

HOUSE BILL NO. 1049

Introduced by

Judiciary Committee

(At the request of the Supreme Court)

1 A BILL for an Act to create and enact a new section to chapter 30.1-28 of the North Dakota
2 Century Code, relating to restrictions on visitation, communication, and interaction with the
3 ward.

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

5 **SECTION 1.** A new section to chapter 30.1-28 of the North Dakota Century Code is created
6 and enacted as follows:

7 **Restrictions on visitation, communication, and interaction with the ward - Removal of**
8 **restriction.**

9 1. If it is in the best interests of the ward, a guardian may restrict visitation,
10 communication, and interaction with the ward.

11 2. A family member, friend, the ward, clergy member, attorney, agency charged with the
12 protection of vulnerable adults, or other interested person may move the court to
13 remove the restriction on visitation, communication, and interaction with the ward.

14 3. The motion must state:

15 a. The movant's relationship to the ward;

16 b. Whether the guardian is unreasonably or arbitrarily denying or restricting
17 visitation, communication, or interaction between the restricted party and the
18 ward; and

19 c. The facts supporting the movant's allegation that the guardian is unreasonably or
20 arbitrarily denying or restricting visitation, communication, or interaction between
21 the restricted party and the ward.

22 4. The movant shall serve the motion on the guardian, the ward, the ward's spouse, and
23 any other interested person.

- 1 5. The court shall set a hearing on the motion and provide notice of the hearing to the
- 2 movant, the guardian, the ward, the ward's spouse, and any other interested person.
- 3 6. The court shall take into consideration the ward's wishes, and may conduct an
- 4 in-camera interview with the ward and appoint a visitor or guardian ad litem.
- 5 7. If the court grants the motion for visitation, communication, or interaction, the court
- 6 may impose conditions on visitation, communication, and interaction between the
- 7 restricted party and the ward.
- 8 8. If the visitation, communication, or interaction is not in the best interests of the ward,
- 9 the court may prohibit visitation, communication, or interaction between the restricted
- 10 party and the ward.
- 11 9. The court may award reasonable costs and attorney's fees to the prevailing party if the
- 12 court finds:
- 13 a. The guardian unreasonably, arbitrarily, or in bad faith denied or restricted
- 14 visitation, communication, or interaction between the restricted party and the
- 15 ward; or
- 16 b. The motion was frivolous.
- 17 10. Costs and attorney's fees awarded against the guardian may not be paid from the
- 18 ward's estate.
- 19 11. If a movant for visitation, communication, and interaction states the ward's health is in
- 20 significant decline or the ward's death may be imminent, the court shall conduct an
- 21 emergency hearing on the motion as soon as practicable but not later than fourteen
- 22 days after the date the motion is filed or at a later date upon a showing of good cause.