



Leading Women for Shared Parenting

An International Child Advocacy Organization

North Dakota Child Custody Summary



August 2017

Founding Principle of US Judicial System

US Supreme Court Building



North Dakota Constitution

Article I, Section 22 -- All laws of a general nature shall have a uniform operation.

Article I, Section 21 -- **No special privileges** or immunities shall ever be granted which may not be altered, revoked or repealed by the legislative assembly; nor shall any citizen or class of citizens be granted privileges or immunities which upon the same terms shall not be granted to all citizens.

North Dakota Supreme Court

“There are, however, some classifications which the courts will scrutinize more carefully, and in most cases will be found to violate the constitution. An example of such a classification is one in which the government treats individuals differently because of their gender. One such situation involve the transfer of female prisoners out of state but the incarceration of male prisoners in the state.” Classifications based on sex are “inherently suspect.”
 State ex rel Olson v. Maxwell, 259 NW2d 621 (ND 1977)

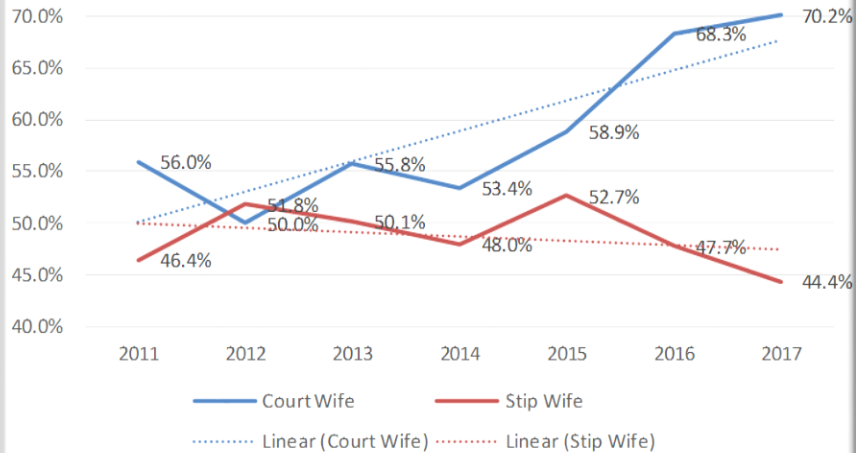
Raw Data Obtained From Court Administrator

| | A | B | C | D | E | F | G |
|----|--------------|------------------|----------|--------------|---------|-------------|-------------|
| 1 | Location | CaseNumber | CaseType | JudgmentDate | Custody | DecidedBy | #ofChildren |
| 2 | Adams County | 01-04-C-00033 | Divorce | 7/25/2011 | | | 2 |
| 3 | Adams County | 01-10-C-00065 | Divorce | 9/26/2011 | | | 2 |
| 4 | Adams County | 01-10-C-00072 | Divorce | 5/17/2011 | Joint | Stipulation | 2 |
| 5 | Adams County | 01-10-C-00090 | Divorce | 1/20/2011 | Wife | Stipulation | 1 |
| 6 | Adams County | 01-11-C-00004 | Divorce | 1/24/2011 | Wife | Stipulation | 1 |
| 7 | Adams County | 01-2011-DM-00022 | Divorce | 3/12/2012 | | | 0 |
| 8 | Adams County | 01-2012-DM-00001 | Divorce | 2/22/2012 | Joint | Stipulation | 3 |
| 9 | Adams County | 01-2012-DM-00004 | Divorce | 3/29/2012 | | | 0 |
| 10 | Adams County | 01-2012-DM-00005 | Divorce | 7/23/2012 | | | |
| 11 | Adams County | 01-2012-DM-00008 | Divorce | 5/29/2013 | | | |
| 12 | Adams County | 01-2012-DM-00010 | Divorce | 9/25/2012 | | | |
| 13 | Adams County | 01-2012-DM-00013 | Divorce | 9/7/2012 | | | |
| 14 | Adams County | 01-2012-DM-00021 | Divorce | 5/13/2013 | Wife | Stipulation | 2 |
| 15 | Adams County | 01-2013-DM-00004 | Divorce | 4/3/2013 | | | |
| 16 | Adams County | 01-2013-DM-00012 | Divorce | 8/15/2014 | Wife | Stipulation | 1 |
| 17 | Adams County | 01-2013-DM-00013 | Divorce | 12/27/2013 | Wife | Stipulation | 3 |
| 18 | Adams County | 01-2014-DM-00001 | Divorce | 5/6/2014 | Joint | Stipulation | 3 |
| 19 | Adams County | 01-2014-DM-00002 | Divorce | 2/27/2014 | | | |
| 20 | Adams County | 01-2014-DM-00004 | Divorce | 5/1/2014 | | | 0 |
| 21 | Adams County | 01-2014-DM-00006 | Divorce | 5/19/2014 | | | 0 |
| 22 | Adams County | 01-2014-DM-00007 | Divorce | 6/10/2014 | | | 0 |
| 23 | Adams County | 01-2014-DM-00013 | Divorce | 7/1/2015 | | | 0 |
| 24 | Adams County | 01-2014-DM-00016 | Divorce | 5/27/2015 | Joint | Stipulation | 2 |
| 25 | Adams County | 01-2014-DM-00018 | Divorce | 11/6/2014 | Joint | Stipulation | 2 |
| 26 | Adams County | 01-2015-DM-00004 | Divorce | 2/25/2015 | | | 0 |

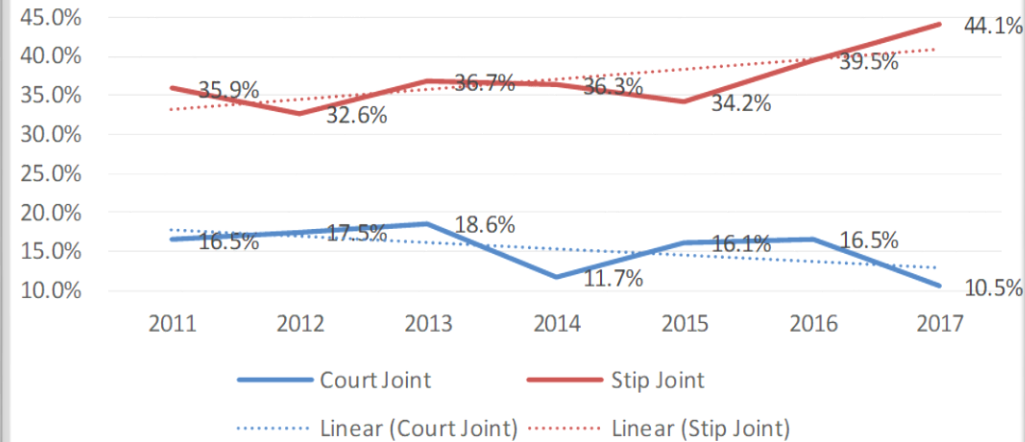
Sorting the Raw Data, Results Were Obtained for Both Specific Counties and Judicial Districts in North Dakota

Significant Variations by Who's Deciding Case

Wife Custody by Determinant
North Dakota - Statewide



Joint Custody Awards by Determinant
North Dakota - Statewide

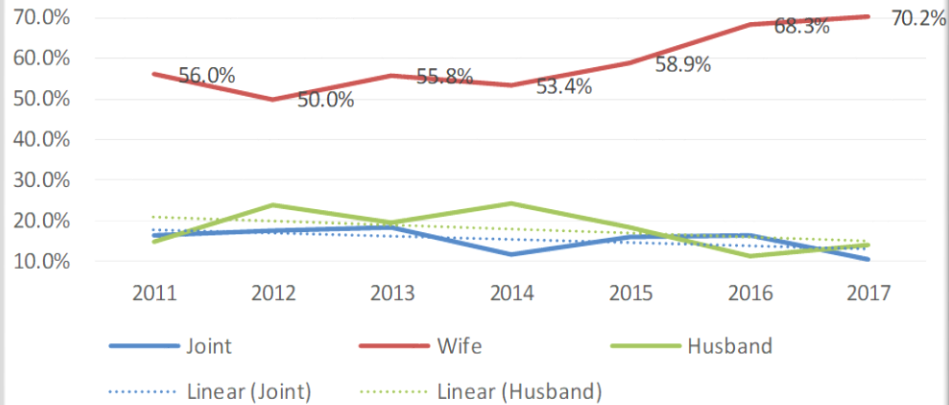


- Over 70% of Court determined cases award wife primary custody
- Only 44% of cases determined by stipulation award wife primary custody
- Trend of Court awards to mothers has increased substantially over the period examined
- Over 44% of cases determined by stipulation award shared parenting
- Only 10% of cases determined by courts award shared parenting
- Trend towards shared parenting in stipulated cases is increasing (especially since 2015)
- Trend towards shared parenting in court determined cases is decreasing

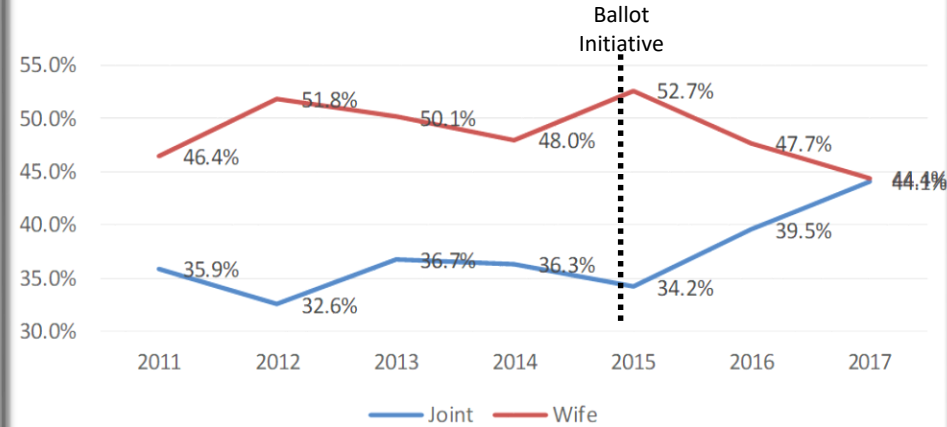
If Mothers Don't Agree to Shared Parenting, Children Aren't Likely to Receive Substantial Time With Each of Their Parents

Court Cases Diverge, Stipulated Cases Converge

Court Determined Custody Award Outcomes
North Dakota Statewide



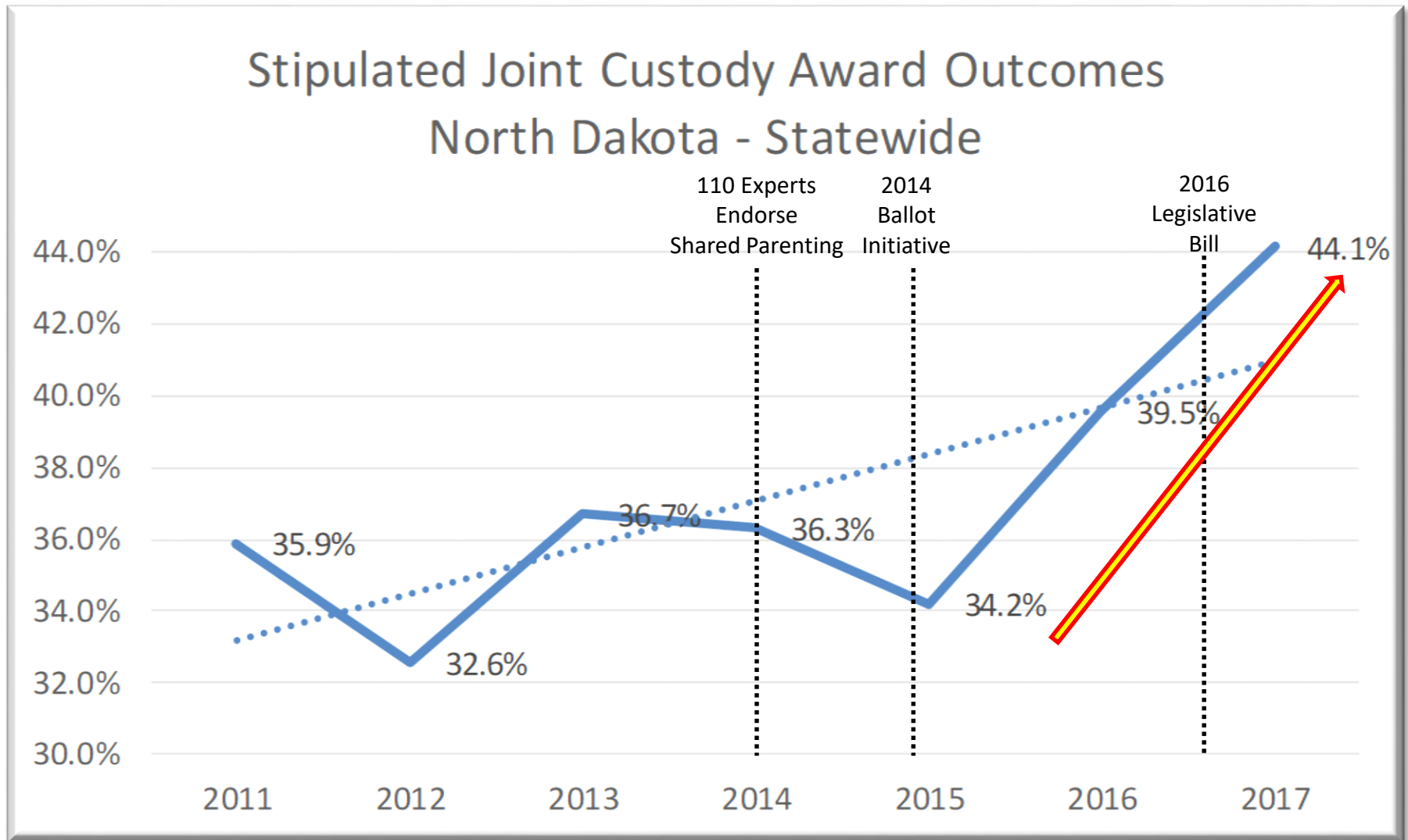
Stipulated Custody Award Outcomes
North Dakota - Statewide



- Court now decides in for mother in 70% of cases
- Mother trend increasing over period examined
- Courts ordering shared parenting about as often as father custody; in <15% of cases
- Trends associated with courts ordering both shared parenting & father custody are falling
- Stipulation trend to shared parenting since Nov 2014 initiative
- Shared parenting now stipulated with same frequency as mother custody
- Increase in shared parenting stipulations comes with reciprocal decline in primary mother custody

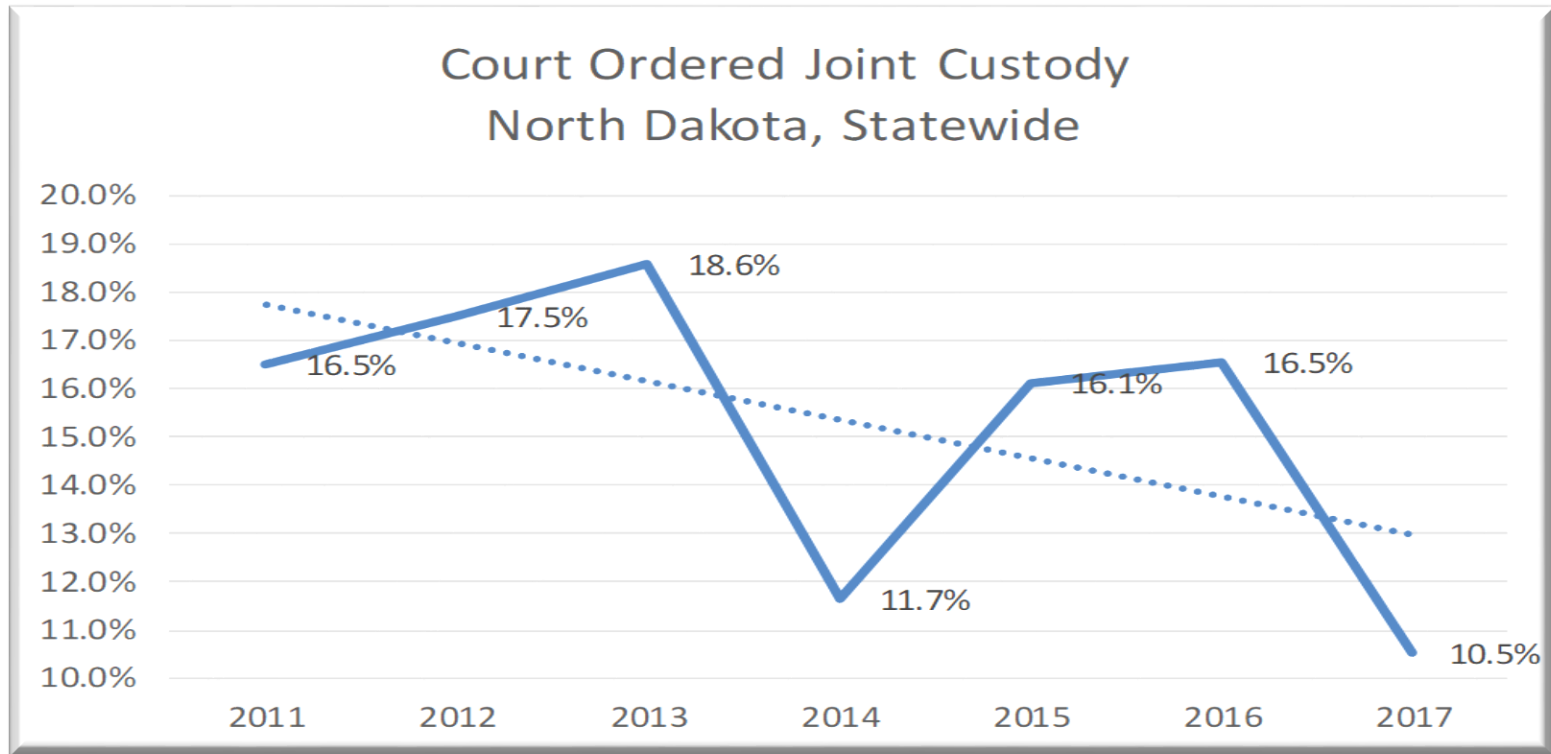
Recent Momentum Toward Shared Parenting Isn't Driven by North Dakota Courts.
Mothers have a 5 to 1 Advantage (70% vs 14%) Over Fathers in Cases Decided
 by North Dakota Courts

Impact of Ballot Initiative & Legislative Bill



Stipulated Cases Ending in Joint Custody Jump 29 Percent to Highest Level of Period Examined. Were Stipulations Impacted by Ballot Initiative & Legislative Bill?

Yet Court Ordered Joint Custody is Falling



“[McLean said](#) the proposal came out of discussions with experts at the task force, which was created after the 2014 election. He said many **judges don't understand that shared parenting is an alternative and resort to standard arrangements**, like every other weekend.”

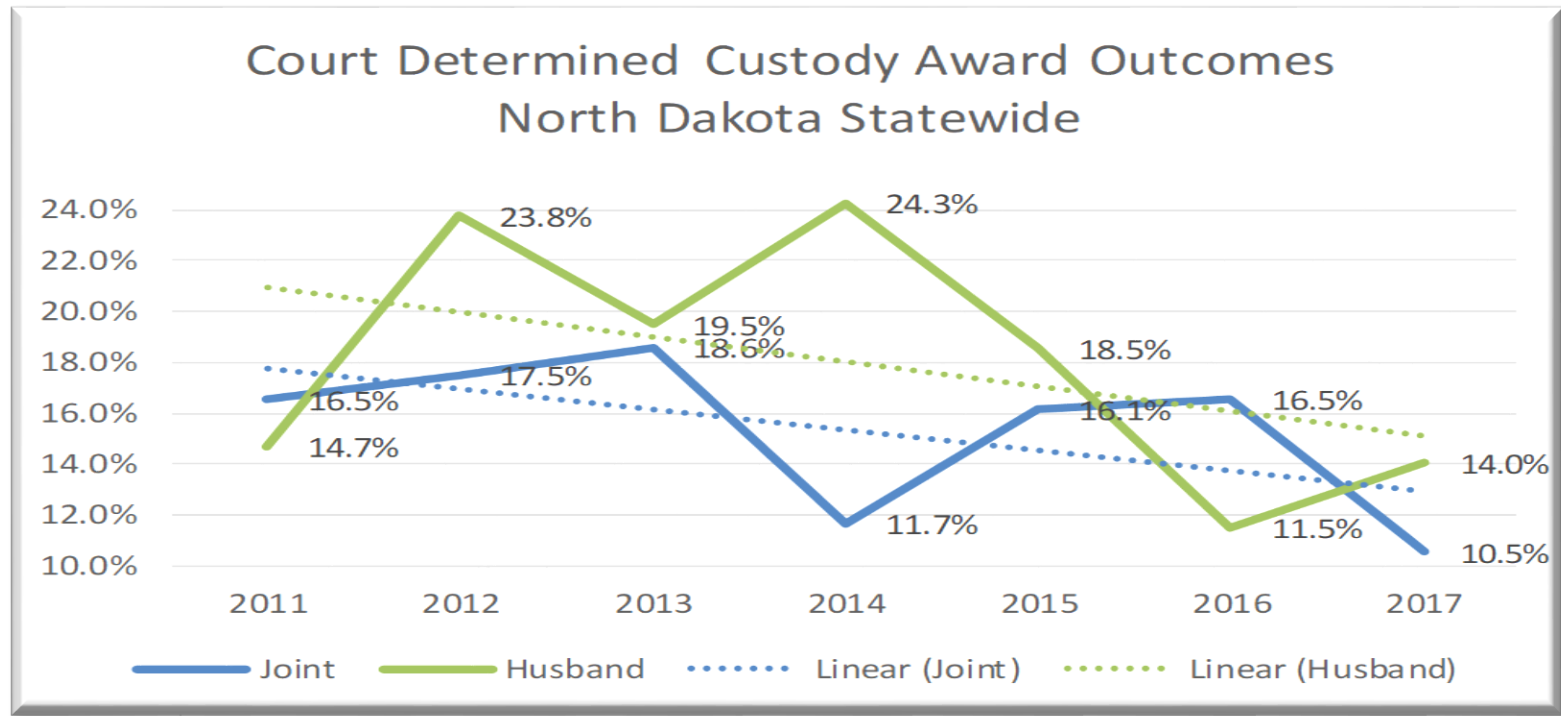
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Shared Parenting: The Last Resort of ND Courts

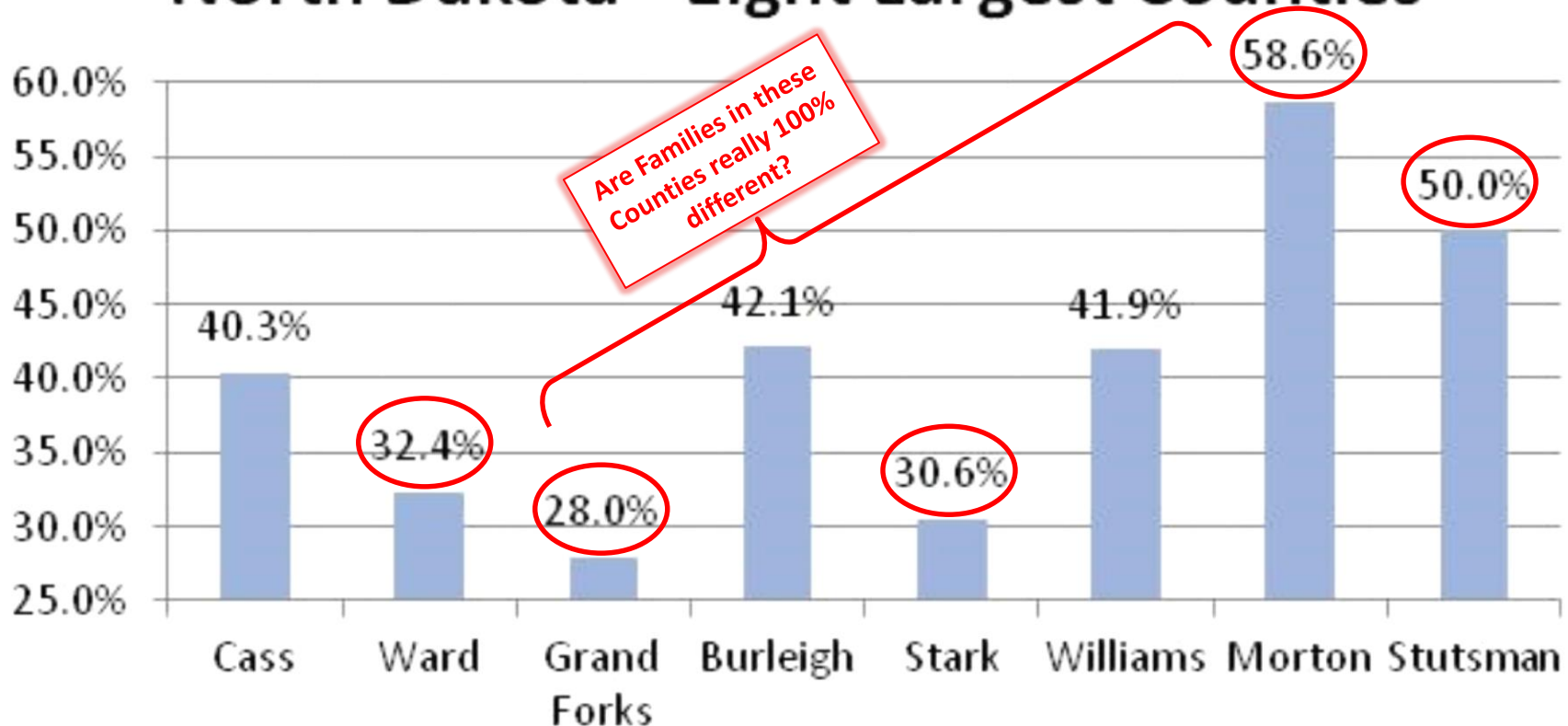


- In five of seven years, North Dakota Courts actually awarded more primary father custody than shared parenting
- Trends for both shared parenting & primary father custody are falling (primary mother is rising)
- Both primary mother custody & primary father custody are awarded more often than shared parenting by North Dakota District Court Judges

North Dakota Courts Seemingly Promote An Arena Pitting Parents Against Each Other (Parent **“VERSUS”** Parent) in a Contest For Their Children

Glaring Variances Exist Between Counties

2017 Joint Custody Determinations North Dakota - Eight Largest Counties



How Often Children Receive Shared Parenting Varies by Over 100% Between Counties. Potential Causes Include Judges, Attorneys, Investigators and GAL's

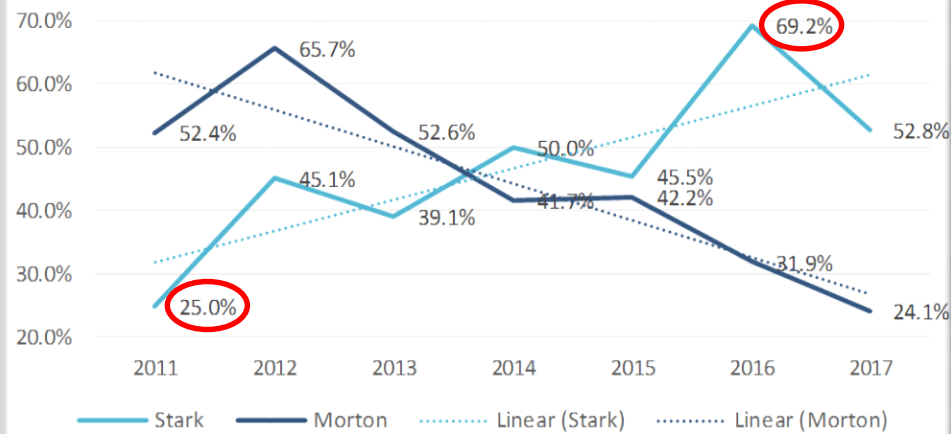
2010 Census: Race, Income, Family & Education

| | (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) |
|--|-----------|-----------|-----------|-----------|-------------|-----------|-----------|-----------|
| | Stark | Morton | Cass | Ward | Grand Forks | Burleigh | Williams | Stutsman |
| (1) Residents | # 24,199 | # 25,303 | # 149,778 | # 61,675 | # 66,861 | # 81,308 | # 22,398 | # 8,391 |
| RACE | | | | | | | | |
| (2) White | 95.2% | 95.8% | 91.7% | 90.3% | 90.3% | 93.0% | 92.1% | 95.6% |
| (3) African American | 0.8% | 0.2% | 2.3% | 2.5% | 2.0% | 0.6% | 0.3% | 0.7% |
| (4) Native American | 1.0% | 2.4% | 1.2% | 2.6% | 2.5% | 4.2% | 4.0% | 1.4% |
| (5) Asian | 1.2% | 0.2% | 2.4% | 0.9% | 1.9% | 0.5% | 0.4% | 0.5% |
| (6) Other | 1.8% | 1.4% | 2.4% | 3.7% | 3.3% | 1.7% | 3.2% | 1.8% |
| FAMILY | | | | | | | | |
| (7) Number of Households | # 10,085 | # 11,289 | # 63,899 | # 25,029 | # 27,417 | # 33,976 | # 9,293 | # 8,931 |
| (8) % with Children Under 18 | 27.3% | 30.9% | 27.8% | 30.6% | 26.6% | 29.0% | 28.5% | 25.6% |
| (9) % with Married Couples | 49.8% | 53.1% | 42.9% | 49.9% | 42.8% | 50.2% | 49.8% | 47.3% |
| (10) % with Female Head of Household | 7.4% | 9.3% | 8.3% | 8.4% | 9.1% | 8.7% | 7.7% | 7.5% |
| (11) Average family size | # 2.9 | # 2.9 | # 2.9 | # 2.9 | # 2.9 | # 2.9 | # 2.9 | # 2.8 |
| (12) Median Age | 38.3 Yrs | 39.3 Yrs | 31.5 Yrs | 32.7 Yrs | 29.7 Yrs | 37.3 Yrs | 39.0 Yrs | 42.0 Yrs |
| INCOME | | | | | | | | |
| (13) Median Income | \$ 49,536 | \$ 50,591 | \$ 47,600 | \$ 48,793 | \$ 44,242 | \$ 53,465 | \$ 55,396 | \$ 44,620 |
| (14) Family Median Income | \$ 62,560 | \$ 62,713 | \$ 68,858 | \$ 60,361 | \$ 65,804 | \$ 71,103 | \$ 67,875 | \$ 60,171 |
| (15) Per Capita Income | \$ 25,282 | \$ 25,303 | \$ 28,184 | \$ 25,326 | \$ 24,276 | \$ 28,874 | \$ 29,153 | \$ 23,307 |
| EDUCATION | | | | | | | | |
| (16) High School Graduate or Higher | 90.0% | 91.6% | 94.9% | 93.0% | 92.8% | 93.5% | 90.7% | 89.0% |
| (17) Bachelors Degree or Higher | 24.3% | 25.9% | 36.8% | 25.8% | 33.0% | 34.0% | 21.0% | 23.6% |
| MEMO: | | | | | | | | |
| (18) 2017 Joint Custody Determinations | 30.6% | 58.6% | 40.3% | 32.4% | 28.0% | 42.1% | 41.9% | 50.0% |
| (19) Avg Annual Number of Cases | # 56 | # 42 | # 232 | # 129 | # 91 | # 158 | # 32 | # 29 |

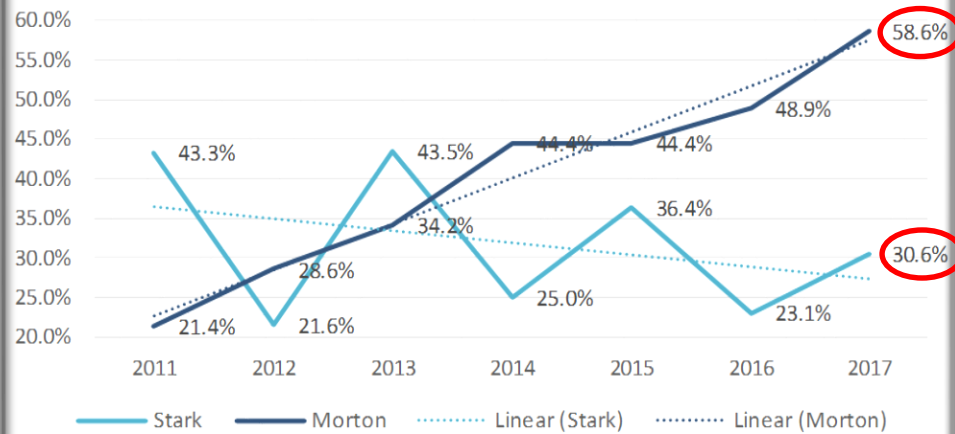
North Dakota has **a Largely Homogenous Population**, Yet Shared Parenting Varies Significantly by County (109% between Grand Forks & Morton)

Populations Same, Yet Trends Very Different

Wife Custody by County
Stark vs. Morton County, North Dakota



Joint Custody by County
Stark vs Morton County, North Dakota

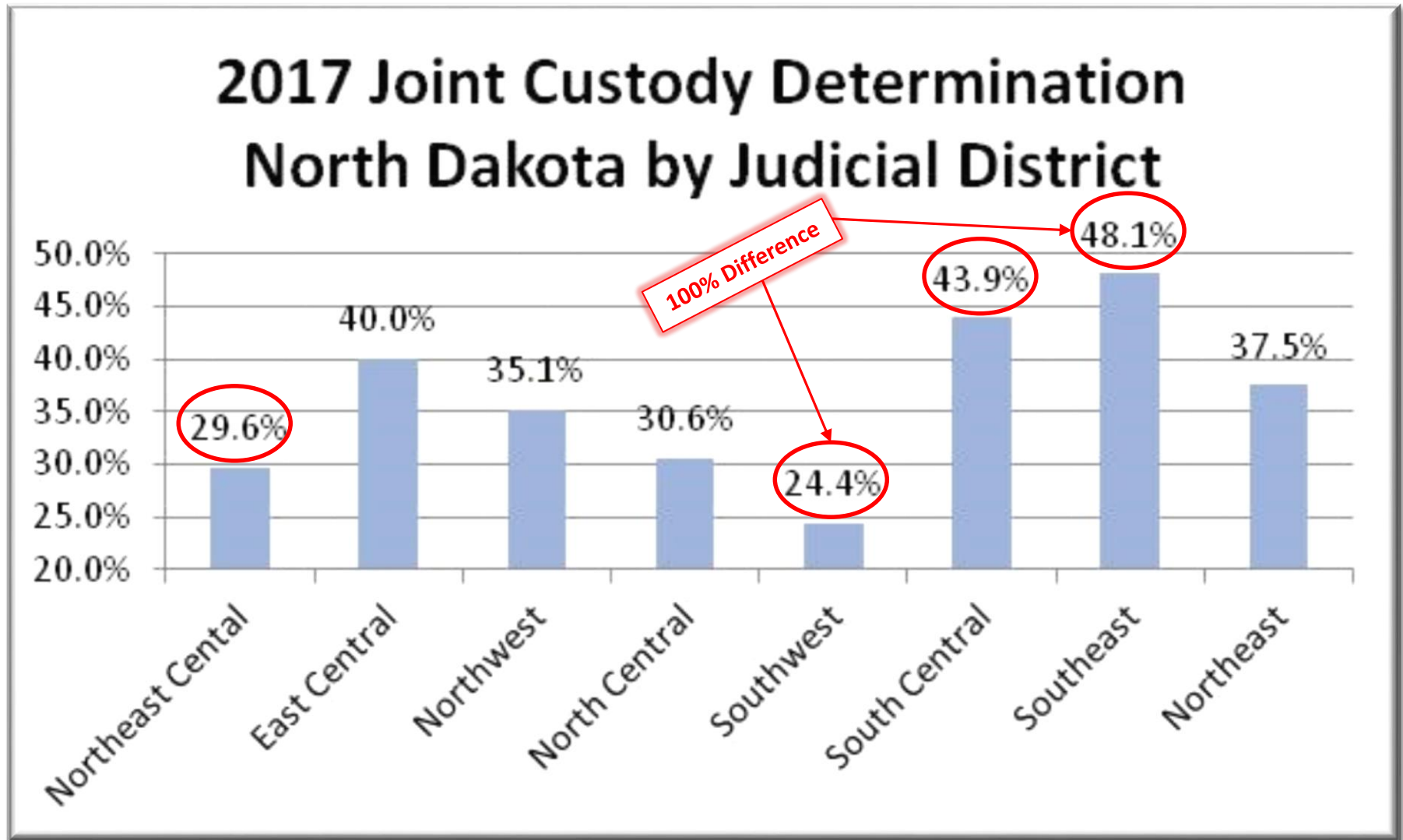


- Wife primary custody more than doubled in Stark County during the period
- Wife primary custody more than halved in Morton County during the period
- Wife primary custody in Stark County now more than double that of Morton County
- What's changed in both these Counties to cause such diverging trends?

- Incidence of Shared Parenting in Morton County almost tripled during the period
- Stark County trend is away from shared parenting
- Joint custody in Morton County now almost double that of Stark County
- Majority of Senator Armstrong's constituents receive half the chance at shared parenting as their neighbors in Morton County

Children in Stark County are Half as Likely to Have Meaningful With Both Parents Than Their Neighbors in Morton County. **Both are in Senate District 36.**

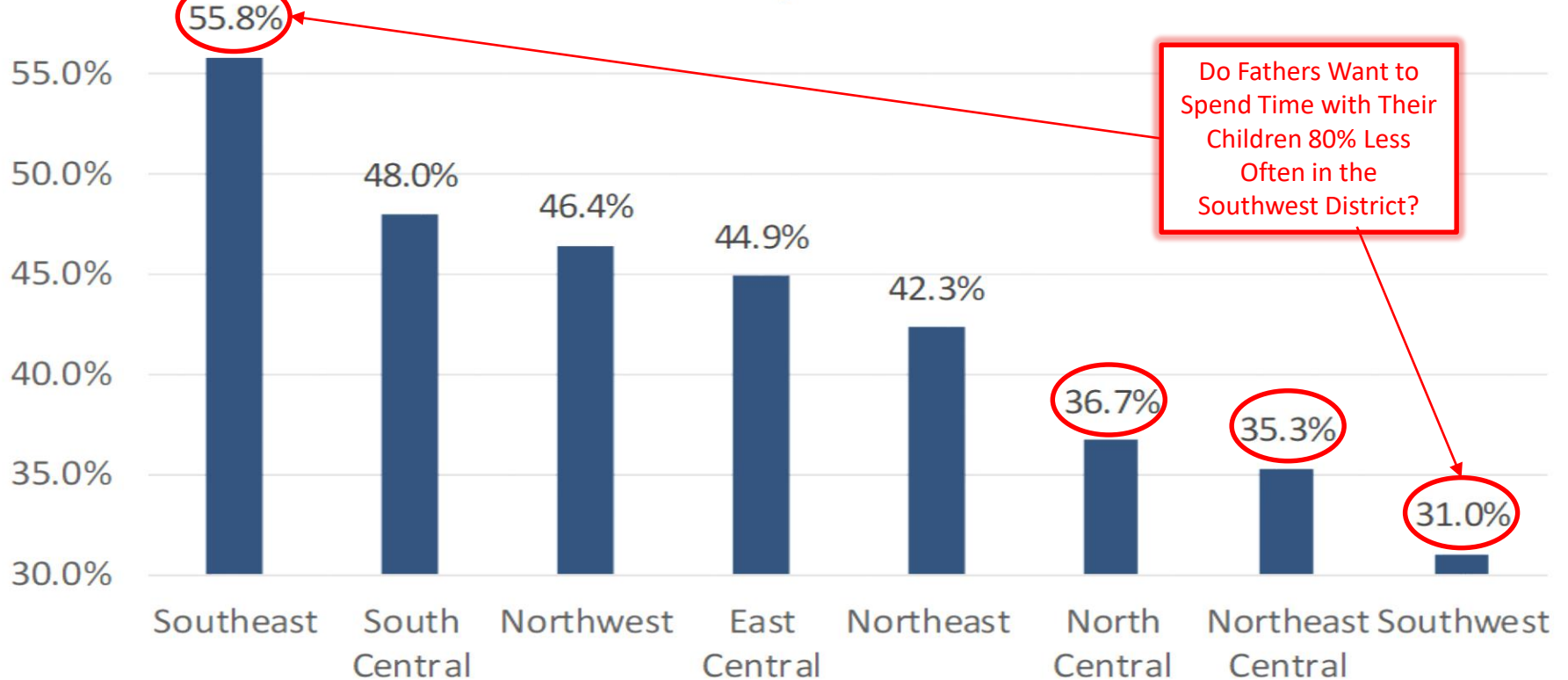
Regional Joint Custody Varies Significantly



Are Families in These Districts Really So Different as to Justify Such Varying Results? Or Are Other Influences Causing the Wide Variance in Results?

2017 Stipulated Joint Custody Variances

2017 Stipulated Joint Custody
North Dakota by Judicial District



A Significant Divergence Exists in How Cases are “Settled” Amongst a Homogenous Population & a Supposedly Uniform System. Why?

Advisors / Influencers - Overwhelmingly Female

| District | Parenting Investigators | | Guardian Ad Litem | | Parent Coordinators | |
|-----------------------|-------------------------|----------|-------------------|----------|---------------------|----------|
| | Number | % Female | Number | % Female | Number | % Female |
| (1) Southeast | # 37 | 83.8% | # 20 | 80.0% | # 5 | 100.0% |
| (2) South Central | 34 | 79.4% | 17 | 70.6% | 9 | 100.0% |
| (3) East Central | 46 | 84.8% | 26 | 76.9% | 8 | 100.0% |
| (4) Northeast | 38 | 84.2% | 20 | 75.0% | 5 | 100.0% |
| (5) Northwest | 33 | 78.8% | 16 | 68.8% | 6 | 100.0% |
| (6) North Central | 34 | 79.4% | 17 | 70.6% | 6 | 100.0% |
| (7) Northeast Central | 42 | 83.3% | 24 | 75.0% | 7 | 100.0% |
| (8) Southwest | 31 | 80.6% | 17 | 70.6% | 5 | 100.0% |

- [Parent Investigator](#) – Associates Degree, five years experience or a forty hour training program. Eighteen hours specialized training (unless forty hour program completed), Eighteen hours training every three years (Court Administrator must provide regular training programs).
- [Guardian ad Litem](#) – Must be a licensed attorney, Eighteen hours of training & eighteen hours of training every three years.
- [Parent Coordinator](#) - Associates Degree & two years experience or a Bachelors Degree. Twelve hours training, 40 hours domestic relations training, eighteen hours training every three years (Court Administrator must provide regular training programs).

Of Those Listed on the State Court Roster; Investigators are [82% Female](#), GAL's are [74% Female](#) & Coordinators are [100% Female](#)

Baselining North Dakota Family Law

To the Best of Our Knowledge, **No Similar Study Has Been Completed** by the:

- State Bar Association of North Dakota (SBAND),
- Family Law Section of SBAND,
- North Dakota Supreme Court,
- Child Support Office,
- Family Law “Task Force”,
- North Dakota Legislature, or
- North Dakota Media

A Management Study Proposed in [HB1392](#), Was Rejected by the Senate

SECTION 3. PARENTING RIGHTS AND RESPONSIBILITIES - LEGISLATIVE

MANAGEMENT STUDY. During the 2017-18 interim, the legislative management shall consider studying, in consultation with the family law task force of the family law section of the state bar association of North Dakota, parental rights and responsibility issues, including shared parenting, joint decisionmaking responsibility for the child, the best interest factors used by the court in making parental rights and responsibilities decisions, and the modification and enforcement of parental rights and responsibilities orders. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-sixth legislative assembly.

This Analysis Should Serve the North Dakota Legislature as **a Baseline of the Results of Current North Dakota Family Laws from Which Future Progress Can be Measured**

Conclusions

- North Dakota counties are quite uniform over race, family structure, income and education, yet, significant variances in custody determinations exist between counties, as well as districts, which runs contrary to the state constitutional language
- It's highly unlikely similar cases will generate similar results statewide
- Most parent investigators & GAL's practice in multiple counties. They are unlikely causes for the unexplained variability in custody awards
- Research on shared parenting is reaching / influencing some judges but not others, illustrated by the Court determined award trend
- Sharing research in popular media may be impacting mothers / PI's / GAL's, illustrated by the stipulated award trend
- Shared parenting legislation remains a critical need for North Dakota's children

[Download the full analysis](#) from our website

[For inquiries](#), write to info@lw4sp.org



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