March 13th, 2025

House Judiciary Committee
600 East Boulevard Avenue
Bismarck, ND 58505

RE: Opposition for SB 2186

Vice-Chairman Vetter and Members of the House Judiciary Committee,

My name is Corey Johnson, and I reside in District 23 in the Williston area. I regret not being familiar with SB 2186 sooner, or I would have submitted testimony much earlier in the process. I submit this testimony based on my personal experience as a father who has primary residential custody of two children and a father who has children who do not reside with me full-time. I am greatly concerned about SB 2186. I respectfully request that this bill receive a "do not pass" recommendation or be significantly amended.

SB 2186 establishes a criminal penalty for violating a child custody agreement. Although I agree with this concept, the child custody laws and rules are far too sloppy to enforce a new criminal penalty. I have an abundance of respect for our law enforcement officers, but they are black and white people. Adding shades of gray to the criminal code is a recipe for disaster.

This issue is highly personal, and I admire those who came forward to share their stories to support this bill. I know the embarrassment I feel sharing my story in opposition. However embarrassing, this issue is significant. I agree that the system is broken, and we need positive change, not only for parents but also for the welfare of our children. I was excited to see HB 1242 and greatly disappointed that it failed.

I want to share a small portion of my personal story to emphasize how this could have negative impacts. I have a court-approved "parenting plan" or decree that was agreed upon during my divorce. Our situation never resulted in a court battle and was worked out outside the courtroom. I have primary residential custody. This plan is outdated and arguably not even applicable or fair. This is because our plan was written around me working 48-hour shifts, which I no longer do. Our plan states that their mother is entitled to parenting time during my work schedule. This wording allowed her to have the traditional two-full-days-a-week agreement and allowed it to rotate around my 48-hour-on and 96-hour-off work cycle. Today, as written, she would only have parenting time on weekdays

from 8 AM until 5 PM. She would not be entitled to any overnight time. We have chosen not to rewrite the "parenting plan" for several reasons. First, the cost of doing so when we are not having conflict is not worth it. Second, and most importantly, their mother is not actively involved in their lives. She has not had a visit other than a casual encounter in over 3 years. This has not been because of my action to violate our decree.

I have chosen not to take civil action against her to limit her rights or rewrite our agreement because it would be costly and result in an unnecessary conflict. Their mother struggles with a history drug and alcohol abuse. She occasionally goes through periods where she attempts to clean up and re-engage. Like a good father (in my opinion), I demand that we reevaluate our situation and implement a phased "reunification" or "reintroduction" process. Historically, her efforts to reunite with the children have been short-lived. I insist on this structured process to reintroduce the children to their mother because of her significant absence and history of instability. It is not with ill intent, and I have always been willing to work out a solution peacefully. The frequent in-and-out pattern harms our children's emotional and mental well-being. I strongly believe that the court system would agree with this type of plan should she ever get to a point where she wished to reunite with our children. An engagement with the courts would be devastating to their mother. She is currently $7,000 behind in child support and has active criminal and civil court cases. Adding a new case would be even more financially draining for her and put her at a significant disadvantage.

If SB 2186 were to pass, I would be forced to engage the court system without direct provocation. My observation is that there are just as many parents, if not significantly more, that can peacefully negotiate the management of their family without court intervention. This bill would force parents to re-engage with the court system for every change to their custody agreement or risk criminal prosecution during a dispute. Right now, through the civil process, courts have the freedom to interpret intent and the child's best interests. This bill removes the ability to consider these items and would have law enforcement utilize criminal infractions. As stated during the committee hearings, infractions are difficult to challenge and not subject to court appeals.

If SB 2186 were to pass and I did not pursue further court action, their mother could use law enforcement to enforce an outdated "parenting plan" and have criminal charges brought against me. Criminal charges would be the new normal for child custody disputes. This would result in otherwise good people being plagued with a criminal history and likely overwhelm the court system. Regardless if the courts do not uphold the charges, we all know that the presence of a charge can be just as impactful as a conviction to a person's life. This is ultimately the intent behind this bill. It creates a deterrent to violating custody agreements. I argue that this could be used negatively and contribute to hardship, parental alienation, and damage people's livelihoods.

I have chosen a career in the public sector serving my community. My work requires me to be of high moral character and an upstanding law-abiding citizen. Criminal charges relating to civil disputes could be damaging to my career. I hold several professional licenses that also require me to maintain national credentialing. Although a criminal history is not always disqualifying for these certifications and licensures, the phrase commonly used when evaluating disqualifying criminal charges is if they are "consistent with the holding of a position of public trust." One national credentialing body cites the following as reasons to disqualify candidates:

- Whether the crime involved violence to, or abuse of, another person.
- Whether the crime involved a minor
- Whether the applicant's actions and conduct since the crime occurred are consistent with the holding of a position of public trust.

I argue that regardless of whether the charge is initially limited to an infraction, it would fit any of these categories and could be used to negatively affect their livelihood.

SB 2186 duplicates a process that is already in place. Today, the courts already have the authority to issue a civil contempt of court ruling that can include civil sanctions, including imprisonment, civil forfeiture of up to $2,000 per day they are in contempt, and other sanctions as determined necessary by the court.

During the public testimony you heard, it was cited how long the court process can take. Proponents also testified about the harm that can be caused to both the parent and the child when parental alienation and refusal of visitation occurs. One person described the initial divorce period, during which the final decree had yet to happen. I greatly empathize with that experience and know that this does occur. However, this bill would not have applied to that situation because no decree was violated.

I unfortunately experienced a situation where this bill could have been applied, but it was not necessary.

About a year after my divorce, my ex-wife was struggling. She had no permanent place to live and stayed in areas unsuitable for small children. We had verbally agreed to a visitation process that was outside of our court-approved parenting plan. This agreement involved her having time with the children in my home. We have two children, a boy and a girl. The boy is not mine, biologically. His biological father is unknown. I adopted him while we were married. About a month after the adoption process was finalized, my wife left due to her struggles with addiction. Both children were left behind with me.

During one of her visits, I worked outside to allow them time alone. When I came back in, my daughter was there and my ex-wife and son were gone. Although this bill would have been helpful in the situation, the current process allowed my son to be returned safely and

timely. I immediately filed for an "Ex-Parte Interim Order." This process allows a judge to make an emergency decision without a hearing. The order was filed the following day and by that afternoon we had a judge's order directing law enforcement to locate, take into custody, and return our son to me. Our local Sheriff's Office returned him approximately 23 hours after receiving the order. Once returned, my ex-wife, by court order, was restricted from seeing the children until a hearing was conducted. This order contained language permitting law enforcement to ensure its compliance until the hearing. The hearing was scheduled to occur about 2 weeks afterwards. The judge recognized the situation. He issued a warning and 30 days of supervised visitation in a secured facility. Another violation would have resulted in a contempt of court charge.

My point is that we already have a process for this situation that allows a judge to issue contempt of court, and modify the parenting plan appropriately. A warning was issued in my situation, but the judge could have jumped straight to a contempt charge. My problem was resolved and did not take months or years. This situation has never occurred again because of the swift and firm actions taken by the court and our Sheriff's Office to enforce the emergency order.

Please keep law enforcement out of determining family custody issues. I welcome the opportunity to discuss this issue further.

Thank you,

Corey A. Johnson