

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.~~ for an Act to amend and reenact subsection 1 of section
3 14-15-01 of the North Dakota Century Code, relating to termination of parental rights.

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

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

7 ~~— **14-15-19. Relinquishment and termination of parent and child relationship.**~~

8 ~~— 1. The rights of a parent with reference to a child, including parental right to control the~~
9 ~~child or to withhold consent to an adoption, may be relinquished and the relationship of~~
10 ~~parent and child terminated in or before an adoption action as provided in this section.~~

11 ~~— 2. All rights of a parent with reference to a child, including the right to receive notice of a~~
12 ~~hearing on a petition for adoption, may be relinquished and the relationship of parent~~
13 ~~and child terminated by a writing, signed by the parent, regardless of the age of the~~
14 ~~parent:~~

15 ~~— a. In the presence of a representative of an agency taking custody of the child,~~
16 ~~whether the agency is within or outside of the state or in the presence and with~~
17 ~~the approval of a judge of a court of record within or outside this state in which~~
18 ~~the minor was present or in which the parent resided at the time it was signed; or~~

19 ~~— b. In any other situation if the petitioner has had custody of the minor for two years,~~
20 ~~but only if notice of the adoption proceeding has been given to the parent and the~~
21 ~~court finds, after considering the circumstances of the relinquishment and the~~
22 ~~long continued custody by the petitioner, that the best interest of the child~~
23 ~~requires the granting of the adoption.~~

1 ~~3. In addition to any other action or proceeding provided by law, the relationship of parent~~
2 ~~and child may be terminated by a court order issued in connection with an adoption~~
3 ~~action under this chapter on any ground provided by other law for termination of the~~
4 ~~relationship, and in any event on the ground:~~

5 ~~a. That the minor has been abandoned by the parent;~~

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

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

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

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

21 ~~(2) Provide for the care and support of the child as required by law or judicial~~
22 ~~decree.~~

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

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

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

~~for adoption and the person having custody of the child consents in writing to the
withdrawal or vacation of the decree.~~

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

1. "Abandon" means:

a. As to a parent of a child not in the custody of that parent, failure by the noncustodial parent significantly without justifiable cause to:

- (1) Communicate through physical or verbal communication or contact with the child; or
- (2) Provide for the care and support of the child as required by law.

b. As to a parent of a child in that parent's custody:

- (1) To leave the child for an indefinite period without making firm and agreed plans, with the child's immediate caregiver, for the parent's resumption of physical custody;
- (2) Following the child's birth or treatment at a hospital, to fail to arrange for the child's discharge within ten days after the child no longer requires hospital care; or
- (3) To willfully fail to furnish food, shelter, clothing, or medical attention reasonably sufficient to meet the child's needs.