

### **Testimony in Opposition to SB 2260**

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**North Dakota House Human Services Committee**

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Chairman Weisz and members of the committee:

My name is Christina Sambor, I am here today on behalf of the North Dakota Human Rights Coalition, Human Rights Campaign and Youthworks in opposition to SB 2260. We echo the concerns raised by the Human Services Zones, ND United, the North Dakota Medical Association, NDSBA, and other experts in the fields of education and medicine. In addition, we would encourage this committee to consider the rights of children.

SB 2260 ignores the need to allow children to be active participants in their own lives and development. It also makes no distinction about activities that would be restricted by this law but would be developmentally appropriate for older children. For example, Section 1, subsection 3(i) of this bill requires “[c]onsent in writing before any governmental entity makes a video or voice recording of the child,” with exceptions only for court proceedings, law enforcement or forensic interviews, or surveillance. There are many examples where this subsection would lead to absurd bureaucratic burdens on schools, not to mention infringing on the rights of youth to participate in school-sanctioned activities. For example, written consent would be required of all parents of all children at a pep rally or at graduation before the pep rally or graduation could be recorded. If youth were unable to procure their parent or custodian’s consent, would the school have to exclude them from the pep rally or graduation for fear they would be recorded?

Furthermore, why would this body want to exempt parental/guardian consent before a child could be recorded for court proceedings or in a law enforcement investigation? These exceptions are bizarre in that it these are exactly the type of situations in which parental or guardian involvement is arguably very important. If a child alleges that they were the subject of abuse or harassment by a teacher or medical professional, or if a child is accused of criminal activity, wouldn’t we want the child to be entitled to the protection of their parent or guardian before statements are made that could seriously impact their lives and well-being? Since 1967 children have had the constitutional right to legal representation in juvenile court proceedings, and have the same Miranda rights protections as adults. Why does this bill assume

that children/youth need protection from recording school events but not from self-incrimination in a police investigation or where they may have been a victim?

Subsection 5(a) limits the bill's assertion of parental rights where the decision would "end life." What is this targeted at? Parents whose child has a brain injury from which they will not recover and are told that they have to make the excruciating decision as to whether or not to remove life support? A parent who finds out their 10 year old daughter has been raped and is pregnant? Who should step in and take over counseling the youth in such situations? According to the rest of this bill, government intrusion on parental rights should be restricted. It is bizarre that we would add a caveat that says that parents should have primary control over decisions concerning their children unless their life is at stake.

Subsection 6 appears to violate basic free speech rights of state employees by compelling speech in poorly defined situations, i.e. where this information is "relevant" to the health of a child. The language in this section is so broad as to render it practically meaningless or in the alternative, an impossible burden on state employees. How much information in a day does a teacher have on each student in their class that is "relevant" to the child's "emotional well-being"? If the teacher is prohibited from withholding this information, do they then have an affirmative duty to report the observed emotional, physical and mental state of each child in their class each day? If a child wants to speak to a school counselor about struggles they are having because they are gay and they fear their parents will kick them out of the house if they find out, this law appears to require the counselor to report that information to a parent. How does that help the child if they are experiencing this situation, and may in fact be kicked out of their home? Does the child not have any right to consult another caring adult in their life before making a decision that could leave them homeless? Should that counselor be subjected to a legal action as contemplated by section 7?

Section 3 of the bill contains no exceptions for child abuse or neglect, and prevents anyone from doing any kind of physical assessment or mental health assessment on a child without parental consent, unless a *physician* establishes that an emergency exists and that the action must be performed to prevent death or imminent irreparable injury, or the parent cannot be located. The goal of this section is what – to prevent a daycare provider at the YMCA from checking to see if a child is OK after falling off of playground equipment?

Without further belaboring the point, this bill is full of ambiguities, inconsistencies and broad statements that appear to be in large part unenforceable and unnecessary. This bill disregards the rights of children,

and the constitutional rights of the various other parties that are implicated by this bill. Our children, parents, teachers, doctors and state employees deserve better. Please vote do not pass on SB 2260.