



Senate Judiciary Committee
Testimony on SB 2385

North Dakota Game and Fish Department
Scott Winkelman, Chief Game Warden
February 6, 2023

Madam Chair Larson and members of the Senate Judiciary Committee, my name is Scott Winkelman, Chief Game Warden for the North Dakota Game and Fish Department. I am testifying today in opposition of SB 2385.

SB 2385 would add new language to North Dakota Century Code 12.1-23-02 stating that a person is guilty of theft if the person is a public servant acting under governmental authority or color of law who knowingly seizes or confiscates private property before providing the owner of the property with due process of law. This new language would essentially prohibit licensed law enforcement officers, including district game wardens, from seizing or confiscating personal property items that are used in the commission of a crime, abandoned, or evidence of a crime while a crime is occurring or being investigated. This would result in the loss of critical evidence and complicate prosecution of crimes in North Dakota.

The seizure and confiscation of property by law enforcement is currently covered in numerous areas of the North Dakota Century Code, including chapter 20.1-10. More specifically, 20.1-10-01 currently states what property shall be seized, what property may not be seized, and that all property seized must be held subject to the order of a court of competent jurisdiction and when property is confiscated, the confiscating officer shall bring the alleged offender before a court having nominal jurisdiction for the purpose of determining jurisdiction. Current laws allow officers to collect crucial evidence during the investigation of a crime while still providing due process for the property owner. Additionally, the new language included in this bill would call into question the authority of law enforcement officers to seize private property that a District Court Judge has issued a search warrant for after a determination of probable cause.

Therefore, the Department is asking the committee to send a recommendation of do not pass for SB 2385.