



Testimony Prepared for the House Education Committee

SB 2244 – Relating to parental involvement in education and parental interest in a child's upbringing

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Chair Heinert, and Members of the House Education Committee, my name is Lynn Flieth. I'm the Director of RSR Human Service Zone, which includes the counties of Ransom, Sargent, and Richland. I'm also a member of the North Dakota Human Service Zone Director Association, and I'm here to testify in opposition to SB 2244. My understanding is that there was discussion in the Senate committee hearings questioning whether Human Service Zones were consulted or in support of this bill. To clarify, Zones were not consulted and are not in support of this bill.

When the Juvenile Court orders that custody of a child be transferred from a parent to the foster care system, human service zone directors are tasked with the legal custody of that child. There are times when zone directors are responsible for making many of the decisions referenced in this proposed bill. As a result, this bill is likely to impede the decision-making authority and responsibilities of agencies that are fulfilling their obligations as legal custodians. The primary focus of my testimony today will highlight areas of impact for human service zones when completing a Child Protection Assessment, or acting in the legally-mandated and court-ordered capacity of legal custodian.

It's important to understand that human service agencies are compelled by administrative rules, policies, ethics, best practices, and federal and state law, to facilitate parent-child engagement and involve parents in decisions on their child's behalf. Frequent communication with the child's case manager, and routine participation in Child and Family Team Meetings, all lend opportunities for parents to aid in decision-making for their child, even while the child is in public custody. This includes the child's education needs, which fall under the responsibility of the zone director. Parental involvement in these matters is encouraged by the custodial agency and generally welcomed by the school.

While not intended to supersede chapters of our Century Code that pertain to children in need of protection or the legal responsibilities of human service zones, SB 2244 is likely to create confusion within

the law about the responsibilities of various political subdivision employees. It is also likely to endanger children in situations where abuse is occurring.

Senate Bill 2244 would require that “Parental rights are reserved exclusively to a parent of a child without obstruction by or interference from the state or a political subdivision or other public institutions, including the right to [...] be promptly notified by an authorized representative of the state or political subdivision or other public institution if an employee of the entity or institution suspects abuse, neglect or other criminal offense has been committed against the child unless the employee has reasonable cause to believe a parent of the child committed the offense” (Page 2, Lines 3-5 and Lines 27-31).

The role of Child Protective Services (CPS) is to assess allegations of suspected abuse or neglect by a parent or caregiver. This process includes notifying parents of suspected abuse or neglect, so it would be inappropriate for a school (a “political subdivision”) to perform that notification.

There are a variety of circumstances when a parent may not be “promptly” notified of a suspected abuse or neglect report. This is true when:

- CPS does not have clarity about who is suspected of causing the abuse or neglect;
- the information may hinder a law enforcement investigation;
- or the child’s safety may be impacted by parental notification, and CPS has not had the opportunity to implement safety planning with the parent.

To that end, the Association is also concerned with the vagueness of the terms “promptly” and “reasonable cause.” Asking a mandated reporter to self-assess whether their suspicions are, or are not, sufficiently “reasonable” to warrant parental notifications is asking for the impossible.

Senate Bill 2244 also directs that a state or political subdivision employee may not “encourage” a child to withhold information from their parent that is relevant to the child’s health (Page 3, Lines 11-18). The term “encourage” is exceptionally vague and would be nearly impossible to define with any level of consistency. Again, for the reasons explained above, this will also likely impact the CPS assessment process, which is entirely relevant to a child’s safety, including physical, emotional, and mental health. In turn, this creates an extremely low threshold for a parent to assert a violation of this provision, and for legal consequences to be applied in the event of a violation (Page 3, Lines 15-18).

It’s also worth noting that inappropriately-timed parental notification creates risks for the authorized representative who makes the notification — and for other children, if the notifying “political

subdivision” is someone other than CPS and/or Law Enforcement. North Dakota Century Code 50-25.1 and CPS policy outline more functional practices for subject notification and the appropriate and timely disclosure of confidential information.

Human Service Zone Directors respectfully urge a Do Not Pass on SB 2244. Thank you for considering my testimony. I stand for questions from the committee.