

Testimony on SB2126
March 10, 2025
Gail Hagerty

Chair Klemin and Members of the House Judiciary Committee:

I'm Gail Hagerty – a former district court judge and current uniform law commissioner. I'm testifying today in support of SB 2126, the Uniform Child Abduction Prevention Act. This Act has been around a while – it was promulgated in 2006. It has been enacted in 18 states, and I've included a map showing those states in the materials accompanying my testimony.

Child abduction is one of the most frightening and heartbreaking crimes faced by parents and families. The majority of child abductions are perpetrated by family members. While there are laws to address parenting determinations and the criminal repercussions of child abductions, they provide inadequate prevention mechanisms.

This act gives the state a valuable tool for deterring both domestic and international child abductions by parents or others acting on behalf of parents.

This act anticipates the need for cooperation and communication between courts of different states. Because abduction situations are likely to involve more than one state, it is vital that courts have the ability to communicate effectively.

Section 1 includes definitions of terms used in this particular act. Those definitions apply only to this act.

Section 2 directs parties to the provisions concerning cooperation and communication between courts. Those provisions are included in the Uniform Child Custody Jurisdiction and Enforcement Act, which North Dakota has enacted.

Section 3 describes the actions to be brought in an effort to prevent abduction. It allows the court on its own motion and a party to a child-custody determination (or a party having a right to bring such an action) to request abduction prevention measures be implemented and allows prosecutors of public authorities to seek a warrant to take custody of a child if appropriate under the act.

Section 4 is the jurisdiction section – it allows the district courts to hear actions under the act.

Section 5 specifies what information a petition brought under the act is to include.

Section 6 lays out the factors to be considered to determine if there is a risk of abduction – those factors are probably what you'd expect. . . previous abduction or attempted abduction, threats to abduct a child, recent activities that may indicate a planned abduction, a history of domestic violence, stalking, or child abuse or neglect, prior refusal to follow a court order dealing with child custody.

Courts would also consider whether there is a lack of ties to the state or the United States and strong ties to another culture or state or country.

Another key issue to be considered is whether it is likely the individual against whom protective measures are taken is likely to take a child to a country that is not a party to the Hague convention on civil aspects of international child abduction; or a country that poses a risk to the child's physical or emotional health or safety; or has laws that would restrict the person seeking preventative measures from maintaining contact with the child.

The court is to consider whether the respondent is undergoing a change in immigration or citizenship status or has used misleading or false evidence to obtain travel documents.

When considering all the factors, the court must also consider evidence that the respondent believed in good faith the conduct was necessary to prevent harm to the child.

Section 7 lists the measures a court may impose to prevent abduction including travel restrictions; a prohibition against removing the child from the state or the United States without permission; restrictions on the respondent's contact with the child; a requirement to surrender the child's travel documents; and a prohibition from applying for new documents.

If there is imminent danger of abduction, a court may issue a warrant to take physical custody of the child or direct law enforcement to locate the child and obtain return of the child.

Section 8 deals with issuance of a warrant to take physical custody of a child in extraordinary circumstances and provides for speedy review of such action.

Section 9 deals with the duration of an abduction prevention order.

The remaining sections are boilerplate.

I don't know that this is an act which will be used with any frequency but having it available as a tool will serve North Dakota children and families well.

I urge you to recommend "do pass."