



# North Dakota Legislative Council

Prepared for the Child Custody Review Task Force  
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## CHILD CUSTODY REVIEW TASK FORCE - BACKGROUND MEMORANDUM

### INTRODUCTION

Section 2 of Senate Bill No. 2186 (2025) ([appendix](#)) directs the Legislative Management to create a Child Custody Review Task Force. The task force must:

- Meet at least once each calendar quarter or more frequently at the call of the Chairman;
- Address issues involving the withholding of a child in violation of a custody decree and issues relating to a parent or party who provides false information against another parent or party in connection to a child custody order;
- Consider ways to expeditiously and effectively enforce violations of custody orders, particularly the withholding of a child;
- Consider the development of self-help or artificial intelligence assisted forms and processes, expedited access to ex parte contempt of court orders, and other civil and criminal penalties, including possible additional compensatory time, and successful remedies used in other states; and
- Before June 30, 2026, submit a report of its findings and recommendations, and any proposed legislation necessary to implement the recommendations, to the Legislative Management.

### BACKGROUND

As introduced, Section 1 of Senate Bill No. 2186 (2025) would have amended North Dakota Century Code Section 12.1-18-05 to create a criminal penalty, a Class A misdemeanor for a first and second offense and a Class C felony for a third offense, for an individual who removes or detains the individual's own child under the age of 18 years within this state with the intent to deny another individual's rights in violation of a custody decree. The bill also would have amended a provision in Section 12.1-18-05, which provides it is a Class C felony for an individual to unlawfully remove or detain an individual's own child outside this state in violation of a custody decree. Specifically, it would have removed language stating that detaining the child outside of this state in violation of a custody decree for more than 72 hours is prima facie evidence the individual intended to violate the custody decree at the time of removal.

Senate Bill No. 2186 was amended in the Senate to reduce the offense level of the newly created criminal penalty to an infraction for a first and second offense, a Class B misdemeanor for a third offense, and a Class A misdemeanor for a fourth offense. The Senate amendment also created an additional offense in Section 12.1-18-05 for an individual who gives false information or a false report alleging harm to a child by one parent against the other to a law enforcement officer or the Department of Health and Human Services (DHHS) which that individual knows to be false. The amendment established the offense level as an infraction for a first and second offense, a Class B misdemeanor for a third offense, and a Class A misdemeanor for a fourth offense.

Senate Bill No. 2186 was further amended in the House of Representatives to remove all amendments to Section 12.1-18-05 and create Section 14-09-24.1, which provides that unless a party shows by clear and convincing evidence that additional parenting time should not be ordered, if the court finds one parent intentionally interfered with the other parent's court-ordered parenting time, the court shall order additional parenting time to the parent who lost parenting time due to the interference to indemnify that parent for

any lost court-ordered parenting time. The additional parenting time must be of at least the same type and duration of parenting time lost due to the interference and may be up to double the period of time lost, as determined by the court; may include weekend, holiday, and summer parenting time; and must occur within 2 years of the date the court finds the parent intentionally interfered with the other parent's court-ordered parenting time. When determining the schedule of the additional parenting time, the court must give deference to the proposed additional parenting time schedule of the parent entitled to additional parenting time. The court must consider ordering the parents to use a co-parenting application to assist with scheduling and communication and may hold in contempt of court a parent who fails to comply with Section 14-09-24.1. The amendments also included a directive to the Legislative Management to create a Child Custody Review Task Force.

An additional parenting time bill was introduced during the 2025 legislative session. As introduced, Senate Bill No. 2184 would have amended Section 14-09-06.5 to provide that unless a party shows good cause why additional parenting time should not be ordered, if the court finds an allegation of harm to a child by one parent against the other is false and not made in good faith, a court shall order additional parenting time to the parent responding to the false allegation to indemnify that parent for any denial of court-ordered parenting time that resulted from an investigation by any person which did not result in a finding of harm, abuse, or neglect. The bill also included certain parameters for the additional parenting time ordered. The bill subsequently was amended but failed to pass in the Senate.

## **NORTH DAKOTA PARENTING TIME ENFORCEMENT**

### **Statutory Provisions**

In North Dakota, violations of parenting time provisions in custody orders, also referred to as parental rights and responsibilities or residential responsibility orders, generally are enforced through the civil contempt of court process under Chapter 27-10. For purposes of enforcing parenting time provisions, Section 27-10-01.1 defines contempt of court as "intentional disobedience, resistance, or obstruction of the authority, process, or order of a court or other officer, including a referee or magistrate." While the contempt process may vary among individual state district courts, it generally involves one parent filing a motion with the court, along with supporting documents, which explain the alleged violations of the parenting time provisions in the order and requests the district court issue an order to show cause requiring the nonmoving parent to respond to the motion and appear at a hearing. The nonmoving parent generally files a response to the moving parent's motion before the hearing. At the hearing, the court must consider the evidence and determine whether the moving parent proved the nonmoving parent is in contempt of court for violating the parenting time order.

Also included within the Century Code are provisions:

- Providing any person who intentionally removes, causes the removal of, or detains the person's own child outside of North Dakota with the intent to deny another person's rights in violation of an existing custody decree is guilty of a Class C felony (Section 12.1-18-05);
- Requiring the court to consider and evaluate various factors affecting the best interests and welfare of the child when deciding parental rights and responsibilities, including a factor relating to the willingness and ability of each parent to facilitate a close and continuing relationship with the other parent (Section 14-09-06.2);
- Requiring the court to award the noncustodial parent reasonable attorney's fees and costs if the court determines there has been willful and persistent denial of visitation rights by the custodial parent with respect to the child and authorizing the court to use any remedy available to enforce visitation (Section 14-09-24); and
- Providing that unless a party shows by clear and convincing evidence that additional parenting time should not be ordered, if the court finds one parent intentionally interfered with the other parent's court-ordered parenting time, the court shall order additional parenting time to the parent who lost parenting time due to the interference to indemnify that parent for any lost court-ordered parenting time (Section 14-09-24.1).

## **North Dakota Supreme Court Programs**

### **Legal Self Help Center**

The North Dakota Supreme Court Legal Self Help Center provides information about civil legal processes in North Dakota state courts to individuals who represent themselves without the assistance of a lawyer. The center does not provide legal advice but provides information about common North Dakota state court processes in civil matters, including amending and enforcing parenting time orders.

The center provides references and links to applicable provisions in the Century Code, North Dakota Rules of Civil Procedure, and North Dakota Rules of Evidence, for amending and enforcing parenting time orders. The center also provides forms for modifying a parenting time order and initiating the contempt process by moving the court for an order to show cause.

### **Expedited Parenting Time Mediation Program**

In April 2020, the Supreme Court established the expedited parenting time mediation program to assist parties in quickly resolving parenting time issues without involvement of the court in cases where a parenting time order is already in place. The program is voluntary and designed to be completed within 7 days from the date mediation was requested by a parent. The court will provide up to 2 hours of mediation, with the mediator being responsible for collecting fees from the parents for any additional mediation session not paid by the court.

Mediators must have a contract with the court to provide mediation services for the program. The mediator must notify the program administrator when the mediation has concluded and advise an agreement has been reached in whole or in part, or the parties were unable to reach an agreement. If an agreement is reached, the mediator must prepare a written summary for the parties to sign. If the parties are unable to reach an agreement, the parties may still proceed with the judicial process to resolve the issue or enforce compliance with the court order.

## **PARENTING TIME ENFORCEMENT IN OTHER STATES**

Most states provide civil enforcement remedies to enforce parenting time orders, typically through a designated motion process, the contempt process, or both. Some states offer expedited procedures specifically for seeking relief when a violation of a parenting time order is alleged.

In some states, such as Alaska, Arkansas, California, Illinois, Iowa, Minnesota, Montana, North Dakota, Texas, Utah, and Virginia, violating or interfering with a parenting time order may constitute a criminal offense.<sup>1</sup> The elements and severity of the offense vary significantly by state, and some states include affirmative defenses in state law.

Many states allow for some form of alternative dispute resolution, often through the court process. However, some states have developed alternative dispute resolution mechanisms that operate with minimal court involvement.

## **Neighboring States**

### **Minnesota<sup>2</sup>**

In Minnesota, a party may request a court provide parenting time assistance to enforce a parenting time order. Minnesota courts are required to consider providing compensatory parenting time if a parent has intentionally made a substantial amount of court-ordered parenting time unavailable to the other parent, unless providing compensatory parenting time is not consistent with the child's best interests. When compensatory parenting time is awarded, the additional parenting time must be at least the same type and duration as the deprived parenting time, taken within 1 year after the deprived parenting time, and at a time acceptable to the parent deprived of parenting time. If the court finds a party has repeatedly

<sup>1</sup> Alaska Stat. § 11.51.125 (2024); Ark. Code Ann. § 5-26-501 (2024); Cal. Penal Code § 278.5 (2025); 720 Ill. Comp. Stat. 5/10-5.5 (2025); Iowa Code § 710.6 (2024); Minn. Stat. § 609.26 (2024); Mont. Code Ann. § 45-5-631 (2023); NDCC § 12.1-18-05; Tex. Penal Code Ann. § 25.03 (2025); Utah Code Ann. § 76-5-303 (2025); and Va. Code Ann. § 18.2-49.1 (2025).

<sup>2</sup> Minn. Stat. §§ 518.175 and 609.26 (2024).

and intentionally denied or interfered with court-ordered parenting time, the court must require the party to reimburse the other party for costs incurred because of the denial or interference with parenting time, including attorney fees. The court also may impose sanctions, modify the court order, including changing the custody award from one parent to the other parent, or award any other remedy the court finds to be in the best interests of the child involved.

In addition, an individual may be charged with a felony for acts that deprive a parent of parental rights in violation of a court order, including failing to return a minor child to a parent with intent to substantially deprive that parent of rights to parenting time or custody. Minnesota law provides several affirmative defenses to a charge of depriving another of custodial or parental rights, including the person reasonably believed the action taken was necessary to protect the child from physical or sexual assault, or substantial emotional harm.

In 2024, Minnesota passed legislation requiring parenting time orders to include notice of certain statutory provisions, including that the court is required to award compensatory parenting time to a parent who has been prevented from exercising parenting time and that deprivation of parental rights is a felony crime under Minnesota state law.

### **Montana<sup>3</sup>**

In Montana, violations of parenting time orders may be civilly enforced through the contempt of court process. In addition, a person may be subject to a criminal charge for the offense of interference with parent-child contact if the person knowingly or purposely prevents, obstructs, or frustrates the rights of another person entitled to parent-child contact under an existing court order. If convicted, the person may be fined up to \$500, imprisoned in the county jail for up to 5 days, or both.

### **South Dakota<sup>4</sup>**

In South Dakota, violations of visitation decrees may be civilly enforced through the contempt of court process. A party with court-ordered visitation or custody rights may request the court enter an order to show cause why the other party should not be held in contempt for violation of the decree relating to visitation of the child. Upon receipt of a written request for an order to show cause, the court may issue the order and schedule a hearing date no sooner than 30 days thereafter.

South Dakota law also allows for a noncustodial parent to file a motion for enforcement of visitation rights if the noncustodial parent believes a custodial parent has willfully violated or willfully failed to comply with a provision of a visitation order. Upon filing the motion, the court must set a hearing date within 21 days of the date of filing.

If the court finds a party willfully violated or willfully failed to comply with any provision of a visitation decree, the court must impose appropriate sanctions to punish the offender or compel the offender to comply with the terms of the decree. The court may impose any sanction appropriate to the facts and circumstances of the case, including:

- Requiring the offender to provide the other party with make-up visitation time equal to the time missed with the child;
- Requiring the offender to pay the other party's court costs and reasonable attorney's fees incurred because of the noncompliance;
- Requiring the offender to pay a civil penalty of up to \$1,000;
- Requiring the offender to participate in counseling or parent education classes;
- Requiring the offender to post bond or security with the court conditional upon future compliance with the terms of the visitation decree;

<sup>3</sup> Mont. Code Ann. §§ 3-1-501 through 523, and 45-5-631 (2023).

<sup>4</sup> S.D. Codified Laws §§ 25-4A-1, 25-4A-2, 25-4A-4.1, and 25-4A-5 (2024).

- Imposing a jail sentence of up to 3 days; or
- Modifying the existing visitation decree.

### **Expedited Civil Enforcement**

#### **Illinois<sup>5</sup>**

Illinois state law requires the court to provide an expedited procedure for the enforcement of allocated parenting time; however, no set time frame is established in statute. An action to enforce the allocated parenting time may be commenced by a parent by filing a petition with the court. If the court finds by a preponderance of the evidence that a parent has not complied with allocated parenting time according to an approved parenting plan or court order, the court must issue an order that may include various remedies, including requiring the noncomplying parent to post a cash bond or other security to ensure future compliance, ordering make-up parenting time, or imposing a civil fine on the noncomplying parent.

If the court holds a parent in contempt for violating a parenting time order and finds the parent engaged in parenting time abuse, it may suspend the parent's driver's license, place the parent on probation, impose periodic imprisonment for up to 6 months, or determine the parent committed a petty offense and impose a fine of up to \$500 for each instance of abuse.

#### **Oregon<sup>6</sup>**

Oregon state law requires the presiding judge of each judicial district to establish an expedited parenting time enforcement procedure that may include mediation or participation in an alternative dispute resolution conference. The court is required to conduct a hearing within 45 days of the filing of a motion seeking enforcement of a parenting time order. The court is required to provide form templates for the motion. In addition, the court may modify the parenting plan provisions, require the violating party to post bond or other security, order the parties to attend counseling or educational sessions, award expenses and costs, and modify spousal or child support.

### **Criminal Enforcement**

#### **Arkansas<sup>7</sup>**

In Arkansas, a person commits the offense of interference with visitation if, knowing the person has no lawful right to do so, the person takes, entices, or keeps any minor from any person who has court-ordered visitation rights. To establish interference, the alleging party must present a signed court order or decree regarding custody or visitation to a law enforcement officer as proof. Interference with visitation is a Class C misdemeanor. However, it is a Class D felony if the minor is taken or kept outside of the state, and a Class A misdemeanor for a third or subsequent offense.

Arkansas state law provides several affirmative defenses to a charge of interference with visitation, including when the defendant acted to protect the minor from imminent physical harm or reasonably believed the person entitled to visitation would remove the minor from the court's jurisdiction.

#### **Illinois<sup>8</sup>**

In Illinois, a person commits the offense of unlawful visitation or parenting time interference by knowingly detaining or concealing a child, in violation of a court order, with the intent to deprive another person of court-ordered visitation. The offense is considered a petty offense; however, a third or subsequent violation, following two prior convictions, is elevated to a Class A misdemeanor.

A law enforcement officer who has probable cause to believe an individual has committed or is committing unlawful visitation or parenting time interference must issue to that individual a notice requiring the individual to appear before the court.

<sup>5</sup> 750 Ill Comp. Stat. 5/607.5 (2025).

<sup>6</sup> Or. Rev. Stat. § 107.434 (2024).

<sup>7</sup> Ark. Code Ann. § 5-26-501 (2024).

<sup>8</sup> 720 Ill. Comp. Stat. 5/10-5.5 (2025).

Illinois state law provides several affirmative defenses to a charge of unlawful visitation or parenting time interference, including the defendant acted to protect the child from imminent physical harm, provided both the defendant's belief that physical harm was imminent and conduct in withholding visitation were reasonable under the circumstances.

### **Texas<sup>9</sup>**

In 2025, Texas enacted legislation amending its criminal interference with child custody law to establish escalating penalties for individuals who repeatedly violate custody or parenting time orders. Under Texas law, it is a state jail felony for a person to take or retain a child knowing that such conduct violates the express terms of a court order governing custody. The 2025 amendments specifically targeted situations in which a parent interferes with the lawful custody of a child by knowingly enticing or persuading a child to leave the custody of the other parent. This offense is a Class C misdemeanor, punishable by a fine of \$500. However, the offense is elevated to a state jail felony if the defendant has two prior convictions for the same conduct or the defendant enticed or persuaded the child to leave the state.

Under certain circumstances, Texas law provides affirmative defenses to a charge of interference with custody, including situations in which the defendant's retention of the child was due only to circumstances beyond the defendant's control and the defendant promptly provided notice or made reasonable attempts to provide notice of those circumstances to the other person entitled to possession of the child.

## **Alternative Dispute Resolution**

### **Minnesota<sup>10</sup>**

Minnesota law allows for the appointment of a parenting time expeditor upon the request of either party or on the court's own motion, either while a case is pending or after a decree has been entered. The role of the parenting time expeditor is to resolve parenting time disputes by enforcing, interpreting, clarifying, and addressing circumstances not specifically addressed by an existing parenting time order. If appropriate, a parenting time expeditor also may determine whether the parenting time order has been violated. A parenting time expeditor may be appointed to resolve a single parenting time dispute or to provide ongoing parenting time dispute resolution services. If the parties cannot agree on a parenting time expeditor, the court will select one. The cost of the expeditor's services is allocated between the parties.

Additionally, Minnesota judicial districts have the option of establishing a mandatory parenting time dispute resolution program. In districts where a program has been established, the parties may be required to submit parenting time disputes to a parenting time expeditor before the court hears a motion on the matter. A party may file a motion with the court for purposes of securing a court date, but a hearing may not be held until the parenting time expeditor process is complete.

### **Utah<sup>11</sup>**

Utah's Administrative Office of the Courts administers the expedited parent-time enforcement program in one judicial district. Under this program, cases in which a parent files a motion alleging a violation of court-ordered parent-time rights are referred to the program and assigned to a mediator. The mediator meets with the parents within 15 days of the motion being filed, assesses the situation, and facilitates an agreement on parent-time. If the parents are unable to reach an agreement, the case is returned to the court. The parents are responsible for the cost of the mediation. The Administrative Office of the Courts is required to adopt outcome measures to evaluate the program's effectiveness and to provide progress reports to the legislative branch upon request.

<sup>9</sup> Tex. Penal Code Ann. § 25.03 (2025); Texas Senate Bill No. 2794 (2025).

<sup>10</sup> Minn. Stat. § 518.1751 (2024).

<sup>11</sup> Utah Code Ann. § 81-9-102 (2024).

## PROVIDING FALSE INFORMATION IN CONNECTION TO A CUSTODY ORDER

### North Dakota Statutory Provisions

The Century Code contains statutory provisions, both criminal and civil, that may apply to a parent or party who provides false information against a parent in connection with a child custody order. Section 12.1-11-03 provides an individual is guilty of a Class A misdemeanor if that individual gives false information or a false report to a law enforcement officer which that individual knows to be false, and the information or report may interfere with an investigation or may materially mislead a law enforcement officer. There also are provisions embedded in the civil process to address false reports in the context of parenting disputes, including:

- Requiring the court to evaluate various factors affecting the best interests and welfare of the child when determining parental rights and responsibilities, including a factor relating to the making of false allegations not made in good faith, by one parent against the other, of harm to a child (Section 14-09-06.2); and
- Requiring the court to enter an order directing the parent making the false allegation to pay court costs and reasonable attorney's fees incurred by the other parent in responding to the allegation if the court finds that an allegation of harm to a child by one parent against the other is false and not made in good faith (Section 14-09-06.5).

Chapter 50-25.1 governs child protection response services provided by DHHS, including assessment steps that must be taken in response to reports of child abuse or neglect made to the department. Under certain circumstances, including when a report alleges a violation of a criminal statute involving sexual or physical abuse, the department is required to contact law enforcement.

Section 50-25.1-13 provides an individual who willfully makes a false report or provides false information that causes a report to be made under Chapter 50-25.1 is guilty of a Class B misdemeanor unless the false report is made to law enforcement, in which case the individual is guilty of a Class A misdemeanor. The individual also is liable in a civil action for all damages suffered by the individual reported, including exemplary damages.

### Other States

Each state has its own criminal laws relating to providing false information to law enforcement, with the elements and severity of the offense varying among states.

Many states, including Arizona, Arkansas, Colorado, Connecticut, Florida, Idaho, Illinois, Indiana, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and Washington, have civil child protection laws which carry penalties for individuals who willfully or intentionally make a false report of child abuse or neglect to law enforcement or the department responsible for investigating reports of child abuse.<sup>12</sup> Most of these states classify false reporting as a misdemeanor or similar charge. However, in Florida, Illinois, Tennessee, and Texas, false reporting is a felony. In some states, including Arkansas, Indiana, Missouri, and Virginia, second or subsequent offenses are upgraded to felonies.

Like many states, Minnesota law includes criminal penalties for making a false report to law enforcement and civil penalties for making a false report of child maltreatment to the agency responsible for assessing or investigating the report.<sup>13</sup> In addition, a separate Minnesota statute specifically

<sup>12</sup> Ariz. Rev. Stat. Ann. § 13-3620.01 (2025); Ark. Code Ann. § 12-18-203 (2025); C.R.S. § 19-3-304 (2025); Conn. Gen. Stat. § 17a-101e (2025); Fla. Stat. § 39.205 (2024); Idaho Code Ann. § 18-5415 (2025); 720 Ill. Comp. Stat. 5/26-1 (2025); Ind. Code § 31-33-22-3 (2025); Iowa Code § 232.75 (2025); Kan. Stat. Ann. § 38-2223 (2024); Me. Rev. Stat. tit. 22, § 4009 (2025); Mass. Gen. Laws ch. 119, § 51A (2024); Mich. Comp. Laws § 722.633 (2025); Mo. Rev. Stat. § 210.165 (2024); Mont. Code Ann. § 41-3-207 (2023); Neb. Rev. Stat. § 28-717 (2025); Okla. Stat. tit. 30, § 4-903 (2024); S.C. Code Ann. § 63-7-440 (2024); Tenn. Code Ann. § 37-1-413 (2023); Texas Fam. Code § 261.107 (2025); Va. Code Ann. § 63.2-1513 (2025); and Wash. Rev. Code § 26.44.060 (2025).

<sup>13</sup> Minn. Stat. §§ 260E.06 and 609.505 (2024).

addresses false reporting in connection with a custody proceeding. Under this law, a person commits a misdemeanor if the person:

- Informs another person that a person has committed sexual abuse, physical abuse, or neglect of a child;
- Knows the allegation is false or is without reason to believe the alleged abuser committed the abuse or neglect; and
- Intends the information influence a child custody hearing.<sup>14</sup>

A conviction under this law may result in a sentence of up to 90 days or a fine up to \$1,000, or both.<sup>15</sup>

### **PROPOSED TASK FORCE APPROACH**

The task force may wish to receive testimony from:

- Representatives from the North Dakota courts and the family law mediation program.
- Family law practitioners, parenting investigators, and guardian ad litem.
- Parents and legal guardians subject to court orders addressing parenting time.
- Law enforcement.
- Representatives from the North Dakota State's Attorneys' Association.
- Representatives from domestic violence organizations and child advocacy centers.
- Representatives from DHHS.
- Representatives from the North Dakota Legal Self Help Center.
- The National Conference of State Legislatures and other organizations regarding what other states have done to address issues involving the withholding of a child in violation of a custody decree and issues relating to a party who provides false information against a parent in connection with a child custody order.

ATTACH:1

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<sup>14</sup> Minn. Stat. § 609.507 (2024).

<sup>15</sup> Minn. Stat. § 609.02 (2024).