

House Human Services Committee
SB 2260

Good afternoon, Chair Weisz and members of the House Human Services Committee. My name is Angela Sersha and I am an attorney and mom living in Bismarck. Thank you for the opportunity to testify regarding SB 2260 where I am respectfully requesting that this committee issues a Do Not Pass recommendation.

I have the privilege to practice health law and while reviewing this bill I noticed a number of issues that would result in unintended consequences for both healthcare providers and our schools. Specifically, the notion that a suit may be raised by essentially any individual parent who believes their fundamental rights to parent their child have been interfered with or obstructed.

North Dakota common law is clear that a parent's right to parent their child is fundamental with the further expansion in case law that those fundamental rights exist for fit parents because the government rightly has an ability to interfere in instances of abuse and neglect.¹ This bill serves to codify in the law the fundamental rights to parenting. On its face, this does not sound problematic, however, the unintended consequences are what make this legislation unduly burdensome on healthcare providers and schools.

I want to highlight a few examples. Throughout my years of counseling providers of healthcare, I have encountered parents that are wholly absent, perpetually unavailable or worse, actively use the healthcare system as an opportunity to harass an ex-partner. As a result, based on the individual facts, I've counseled on removing access to a child's chart from a parent, or on removing parents that show up but are unable to behave in a hospital setting that disrupts not only their child's care, but the entire unit of children and their parents or when children seem to have no parents or guardians and what was needed to move forward. It happens more often than one would think.

Under SB2260, these legitimate actions could be viewed as an "obstruction or interference" with the fundamental rights of parenting with a right to suit. Litigation is timely and costly. In theory, under this legislation, parents disagreeing on a course of action could each file suits against a healthcare provider if one side over the other is picked. I've seen these types of family court battles spill over into the healthcare setting; creating a cause of action under these circumstances will serve nothing other than to create another avenue for individuals who do not get along all while adding expenses to healthcare. Attempting to dismiss a matter on summary judgment is no small feat and is costly and would create waste not just to healthcare, but has the potential of clogging an already burdened court system.

As a mom, I wanted to further address the impact this law would have on schools and provide a parent's perspective. SB 2260 creates duplication and outlines unduly burdensome requirements that currently exist in other formats. To the point as to why would it be harmful if this was passed

¹ Hoff v. Berg, 1999 ND 115, ¶ 10, 595 N.W.2d 285; In the Interest of G.L., 915 N.W.2d 685, 688+, N.D.

if schools are already doing it, I would respond with why duplicate with more regulation? More laws on the same topic are rarely the answer.

The reality of my experience with the schools and parenting my children is that I have every opportunity and invitation to review curriculum, join the parent teacher organization, participate in surveys on overall direction of the district (which I just filled out last week) and volunteer. The teacher provides me a one-week look back and look ahead. I receive so many updates and announcements, it seems hard to avoid what's going on at my kid's school. And if I miss an email or announcement, every teacher I have experienced so far are open to have conversations and are responsive to inquiries. They are kind, smart and interested in their students' learning and overall success. With all of the information related to the schools that a parent could ever need already very accessible, I would recommend your child's teacher or the school's web site as a great starting point.

As with healthcare, litigation stemming from the ability to file suit could leave our school districts to defend themselves at great expense to the school, or more accurately, taxpayers. In the appropriate situations, the ability to sue a school district already exists, but the idea that a suit could be filed because an individual claims their fundamental rights as a parent have been obstructed or interfered with is a very low threshold for suit based on the draft of this law. Modification to equitable relief does not negate the fact that teachers and administrators would need to spend time defending their actions rather than focusing on what matters, our children.

Finally, I have a strong preference for local control and that is the reason we have school boards. Ultimately, if a community feels that their school board is not listening to them or addressing the education of our youth properly, we all have the option of running for the school board or just voting for someone who better reflects our community. Who better to reflect the local community needs, demands and preferences than our neighbors? What works for Bismarck may not work for Watford City and what works in Bottineau may not work for Fargo. What works in Georgia may not work in North Dakota. Any time you level up in government, that local community voice gets lost, much like the state vs the federal government. Local control and autonomy of our school boards to determine what each respective community needs must continue rather than far away think tanks that are attempting to pass cookie cutter legislation in states across America that I don't think understand North Dakota.

Based on SB2260's unintended consequences of duplicating requirements, potential for taxpayer waste, the removal of the local school district community's voice, the overall burden on schools, healthcare and parents to comply with yet another layer of regulation, I respectfully request a Do Not Pass.

Thank you. I would be happy to stand for any questions.