

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
FIRST ENGROSSMENT**

ENGROSSED SENATE BILL NO. 2186

Introduced by

Senators Clemens, Luick

Representatives Koppelman, Marschall

1 A BILL for an Act to amend and reenact section 12.1-18-05 of the North Dakota Century Code,
2 relating to the removal or withholding of a child in violation of a custody decree and false
3 information or reports to law enforcement or the department of health and human services; and
4 to provide a penalty for an Act to amend and reenact section 14-09-06.5 of the North Dakota
5 Century Code, relating to additional parenting time after a false allegation of harm to a child; to
6 create a child custody review task force; and to provide for a legislative management report.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 ~~SECTION 1. AMENDMENT. Section 12.1-18-05 of the North Dakota Century Code is~~
9 ~~amended and reenacted as follows:~~
10 ~~12.1-18-05. Removal of child from state in violation of custody decree - False~~
11 ~~information or reports - Penalty.~~
12 ~~Any person~~
13 ~~1. An individual who intentionally removes, causes the removal of, or detains the~~
14 ~~person's individual's own child under the age of eighteen years outside this state with~~
15 ~~the intent to deny another person's individual's rights in violation of an existing a~~
16 ~~custody decree is guilty of a class C felony. Detaining the child outside this state in~~
17 ~~violation of the custody decree for more than seventy-two hours is prima facie~~
18 ~~evidence that the person individual charged intended to violate the custody decree at~~
19 ~~the time of removal.~~

1 ~~2. An individual who intentionally removes, causes the removal of, or detains the~~
2 ~~individual's own child under the age of eighteen years within this state with the intent~~
3 ~~to deny another individual's rights in violation of a custody decree is guilty of an~~
4 ~~infraction for a first and second offense, a class B misdemeanor for a third offense,~~
5 ~~and a class A misdemeanor for a fourth offense. Detaining the child within this state in~~
6 ~~violation of the custody decree for more than seventy-two hours is prima facie~~
7 ~~evidence that the individual charged intended to violate the custody decree at the time~~
8 ~~of removal.~~

9 ~~3. An individual who gives false information or a false report alleging harm to a child~~
10 ~~by one parent against the other to a law enforcement officer or the department of~~
11 ~~health and human services which that individual knows to be false, is guilty of an~~
12 ~~infraction for a first and second offense, a class B misdemeanor for a third offense,~~
13 ~~and a class A misdemeanor for a fourth offense.~~

14 **SECTION 1. AMENDMENT.** Section 14-09-06.5 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **14-09-06.5. Allegation of harm to child - Effect.**

17 1. If the court finds that an allegation of harm to a child by one parent against the other is
18 false and not made in good faith, the court shall order the parent making the false
19 allegation to pay court costs and reasonable attorney's fees incurred by the other
20 parent in responding to the allegation.

21 2. Unless a party shows by clear and convincing evidence that additional parenting time
22 should not be ordered, if the court finds an allegation of harm to a child by one parent
23 against the other is false and not made in good faith, the court shall order additional
24 parenting time to the parent responding to the false allegation to indemnify that parent
25 for any denial of court-ordered parenting time that resulted from an investigation by the
26 department of health and human services or a governmental agency in another state
27 with authority to investigate an allegation of harm to a child.

28 3. The additional parenting time:

29 a. Must at least be of the same type and duration of parenting time that was denied
30 and may be up to double the period of time denied, as determined by the court.

31 b. May include weekend, holiday, and summer parenting time.

- 1 c. Must occur within two years of the date the court finds the allegation was false
2 and not made in good faith.

3 4. A court shall:

- 4 a. Give deference to the proposed additional parenting time schedule of the parent
5 entitled to additional parenting time under subsection 2 when determining the
6 schedule of the additional parenting time subject to subsection 3.
7 b. Consider ordering the parents to use a co-parenting application to assist with
8 scheduling and communication.

9 **SECTION 2. CHILD CUSTODY REVIEW TASK FORCE - REPORT TO THE**
10 **LEGISLATIVE MANAGEMENT.**

- 11 1. During the 2025-26 interim, the legislative management shall create a child custody
12 review task force. The task force consists of:
- 13 a. One member of the supreme court self-help program, appointed by the supreme
14 court;
- 15 b. One member representing the district courts, appointed by the supreme court;
- 16 c. One member appointed by the state bar association;
- 17 d. Two members of the house or senate judiciary committees, appointed by the
18 chairman of the legislative management;
- 19 e. One member of the senate, appointed by the senate majority leader;
- 20 f. One member of the house, appointed by the house majority leader;
- 21 g. Two members representing parents subject to a child custody order;
- 22 h. One member representing law enforcement;
- 23 i. One member representing family mediators; and
- 24 j. The director of legal services of North Dakota.
- 25 2. The presiding officer of the task force must be a member of the legislative assembly
26 appointed by the chairman of the legislative management.
- 27 3. The task force shall meet at the call of the presiding officer. The presiding officer of the
28 task force may invite guests to participate in task force activities.
- 29 4. The task force shall:
- 30 a. Meet at least once each calendar quarter or more frequently at the call of the
31 presiding officer;

- 1 b. Address issues involving the withholding of a child in violation of a custody
2 decree and issues relating to a parent or party who provides false information
3 against another parent or party in connection to a child custody order;
- 4 c. Consider ways to expeditiously and effectively enforce violations of custody
5 orders, particularly the withholding of a child;
- 6 d. Consider the development of self-help or artificial intelligence assisted forms and
7 processes, expedited access to ex parte contempt of court orders, and other civil
8 and criminal penalties, including possible additional compensatory time, and
9 successful remedies used in other states; and
- 10 e. Before June 30, 2026, submit a report of its findings and recommendations, and
11 any proposed legislation necessary to implement the recommendations, to the
12 legislative management.
- 13 5. A member of the task force who is not a state employee is entitled to reimbursement
14 for mileage and expenses as provided by law for state officers and employees, to be
15 paid by the legislative council. A state employee who is a member of the task force is
16 entitled to receive that employee's regular salary and is entitled to reimbursement for
17 mileage and expenses to be paid by the employing agency. A member of the task
18 force who is a member of the legislative assembly is entitled to receive per diem
19 compensation at the rate provided under section 54-35-10 for each day performing
20 official duties of the task force. The legislative council shall pay the per diem
21 compensation and reimbursement for travel and expenses as provided by law for any
22 member of the task force who is a member of the legislative assembly.
- 23 6. The legislative council shall provide staffing and administrative services for the task
24 force through July 30, 2026.