withholding orders under this chapter shall remit any withheld funds by an electronic method approved by the child support agency. An income payer that employs more than twenty-four employees at any time and has received fewer than five income withholding orders under this chapter may choose to opt out of an electronic method approved by the child support agency only through a written request. An income payer that does not comply with this section is deemed to have failed to deliver income under section 14-09-09.3. The child support agency may waive, upon a showing of good cause, the requirement to remit funds electronically.

14-09-35. Missing child - Duty to report - Penalty.

1. For purposes of this section and section 14-09-36, "caretaker" means the individual who is responsible for the physical control of a child and who is the child's biological or adoptive parent, the spouse of the child's biological or adoptive parent, or an individual acting in the stead of a child's parent at the request of the parent or another with authority to make the request. "Caretaker" does not include an individual who is charged with the enforcement of compulsory attendance provisions under section 15.1-20-03.
2. A caretaker who is responsible at that time for the care of a child under the age of thirteen years and who is unable to make contact with or otherwise verify the whereabouts and safety of that child for a period of twenty-four hours after the caretaker knows or reasonably should have known the child is missing is guilty of a class C felony if the caretaker willfully fails to report the child as missing to law enforcement within a reasonable time after this twenty-four-hour period expires.
3. A caretaker who is responsible at that time for the care of a child at least thirteen years of age but under the age of seventeen years and who is unable to make contact with or otherwise verify the whereabouts and safety of that child for a period of forty-eight hours after the caretaker knows or reasonably should have known the child is missing is guilty of a class B misdemeanor if the caretaker willfully fails to report the child as missing to law enforcement within a reasonable time after the forty-eight-hour period expires.

14-09-36. Death of a child - Duty to report - Penalty.

1. A caretaker of a child in the caretaker's care is guilty of a class C felony if the caretaker willfully fails to:
 - a. Report the child's death to a law enforcement agency within two hours after learning about the child's death; or
 - b. Report the location of the child's corpse to a law enforcement agency within two hours after learning the location of the corpse.
2. This section does not apply to the death of a child which occurs while the child is under the care of a health care professional or emergency medical personnel.

2021 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee Pioneer Room, State Capitol

HB 1264
1/20/2021 1130 AM

Relating to parenting coordinators

Chairman Weisz opened the hearing at 11:30 a.m.

Representatives	Attendance
Representative Robin Weisz	P
Representative Karen M. Rohr	P
Representative Mike Beltz	P
Representative Chuck Damschen	P
Representative Bill Devlin	P
Representative Gretchen Dobervich	P
Representative Clayton Fegley	P
Representative Dwight Kiefert	P
Representative Todd Porter	P
Representative Matthew Ruby	P
Representative Mary Schneider	P
Representative Kathy Skroch	P
Representative Bill Tveit	P
Representative Greg Westlind	P

Discussion Topics:

- Parenting time
- Confidentiality

Rep. Mary Schneider made a motion for a **Do Pass**.

Rep. Matthew Ruby seconded.

Representatives	Vote
Representative Robin Weisz	Y
Representative Karen M. Rohr	Y
Representative Mike Beltz	Y
Representative Chuck Damschen	Y
Representative Bill Devlin	Y
Representative Gretchen Dobervich	Y
Representative Clayton Fegley	Y
Representative Dwight Kiefert	Y
Representative Todd Porter	Y
Representative Matthew Ruby	Y
Representative Mary Schneider	Y
Representative Kathy Skroch	Y
Representative Bill Tveit	Y

Representative Greg Westlind	Y
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Motion Carried Do Pass 14-0-0

Bill Carrier: Rep. Mary Schneider

Chairman Weisz adjourned at 11:34 a.m.

Tamara Krause, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1264: Human Services Committee (Rep. Weisz, Chairman) recommends **DO PASS**
(14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1264 was placed on the
Eleventh order on the calendar.

2021 SENATE HUMAN SERVICES

HB 1264

2021 SENATE STANDING COMMITTEE MINUTES

Human Services Committee Sakakawea Room, State Capitol

HB 1264
3/17/2021

A BILL for 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.

Madam Chair Lee opened the hearing on HB 1264 at 10:24 a.m. Members present: Lee, K. Roers, Anderson, Hogan, Clemens, O. Larsen.

Discussion Topics:

- Parenting coordinator pay rates
- Usage rate
- Parenting coordinator V.S. Mediator

[10:25] Representative Karla Hanson, District 44. Introduced HB 1264 and provided testimony #9575 in favor.

[10:28] Christina Sambor, Family Law Practitioner. Provided oral testimony in favor.

[10:37] DeAnn Pladson, Attorney, Pladison Law Office. Provided testimony #9690 in favor.

Senator Anderson moves **DO PASS**.

Senator Hogan seconded.

Senators	Vote
Senator Judy Lee	Y
Senator Kristin Roers	ABSENT
Senator Howard C. Anderson, Jr.	Y
Senator David A. Clemens	Y
Senator Kathy Hogan	Y
Senator Oley Larsen	Y

The motion passed 5-0-1

Senator Hogan will carry HB 1264.

Senator Lee will hold vote open for **Senator K. Roers**.

[2:17 p.m.] Senator K. Roers votes YEA with a vote total of 6-0-0.

Additional written testimony: (2)

Mykaela Jacobson, Social Worker Student, University of Mary. Written testimony #9763 in favor.

Mitchell Sanderson, ND Citizen. Written testimony #9648 in opposition.

Senate Human Services Committee

HB 1264

3/17/2021

Page 2

Madam Chair Lee closed the hearing on HB 1264 10:40 a.m.

Justin Velez, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1264: Human Services Committee (Sen. Lee, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1264 was placed on the Fourteenth order on the calendar.

HB 1264 – relating to parenting coordinators

Senate Human Services Committee – March 17, 2021

Rep. Karla Rose Hanson

Madam Chair and members of the Senate Human Services Committee, my name is Representative Karla Rose Hanson and I represent District 44.

HB 1264 comes to you at the request of the joint ND Supreme Court / ND Bar Association Alternative Dispute Resolution (ADR) committee.

Parenting coordinators have long been part of the alternative dispute resolution process for families; the goal is to help families resolve disputes outside of the courtroom. A parenting coordinator acts as a facilitator to assist the parties in resolving a dispute within the boundaries of their court order. A parenting coordinator is a voluntary and efficient way to resolve disputes – it is more expeditious and less expensive than going back to court for every dispute after a divorce is final.

Parenting coordinators serve as an effective tool, and this bill aims to make two small changes to build on their success.

The first change is regarding the term “**parenting time**.” Parents often have disputes about issues other than parenting time, including medical care, where children attend school, and transporting kids. This change allows parenting coordinators to apply the same successful facilitation process to these issues too.

The second change would allow the parenting coordinator to make a written decision if an agreement can’t be facilitated and to **file this report with the court** without breaching confidentiality. If there was an impasse and the parties asked the court for further assistance, providing the court with this report enables the judge assigned to the case to have all information available to make a decision – including what has been tried, the reasoning behind it, and whether other alternatives were offered – so they’re not starting from square one.

These two changes will make parenting coordinators an even more effective tool for families after a divorce. A family law attorney who serves on the ADR committee has provided testimony in support of these changes, including additional details on this valuable role, and that should be available to you in LAWS.

Thank you, Madam Chair and Committee Members, for considering HB 1264. I’d urge a do-pass recommendation and I’ll stand for any questions.



#9690

March 16, 2021

Honorable Judy Lee
State Capitol Building
600 East Boulevard Avenue
Bismarck, ND 55505

RE: HB 1264

Dear Senator Lee:

My name is DeAnn Pladson and I am an attorney practicing in the area of family law since 1992. I have spent most of my career assisting families through the difficult process of divorce and finding ways to keep families out of the courtroom.

In 2009 the legislature gave the citizens of North Dakota a tool to resolve ongoing family disputes outside of court--the parenting coordinator. (Attachment One. N.D.C.C. Chapter 14-09.2, the current parenting coordinator statute). Often times after a divorce is final, the parents are left with many questions regarding what their court order really means. For example, some court orders do not specify dates or times when the parties are to exchange the children. A parenting coordinator is a voluntary, cost effective and expeditious way to resolve these disputes.

For all families, going to court is expensive, emotionally draining, takes a lot of time, and often makes matters worse rather than actually solving problems. Sometimes parents have questions that need to be addressed immediately, making the option of getting into court impossible. A parenting coordinator has special training to handle this type of conflict. (Attachment 2. Rule 8.11, North Dakota Rules of Court, Qualifications for Parenting Coordinators). They are paid privately by the parties and must make decisions within five days. The parenting coordinator works as a facilitator to try to assist the parties in resolving their dispute. If, however, the parties cannot reach an agreement on their own, the parenting coordinator makes the decision, until further order

of the court. A parenting coordinator may not expand or modify a judge's order. A parenting coordinator may only interpret and clarify the order, facilitate an agreement between the parties, or make a decision based upon the current court order.

The purpose of HB 1264 (Attachment 3) will be to expand the role to allow parenting coordinators to assist families with more disputes, rather than limiting their role to "parenting time" disputes. Our current law only allows a parenting coordinator to address parenting time issues. However, many families experience conflict outside of this area, which would be appropriate for parenting coordination. Examples include disputes regarding where the children will attend school, choosing a medical or mental health provider, transporting the children, or exchanging information regarding expenses for the children. The amendment to the statute would permit families to use parenting coordinators for any issue related to their "parenting plan." (Attachment 4. N.D.C.C. § 14-09-30, Definition of Parenting Plan)

Additionally, the proposed amendments to the statute also give the parenting coordinator the ability to make a final *written* decision for the parties in the event an agreement cannot be facilitated, and to file this decision with the court. It is important to know that this process is highly confidential and the current law does not permit a parenting coordinator to have any communication with the court. The confidentiality is important because it prevents either party from using a parenting coordinator as a weapon in any future litigation. However, as practitioners we have realized that not being able to file our written decision with the court is problematic. In the event of an impasse, the parenting coordinator could make a decision but if the parties were to ask the court for further assistance, the court would be unaware of how the dispute arose, what efforts were made to resolve it and how the parties are moving forward with the issue. The work and the efforts of the parenting coordinator would not be known to the court, giving the parents an incentive to see how the judge would handle the matter.

House Bill 1264 will permit the parenting coordinator to file the written decision with the court without breaching confidentiality. It is intended to memorialize the written decision of the parenting coordinator for later judicial review, if necessary. It will also serve to inform the court of efforts made to resolve the issues between the parties. This information could be critical in assisting the court in making further court orders in the matter. The written decision of the parenting coordinator may be viewed as having more finality, which would encourage parties to move on from the present dispute.

I have served as parenting coordinator and I have asked for their appointment in my cases. It is an excellent resource to keep families out of the court room and to keep them from incurring significant expenses over fairly simple decisions. As family law practitioners we spend 95% of our time trying to figure out how to keep 10% of high conflict families out of court. The parenting coordinator statute works for parenting time and if HB 1264 is passed, it will be an even more effective tool for keeping peaceful families after a divorce.

I sincerely thank you for your consideration of my comments, and please do not hesitate to contact me should you have any questions.

Very truly yours,

PLADSON LAW OFFICE, P.L.L.C.

A handwritten signature in cursive script, appearing to read "DeAnn M. Pladson".

DeAnn M. Pladson

CC: Rep. Karla Rose Hanson
Anna Wischer, President of SBAND Family Law Section
Cathy Ferderer, Parenting Coordinator Program Administrator

CHAPTER 14-09.2 PARENTAL RIGHTS AND RESPONSIBILITIES

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. 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.

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 parenting time. 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.

14-09.2-03. Qualifications.

The supreme court shall establish qualifications and maintain and make available to the public a roster of individuals eligible to serve as a parenting coordinator. The roster must include each individual's name, address, and telephone number.

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 decision of the parenting coordinator is binding on the parties until further order of the court.

14-09.2-05. Fees.

Before the appointment of the parenting coordinator, the court shall give the parties notice that the fees of the parenting coordinator will be apportioned between the parties. In its order appointing the parenting coordinator, the court shall apportion the fees of the parenting coordinator between the parties, with each party bearing the portion of the fees that the court determines is just and equitable under the circumstances. If a party files a pro se motion

Regarding a parenting time dispute and there is not a court order that provides for apportionment of the fees of a parenting coordinator, the court may require the party requesting the appointment of a parenting coordinator to pay the fees of the coordinator in advance. Neither party may be required to submit a dispute to a parenting coordinator if the party cannot afford to pay the fees of a parenting coordinator or an affordable coordinator is not available, unless the other party agrees to pay the fees. After the fees are incurred, a party may by motion request that the fees be reapportioned on equitable grounds. The court may consider the resources of the parties, the nature of the dispute, and whether a party acted in bad faith. Notwithstanding the provisions of section 14-09.2-06, the court may consider information from the parenting coordinator in determining bad faith.

14-09.2-06. Confidentiality.

Statements made and documents produced as part of the parenting coordinator process 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. The parties and the parenting coordinator agree in writing to the disclosure; or
2. 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.

14-09.2-07. Immunity.

A parenting coordinator is immune from civil liability for damages for acts or omissions of ordinary negligence arising out of that individual's duties and responsibilities as a parenting coordinator.

14-09.2-08. Modification or termination of appointment.

The court may terminate or modify the parenting coordinator appointment upon agreement of the parties, upon motion of either party, at the request of the parenting coordinator, or by the court on its own motion for good cause shown. Good cause includes:

1. Lack of reasonable progress over a significant period of time despite the best efforts of the parties and the parenting coordinator;
2. A determination that the parties no longer need the assistance of a parenting coordinator;
3. Impairment on the part of a party that significantly interferes with the party's participation in the process; or
4. The parenting coordinator is unwilling or unable to serve.



STATE OF NORTH DAKOTA COURTS

Home / Legal Resources / Rules / North Dakota Rules of Court

RULE 8.11. Parenting Coordinators

Effective Date: 8/1/2009

(a) Roster of Parenting Coordinators. The North Dakota Supreme Court through the State Court Administrator shall maintain a roster of persons satisfying the qualifications under paragraph (b) to serve as parenting coordinators. The roster must include the parenting coordinator's name, business address, email, and telephone number. The roster must be updated and published on the North Dakota Supreme Court website. The State Court Administrator may establish a reasonable fee for placement on the roster and a reasonable yearly renewal fee. Parenting Coordinators appointed to provide services under this rule must be selected from the roster.

(b) Qualifications. To qualify as a parenting coordinator and be listed on the roster under N.D.C.C. §14-09.2-03, a person shall provide the State Court Administrator with written credentials. A parenting coordinator:

- (1) Shall have either an Associate Degree in an academic field related to child care, child development, or children's services with two years of experience in family and children services; or a Bachelor's Degree;
- (2) Shall have completed at least 12 hours of specialized parenting coordinator training which includes developmental stages of children, the dynamics of high conflict, the stages and effects of divorce, problem-solving techniques, and the dynamics of domestic violence, its impact on children and lethality assessment;
- (3) Shall have completed a minimum 40 hours of domestic relations mediation training;
- (4) Shall have no criminal conviction for, or substantiated instance of child abuse or neglect, and shall not be or have been restrained by a domestic violence protection order or disorderly conduct restraining order entered after notice and hearing; and
- (5) Shall complete at least 18 hours of parenting coordinator related training every three years after receiving the initial hours of specialized training. Parenting Investigators otherwise qualified and trained under this rule, may use either parenting investigator continuing education or parenting coordinator continuing education to meet this requirement.

(c) Role and Responsibilities. A parenting coordinator shall:

- (1) Inform the parties of the role of a parenting coordinator;
- (2) Monitor implementation of a voluntary or court-ordered parenting plan or parenting schedule as requested by the families or the court;
- (3) Facilitate the resolution of disputes regarding the implementation of the parenting plan, the schedule, or parenting time issues provided such resolution does not involve a substantive change to the court's order;
- (4) Recommend strategies for implementing the parenting plan or resolving other parenting issues that may be impacting the parenting plan;
- (5) Assist the parties in developing communication and cooperation for the purpose of effective co-parenting of the children, including helping the parents find resources to develop effective communication skills; and
- (6) Document the services provided and record agreements reached.

(d) Training. The State Court Administrator shall provide for regular training programs to satisfy the qualification requirements under paragraph (b)(2) and (5). The State Court Administrator shall provide for the development and

maintenance of a parenting coordinator manual to serve as a resource for those providing services under this rule and as a basis for parenting coordinator training programs.

(e) Evaluation. All parenting coordinators shall cooperate with any research and evaluation process undertaken by the State Court Administrator to measure the impact, outcomes, and costs of the program. This may include collecting data, providing written comments, completing surveys, or participating in focus groups.

Explanatory Note ▼

Version History ▼

21.0217.02000

Sixty-seventh
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1264

Introduced by

Representatives Hanson, M. Johnson, Klemin, Roers Jones

Senators Bakke, Dwyer

1 A BILL for an Act to amend and reenact sections 14-09.2-01, 14-09.2-02, 14-09.2-04, and
2 14-09.2-06 of the North Dakota Century Code, relating to parenting coordinators.

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

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

6 **14-09.2-01. Parenting coordinator - Definition.**

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

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

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

23 **14-09.2-02. Appointment of parenting coordinator.**

Sixty-seventh
Legislative Assembly

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

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

14 **14-09.2-04. Agreement or decision binding.**

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

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

Sixty-seventh
Legislative Assembly

1 **14-09.2-06. Confidentiality.**

2 1. If there is an ongoing dispute between the parties regarding a specific written decision
3 of the parenting coordinator, the written decision must be filed with the court and
4 served upon the parties.

5 2. Statements made and documents produced as part of the parenting coordinator
6 process, other than the written decision of the parenting coordinator, which are not
7 otherwise discoverable are not subject to discovery or other disclosure and are not
8 admissible into evidence for any purpose at trial or in any other proceeding, including
9 impeachment. Parenting coordinators and lawyers for the parties, to the extent of their
10 participation in the parenting coordinator process, may not be subpoenaed or called as
11 witnesses in court proceedings. Notes, records, and recollections of parenting
12 coordinators are confidential and may not be disclosed unless:

- 13 ~~1.~~ a. The parties and the parenting coordinator agree in writing to the disclosure; or
14 ~~2.~~ b. Disclosure is required by law or other applicable professional codes. Notes and
15 records of parenting coordinators may not be disclosed to the court unless after a
16 hearing the court determines that the notes or records should be reviewed
17 in camera. Unless the court determines that the notes and records contain
18 information regarding acts that may be a violation of a state or federal criminal
19 law, the notes and records may not be released.

Page 21 of 141
14-09-26. Child support order issued under any provision of this code after September 30, 1998, must require payment to the state disbursement unit.

3. A payment of child support received by a clerk of court after September 30, 1998, is deemed to be a payment to the state disbursement unit. A clerk of court receiving such child support payment after September 30, 1998, shall promptly remit or transfer that payment to the state disbursement unit.

14-09-27. State disbursement unit fund - Continuing appropriation - Correction of errors.

Repealed by S.L. 1999, ch. 141, § 26.

14-09-28. Parental custody and visitation rights and duties.

Repealed by S.L. 2009, ch. 149, § 12.

14-09-29. Parental rights and responsibilities - Best interests and welfare of child.

1. A court issuing an order that deals with parenting rights and responsibilities of a child entered under this chapter shall award the parental rights and responsibilities concerning the child to a person, agency, organization, or institution as will, in the opinion of the court, promote the best interests and welfare of the child. Between the mother and father, whether married or unmarried, there is no presumption as to whom will better promote the best interests and welfare of the child.
2. If the court finds that a parent has perpetrated domestic violence and that parent does not have residential responsibility, 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, the court shall allow only supervised parenting time with that parent unless there is a showing by clear and convincing evidence that unsupervised parenting time would not endanger the child's physical or emotional health.
3. If any court finds that a parent has sexually abused the parent's child, the court shall prohibit contact between the abusive parent and the child until the court finds that the abusive parent has successfully completed a treatment program designed for such sexual abusers and that supervised parenting time is in the child's best interests. Contact between the abusive parent and the child may be allowed only in a therapeutic setting, facilitated by a therapist as part of a sexual abuse treatment program, and only when the therapist for the abusive parent and the therapist for the abused child agree that contact serves a therapeutic purpose and is in the best interests of the child.
4. In any proceeding dealing with parental rights and responsibilities in which a parent is found to have perpetrated domestic violence, 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, all court costs, attorney's fees, evaluation fees, and expert witness fees must be paid by the perpetrator of the domestic violence unless those costs would place an undue financial hardship on that parent.

14-09-30. Parenting plans - Contents.

1. In any proceeding to establish or modify a judgment providing for parenting time with a child, the parents shall develop and file with the court a parenting plan to be included in the court's decree. If the parents are unable to agree on a parenting plan, the court shall issue a parenting plan considering the best interests of the child.
2. A parenting plan must include, at a minimum, provisions regarding the following or an explanation as to why a provision is not included:
 - a. Decisionmaking responsibility relative to:
 - (1) Routine or day-to-day decisions; and
 - (2) Major decisions such as education, health care, and spiritual development;

- b. Information sharing and access, including telephone and electronic access;
- c. Legal residence of a child for school attendance;
- d. Residential responsibility, parenting time, and parenting schedule, including:
 - (1) Holidays and days off from school, birthday, and vacation planning;
 - (2) Weekends and weekdays; and
 - (3) Summers;
- e. Transportation and exchange of the child, considering the safety of the parties;
- f. Procedure for review and adjustment of the plan; and
- g. Methods for resolving disputes.

14-09-31. Decisionmaking responsibility.

Except as provided in subsection 3, in the making of any order relative to decisionmaking responsibility:

1. If the parents have reached an agreement as to decisionmaking responsibility, the court shall accept the agreement unless the court makes written findings that the agreement is not in the best interests of the child.
2. If the parents cannot agree on an allocation of decisionmaking responsibility, the court shall enter an order allocating decisionmaking responsibility in the best interests of the child.
3. An allocation of decisionmaking responsibility is not in the best interests of the child unless the order includes a method of resolving disputes when parents do not agree on an issue.
4. If the court finds that domestic violence as defined in section 14-07.1-01 has occurred, the court shall consider such domestic violence in determining whether joint decisionmaking responsibility is in the best interests of the child. In such cases, the court shall make orders for the allocation of parental rights and responsibilities that best protect the child, the parent, or both. If joint decisionmaking responsibility is granted, even though there is evidence of domestic violence, the court shall provide written findings to support the order.

14-09-32. Parental rights and responsibilities.

1. Each parent of a child has the following rights and responsibilities:
 - a. Right to access and obtain copies of the child's educational, medical, dental, religious, insurance, and other records or information.
 - b. Right to attend educational conferences concerning the child. This right does not require any school to hold a separate conference with each parent.
 - c. Right to reasonable access to the child by written, telephonic, and electronic means.
 - d. Duty to inform the other parent as soon as reasonably possible of a serious accident or serious illness for which the child receives health care treatment. The parent shall provide to the other parent a description of the serious accident or serious illness, the time of the serious accident or serious illness, and the name and location of the treating health care provider.
 - e. Duty to immediately inform the other parent of residential telephone numbers and address, and any changes to the same.
 - f. Duty to keep the other parent informed of the name and address of the school the child attends.
2. The court shall include in an order establishing or modifying parental rights and responsibilities the rights and duties listed in this section; however, the court may restrict or exclude any right or duty listed in this section if the order states the reason in support of the restriction or exclusion. The court shall consider any domestic violence protection orders relating to the parties when determining whether to restrict or exclude any right or duty listed in this section.

Any law that refers to the "custody" of a child means the allocation of parental rights and responsibilities as provided in this chapter. Any law that refers to a "custodial parent" or "primary residential responsibility" means a parent with more than fifty percent of the residential responsibility and any reference to a noncustodial parent means a parent with less than fifty percent of the residential responsibility.

14-09-34. Electronic remittal of funds withheld under an income withholding order.

An income payer that employs more than twenty-four employees at any time and has received more than four income withholding orders under this chapter shall remit any withheld funds by an electronic method approved by the child support agency. An income payer that employs more than twenty-four employees at any time and has received fewer than five income withholding orders under this chapter may choose to opt out of an electronic method approved by the child support agency only through a written request. An income payer that does not comply with this section is deemed to have failed to deliver income under section 14-09-09.3. The child support agency may waive, upon a showing of good cause, the requirement to remit funds electronically.

14-09-35. Missing child - Duty to report - Penalty.

1. For purposes of this section and section 14-09-36, "caretaker" means the individual who is responsible for the physical control of a child and who is the child's biological or adoptive parent, the spouse of the child's biological or adoptive parent, or an individual acting in the stead of a child's parent at the request of the parent or another with authority to make the request. "Caretaker" does not include an individual who is charged with the enforcement of compulsory attendance provisions under section 15.1-20-03.
2. A caretaker who is responsible at that time for the care of a child under the age of thirteen years and who is unable to make contact with or otherwise verify the whereabouts and safety of that child for a period of twenty-four hours after the caretaker knows or reasonably should have known the child is missing is guilty of a class C felony if the caretaker willfully fails to report the child as missing to law enforcement within a reasonable time after this twenty-four-hour period expires.
3. A caretaker who is responsible at that time for the care of a child at least thirteen years of age but under the age of seventeen years and who is unable to make contact with or otherwise verify the whereabouts and safety of that child for a period of forty-eight hours after the caretaker knows or reasonably should have known the child is missing is guilty of a class B misdemeanor if the caretaker willfully fails to report the child as missing to law enforcement within a reasonable time after the forty-eight-hour period expires.

14-09-36. Death of a child - Duty to report - Penalty.

1. A caretaker of a child in the caretaker's care is guilty of a class C felony if the caretaker willfully fails to:
 - a. Report the child's death to a law enforcement agency within two hours after learning about the child's death; or
 - b. Report the location of the child's corpse to a law enforcement agency within two hours after learning the location of the corpse.
2. This section does not apply to the death of a child which occurs while the child is under the care of a health care professional or emergency medical personnel.

HB 1264

Senate Human Services Committee

Testimony of Mykaela Jacobson

In support

March 17, 2021

Madam Chairman and Members of the Committee:

I am here today to offer testimony in support of bill HB 1264, which changes the language pertaining to and the definition of a parent coordinator. The impact of these changes would make a great change in the field of social work and within the justice system dealing with children and families. Currently, I am a social work student at the University of Mary. These changes will be beneficial to my classmates and me's future in the field as well as current social workers.

Currently, HB 1264 states that parent coordinators can only be neutral individuals in parenting disputes during parenting time. This restricts them from being able to mediate issues outside of those designated parenting times. If there were issues that pertain to the child or children outside of this time, they have to go to someone else to help them with their dispute; often this is the courts and or Child Protective Service. After speaking with a local CPS worker, many of the disputes between parents and guardians can and could be figured out by mediation with a parent coordinator. These parent coordinators know the parents and the children as well as their unique situations; this gives them a better understanding of how to remedy any conflicts. With these changes, it will take extra pressure off the courts and Child Protective Services as well as save time and money. These language changes will be more beneficial for the children's well-being in the long run by finding a quicker solution between the parents.

On behalf of current and future social workers, I thank you for your time today and urge you to a "do pass" recommendation on HB 1264.

Senator,

There should be no need for a parenting coordinator if the courts would just follow the US Supreme court rulings on parents' rights!

No parent should lose any custody of their children unless first proven unfit to parent by clear and convincing evidence!!!!

The current family law in ND is Unconstitutional!

This whole system is designed to create an absent parent by force and when that parent tries to get his rights restored the courts retaliate against them and the custodial parent can get away with murder and the court does NOTHING to them!

Thank you,

Mr. Mitchell S. Sanderson