

March 9, 2025

SB 2186

Chairman Klemm
House Judiciary

From: Rozanna C Larson
Ward County State's Attorney

Chairperson Klemm and Members of the Committee,

This is to express my opposition to SB 2186. I am the State's Attorney for Ward County. This opposition should not be construed as condoning the interference of parental rights, or in the most severe cases, parental kidnapping.

The opposition is regarding the requirement that law enforcement becomes involved in custody matters, which are better left with the courts in a civil action. There could be several reasons why a parent may "detain" a child. One of those reasons may be the child not wanting to return or reporting to the parent "detaining" the child of an unsafe situation in the other home. There could also be times when the "detaining" parent is simply habitually late in returning the child to the other parent.

My other concern is regarding subsection 3, relating to false information or false reports. The proposed language is specific to an individual providing "false information or false reports" to law enforcement or DHS, regarding "harm to a child by one parent against the other." The proposed language makes the first and second "false report" an infraction, the third "false report" a class B misdemeanor, and the fourth "false report" a class A misdemeanor.

North Dakota state law already has a statute relating to false reports. NDCC 12.1-11-03 specifically provides that a person giving false information or false reports to law enforcement a class A misdemeanor. The proposed amendment in 2186 would conflict with this statute, in that it provides for a lesser penalty. When a specific statute provides for something different than the "general" statute, it is the specific that rules. This would mean, should a intentional false report be made by an individual relating to harm to a child, the State would have to charge the lower level offense.

I'm also concerned about the chilling effect this proposed amendment will have on a parent reporting concerns of harm to a child. A child may tell a parent of an incident that occurred in the other parent's home that causes the parent to be concerned for the child's safety. The parent the child confided in, would not necessarily have "evidence" of this unsafe occurrence. The parent would and should have the ability to report what the child has stated to the proper agencies to investigate.