

Testimony Prepared for the
Senate Judiciary Committee

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By: Kim Jacobson, Agassiz Valley Human Service Zone Director

RE: SB 2184: Relating to additional parenting time after a false allegation of harm to a child

Chair Larson, and members of the Senate Judiciary Committee, my name is Kim Jacobson. I serve as the Director for Agassiz Valley Human Service Zone, which includes the counties of Steele and Traill and President of the North Dakota Human Service Zone Directors Association. I am here today to provide testimony in opposition to Senate Bill 2184.

Human Service Zones are mandated to provide child welfare services to include child protection services (CPS), foster care, in-home case management and handling Children in Need of Services (CHINS) referrals for the state of North Dakota. As authorized agents of the Department of Health and Human Services (NDHHS), Human Service Zones perform the critical and important responsibility of assessing reports of suspected child abuse or neglect to determine whether maltreatment occurred.

Navigating the complexities of civil custody arrangements can be emotionally charging for all parties involved. At times, efforts are made by one or both parents to insert CPS into a civil matter. Balancing the rights of parents with the overall wellbeing of their children is an exceptionally challenging task. CPS's role is not to interfere with civil matters. Rather, our focus is on assessment of alleged maltreatment and determining child safety. If legal actions are necessary, Juvenile Court is utilized by the child welfare system. There are concerns that this bill provides a vehicle to attempt to insert CPS to leverage parenting time, using it as a way of

changing existing court orders for visitation and/or custody agreements versus meeting the best interests of children both emotionally, and physically.

SB 2184 lacks clarity for the court to identify the criteria for determining that “an allegation of harm to a child by one parent against another is false and not made in good faith” Current child welfare statutes already permit who can and shall report suspected child abuse and neglect. NDCC 50-25.1-03 (2) indicates that any person having reasonable cause to suspect a child is abused or neglected.... may report such circumstances. In fact, the official state form for reporting is titled “Report of Suspected Child Abuse or Neglect” (SFN 960). It is notable that definitions in existing statute and policy do not measure “harm,” in the same manner as referenced in this proposed bill. This may cause conflict between this proposed law and child welfare laws that are currently in effect.

There is existing recourse in the event of a willful false report. Current statute (NDCC 50-25.1-13) identifies a penalty for making a false report. “Any individual who willfully, as defined in section 12.1-02-02, makes a false report, or provides false information that causes a report to be made, under this chapter is guilty of a class B misdemeanor unless the false report is made to a law enforcement official, in which case the individual who causes the false report to be made is guilty of a class A misdemeanor. An individual who willfully makes a false report or willfully provides false information that causes a report to be made, under this chapter is also liable in a civil action for all damages suffered by the person reported, including exemplary damages.”

Line 16 of the bill refers to “an investigation by any person which did not result in a finding of harm, abuse, or neglect”. It is concerning that this may refer to a CPS assessment. In North Dakota, between 5-7% of child protection assessments result in a “Confirmed” finding, meaning that the child is found to meet the legal definition of an abused or neglected child. It does not mean that the unconfirmed reports are false. Rather, it implies that the information

gathered did not meet the legal definition of child abuse or neglect by a preponderance of evidence. When a CPS report is confirmed, safety planning is completed to ensure child safety. Parents, family, kin, and service providers may serve as safety resources for children as a protective measure. The goal of CPS is to engage families to work together for the best interest of the child and to build healthier families. Part of this is educating parents on healthy ways to manage conflict and to avoid placing children in the middle of adult issues.

The North Dakota Human Service Zone Director Association is concerned about how this bill may have adverse impact. There may be unintended consequences that negatively impact child safety. Of particular concern is situations of domestic violence. Due to the nature of power and control in domestic violence relationships, there is potential that a parent may avoid reporting suspected child abuse or neglect out of fear of retaliation by the other parent and losing parenting time as proposed by this bill. Possibilities for misuse or misapplication of this law by someone who is reported as the subject of suspected abuse or neglect provide additional opportunities for perpetrators of domestic violence to exert threats, coercion, and control over their victims. Other potential unintended consequences include fiscal impact to families if a parent is suddenly faced with court hearings because the other parent assumes the reporter's identity. Family finances can be severely impacted if court action is filed by an angry party. Also of concern is anonymity for reporters. The law provides confidentiality for people who report, unless compelled by the court to be revealed. This could cause significant ripple effects impacting the court system's response for scheduling and due process.

Provided the existing code along with the potential adverse impacts, I urge a "do not pass" on SB 2184. Thank you for your consideration of my testimony. I stand for any questions from the committee.