



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 time plan 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 171 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.