

SENATE BILL NO. 2340

Introduced by

Senators Bakke, Hogan, Piepkorn

1 A BILL for an Act to amend and reenact section 14-15-19 of the North Dakota Century Code,
2 relating to termination of parental rights.

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

4 **SECTION 1. AMENDMENT.** Section 14-15-19 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **14-15-19. Relinquishment and termination of parent and child relationship.**

- 7 1. The rights of a parent with reference to a child, including parental right to control the
8 child or to withhold consent to an adoption, may be relinquished and the relationship of
9 parent and child terminated in or before an adoption action as provided in this section.
- 10 2. All rights of a parent with reference to a child, including the right to receive notice of a
11 hearing on a petition for adoption, may be relinquished and the relationship of parent
12 and child terminated by a writing, signed by the parent, regardless of the age of the
13 parent:
- 14 a. In the presence of a representative of an agency taking custody of the child,
15 whether the agency is within or outside of the state or in the presence and with
16 the approval of a judge of a court of record within or outside this state in which
17 the minor was present or in which the parent resided at the time it was signed; or
- 18 b. In any other situation if the petitioner has had custody of the minor for two years,
19 but only if notice of the adoption proceeding has been given to the parent and the
20 court finds, after considering the circumstances of the relinquishment and the
21 long-continued custody by the petitioner, that the best interest of the child
22 requires the granting of the adoption.
- 23 3. In addition to any other action or proceeding provided by law, the relationship of parent
24 and child may be terminated by a court order issued in connection with an adoption

1 action under this chapter on any ground provided by other law for termination of the
2 relationship, and in any event on the ground:

3 a. That the minor has been abandoned by the parent;

4 b. That by reason of the misconduct, faults, or habits of the parent or the repeated
5 and continuous neglect or refusal of the parent, the minor is without proper
6 parental care and control, or subsistence, education, or other care or control
7 necessary for the minor's physical, mental, or emotional health or morals, or, by
8 reason of physical or mental incapacity the parent is unable to provide necessary
9 parental care for the minor, and the court finds that the conditions and causes of
10 the behavior, neglect, or incapacity are irremediable or will not be remedied by
11 the parent, and that by reason thereof the minor is suffering or probably will suffer
12 serious physical, mental, moral, or emotional harm; or

13 c. That in the case of a parent not having custody of a minor, the noncustodial
14 parent's consent is being unreasonably withheld contrary to the best interest of
15 the minor; or

16 d. That the parent for a period of at least five years significantly has failed without
17 justifiable cause to:

18 (1) Have physical or verbal communication or contact with the child; and

19 (2) Provide for the care and support of the child as required by law or judicial
20 decree.

21 4. For the purpose of proceeding under this chapter, a decree terminating all rights of a
22 parent with reference to a child or the relationship of parent and child issued by a court
23 of competent jurisdiction in this or any other state dispenses with the consent to
24 adoption proceedings of a parent whose rights or parent and child relationship are
25 terminated by the decree and with any required notice of an adoption action other than
26 as provided in this section.

27 5. A petition for termination of the relationship of parent and child made in connection
28 with an adoption action may be made by:

29 a. Either parent if termination of the relationship is sought with respect to the other
30 parent;

- 1 b. The petitioner for adoption, the guardian of the individual, the legal custodian of
2 the child, or the individual standing in parental relationship to the child;
- 3 c. An agency; or
- 4 d. Any other individual having a legitimate interest in the matter.
- 5 6. a. If the identity of the father or mother is known and an address for service is also
6 known, or the address can be ascertained with reasonable diligence, the father or
7 mother must be personally served the petition and notice for termination of
8 parental rights in compliance with the North Dakota Rules of Civil Procedure.
- 9 b. If the identity of the father or mother is unknown but the father's or mother's
10 location is known, and the identity of the father or mother cannot be ascertained
11 with reasonable diligence, notice must be given by publication of the petition at
12 least once a week for three consecutive weeks in the official newspaper of the
13 county in which the unknown father or mother is located.
- 14 c. If the identity and location of the father or mother are unknown and the location
15 and identity of the father or mother cannot be ascertained with reasonable
16 diligence, notice must be given by publication of the petition at least once a week
17 for three consecutive weeks in the official newspaper of the county in which
18 conception occurred.
- 19 d. The last publication as required under this subsection must be at least ten days
20 before the time set for hearing. Proof of publication of the notice must be made at
21 or before the hearing and filed in the proceeding.
- 22 7. Before the petition is heard, notice of the hearing on the petition and opportunity to be
23 heard must be given the parents of the child, the guardian of the child, the person
24 having legal custody of the child, any proposed custodian of the child, and, in the
25 discretion of the court, a person representing any party.
- 26 8. Notwithstanding the provisions of subsection 2, a relinquishment of parental rights with
27 respect to a child, executed under this section, may be withdrawn by the parent, and a
28 decree of a court terminating the parent and child relationship under this section may
29 be vacated by the court upon motion of the parent, if the child is not on placement for
30 adoption and the person having custody of the child consents in writing to the
31 withdrawal or vacation of the decree.