

2025 SENATE JUDICIARY

SB 2240

2025 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee Peace Garden Room, State Capitol

SB 2240
1/27/2025

Relating to prohibiting a political subdivision from seizing personal property without notice and relating to theft of property; and to provide a penalty.

2:30 p.m. Vice Chairman Paulson opened the hearing.

Members present: Chair Larson, Vice Chairman Paulson, Senators: Castaneda, Cory, Luick, Myrdal, Braunberger.

Discussion Topics:

- Improved notification process
- Statutory conflicts
- Law enforcement duties
- Clarification of bill
- Due notification
- Time limit for unresponsive owner

2:30 p.m. Senator Mike Wobbema, District 24, introduced the bill and submitted testimony in favor #31759.

2:51 p.m. John W Ertft testified in favor and submitted testimony #31906.

2:57 p.m. Matt Kessler, Sergeant, Stark City Sheriff's Office, testified in opposition and submitted testimony #31766.

3:05 p.m. Jonathan Byers, Lobbyist, ND State Attorney's Association, testified in opposition.

3:09 p.m. Stephanie Dassinger Engebretson, Lobbyist, ND League of Cities, testified in opposition.

3:13 p.m. Calvin Benson, Lobbyist, ND Peace Officers Association, testified in opposition.

Additional written testimony:

Scott Winkelman, Chief Game Warden, ND Game and Fish Department, submitted testimony in opposition #31790.

3:15 p.m. Vice Chairman Paulson closed the hearing.

Kendra McCann, Committee Clerk



North Dakota Senate

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



Senator Mike Wobbema

District 24
11829 31st Street SE
Valley City, ND, 58072-9709
mwobbema@ndlegis.gov

COMMITTEES:

Education
Workforce Development (Chair)

27 January 2025

Chairman Larson, and members of the Judiciary Committee, good afternoon. I am Senator Mike Wobbema, and I represent District 24. SB 2240 is an updated version of a bill I put forward last session. Its purpose is to provide for some adjustment in how our political subs deal with real property that has been neglected, having been allowed by the property owner to take on a look that doesn't match the image that the political sub desires to project for their communities. What is not in question is the political subs right to determine what image they desire to project, and their right to affect a cleanup. What is in question is how they go about doing that.

SB 2240 places a requirement upon the political subs to adequately notify the property owner that they desire action to be taken in cleaning up the real property in question. It ensures that notification is recognized by the property owner with a signed acknowledgement. We need to ensure that more is done than just attaching a notice on the door of the property owner, assuming that they will see it in a timely manner and act on it. I have been made aware of instances where property owners found their personal property removed without their awareness or consent, or little to no reasonable time to respond. In one instance the property owner left for vacation to come back and find a notice stuck to his front door, and only two days to address the issue. He had obtained a truck and a trailer to conduct the cleanup and was waiting for the manpower to show up when the city came with their equipment and did it for him, destroying much of what was of value. In another instance, a property owner went to check on his property in another community only to find that the city had torn into a fence surrounding a portion of the property, and everything gone. Again, there was just a notice attached to the door of that property.

We need to recognize also that the state of the identified property did not take on its appearance overnight. Months and possibly years may have passed for the property to achieve the unacceptable state of being. Surely, patience by the political sub in waiting a bit longer to ensure the property owner has been duly notified doesn't add much time to the resolution of the problem and should be warranted.

That concludes my testimony. I stand for any questions.

Respectfully, Senator Mike Wobbema

January 27th, 2025

Sgt. Matt Keesler
Stark County Sheriff's Office
Civil Process Division

Re SB 2240-oppose

Chair Larson and members of the Senate Judiciary Committee, good morning. My name is Matt Keesler, and am a sergeant with the Civil Division of the Stark Co Sheriff's Office. I'm a licensed ND peace officer and have been in law enforcement for almost 30 years.

I oppose SB 2240 for the following reasons:

1. Sheriff's Depts are tasked by statute and directed by the courts to enforce both judgments and pre-judgment actions. Examples would be Writs of Executions and Levies, Special Executions for the seizure and/or delivery by the defendant(s) of specific property (usually a vehicle repossession, or Writs of Pre-Judgment Attachments, which directs the sheriff to seize and secure property prior to a final judgment, etc.
2. There are instances when the sheriff may need to seize property prior to actually giving the defendant/debtor notice of the action. An example would be if the sheriff receives a special execution from the court directing the seizure and transfer of a vehicle to the bank. The sheriff sees the vehicle parked on real property, or can articulate that this same vehicle is concealed within a garage or quonset. The defendant may not be immediately available for service of the documents, or may be actively avoiding service of the same.
3. Defendants are also mailed a "Notice of Entry of Judgment," which would outline what they are to turn over to the plaintiff. This same Notice of Entry of Judgment is entered after a hearing (defendant was served a Summons and Complaint, or a default hearing because of failed service attempts and/or avoiding service. Thus, the defendant has been advised of an impending seizure of property by the courts. Written notice as already been satisfied in these cases, as service is complete upon mailing (Rule 5 of ND Rules of Civil Procedure).
4. Search Warrants where the courts have authorized the search of a party's residence/outbuildings etc and the party is not present at the time of search and seizure. Any confiscated items would be in opposition to this bill if passed.

If passed, law enforcement would be at risk for litigation, despite statutory allowances for carrying out the duties as allowed and even mandated by statute.

I respectfully urge a Do Not Pass vote for SB 2240



Senate Judiciary Committee
Testimony on SB 2240

North Dakota Game and Fish Department
Scott Winkelman, Chief Game Warden
January 27, 2025

Madam Chair Larson and members of the Senate Judiciary Committee, my name is Scott Winkelman, Chief Game Warden for the North Dakota Game and Fish Department. I am testifying today in opposition of SB 2240.

SB 2240 would add new language to North Dakota Century Code 12.1-23-02 stating that a person is guilty of theft if the person is a public servant acting under governmental authority or color of law who knowingly seizes or confiscates private property located on the owner's real property before providing the owner of the property with written notice or receiving the owner's signature acknowledging receipt of the required notice. This new language would negatively impact or even prohibit licensed law enforcement officers, including district game wardens, from seizing or confiscating personal property items that are used in the commission of a crime, abandoned, or evidence of a crime while a crime is occurring or being investigated. This would result in the loss of critical evidence and complicate prosecution of crimes in North Dakota.

The seizure and confiscation of property by law enforcement is currently covered in numerous areas of the North Dakota Century Code, including chapter 20.1-10. More specifically, 20.1-10-01 currently states what property shall be seized, what property may not be seized, and that all property seized must be held subject to the order of a court of competent jurisdiction and when property is confiscated, the confiscating officer shall bring the alleged offender before a court having nominal jurisdiction for the purpose of determining jurisdiction. Current laws allow officers to collect crucial evidence during the investigation of a crime while still providing due process for the property owner. Additionally, the new language included in this bill would call into question the authority of law enforcement officers to seize private property that a District Court Judge has issued a search warrant for after a determination of probable cause.

Therefore, the Department is asking the committee to send a recommendation of do not pass for SB 2240.

State of North Dakota

County of Barnes

City of _____

In State District

Court

County No. <u>2</u>
City No.

Active

No. 0007428665

The undersigned, sworn, and says:

Date of Violation 01/18/2025	Time (24 Hr.) 14:07	Day of Week Saturday	Issuance Date 01/18/2025	Time (24 Hr.) 14:12	Information	Agency Report No.
State ND	Class D	OLN [REDACTED]	DOB (M/D/Y) [REDACTED]	Age 80	Race 1	Sex M
Height 6' 0"	Weight WL	Hair	Eyes 9	Build	Other	
Last Name Ertelt	First Name John	Middle Wayne	<input checked="" type="checkbox"/> Operator <input type="checkbox"/> Passenger <input type="checkbox"/> Pedestrian <input type="checkbox"/> Other			
Street Address [REDACTED]	City Oriska	State ND	ZIP Code 58063	Phone		
Yr. Reg. 2024	Color(s) Silver	Yr. 2000	Make Dodge	Model Caravan	ICC / PSC / DOT No.	CMV Bus <input type="checkbox"/> Y <input checked="" type="checkbox"/> N
				CMV <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Harriet <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	<input type="checkbox"/> B <input type="checkbox"/> H

Did unlawfully operate a motor vehicle upon a public highway and did then and there commit the following offense:

Charge / Offense / NDCC TR-Violation of registration provisions-Driver	Speed	Zone	BOND / STATUTORY FEE \$20.00	US Funds Only
CST Number: C06092	Dir. of Travel <input type="checkbox"/> N <input type="checkbox"/> E <input type="checkbox"/> S <input checked="" type="checkbox"/> W		Car / AC / Radar / Laser	
Location of Offense	Description of Area US HWY 10/118TH AVE SE		Alcohol / Drug Test <input type="checkbox"/> Refuse <input type="checkbox"/> Blood <input type="checkbox"/> Breath	
		Stationary		Moving

All in violation of ND Century Code and against the peace and dignity of the state of North Dakota

NDCC Code or ORD Code

39-04-37(1) Moving Violation

CFR Code(s)

<input checked="" type="checkbox"/> Highway Type <input checked="" type="checkbox"/> Area <input type="checkbox"/> Slippery Surface <input type="checkbox"/> Visibility <input checked="" type="checkbox"/> Other Traffic <input type="checkbox"/> Type Crash	Scat Belt <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	REQUEST FOR HEARING I submit the designated bond and request a hearing on the alleged traffic violation and promise to appear at the time and date specified in the summons issued by the court for the county in which the citation was issued. Dated _____ Signature _____ X
Offense contributed materially to crash? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Crash No.	
Issuing Officer J. Fastnacht	Officer No. 378	

The state of North Dakota to the above named defendant:

COURT DATE: You are summoned to appear at the time and place designated below to answer to the charge made against you. If you fail to appear or post bond, a warrant will be issued for your arrest.

Day of Week	Date (M/D/Y) Within 14 Days	Time
Court Address 230 4th Street NW	City Valley City	

SFN 5775 (5-2017)

CITIZENS COPY

Barnes County District Court
 230 4th Street NW
 Valley City, ND 58072

Please pay online at: www.ndcourts.gov/publicsearch

Scan QR code for Notification Form or visit URL:

<https://www.dot.nd.gov/sites/www/files/documents/driver-license/sfn5775-notification-form.pdf>

NDCC Notes:

Fold Here

2025 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Peace Garden Room, State Capitol

SB 2240
2/11/2025

Relating to prohibiting a political subdivision from seizing personal property without notice and relating to theft of property; and to provide a penalty.

3:31 p.m. Chair Larson opened the hearing.

Members present:

Chair Larson, Vice Chairman Paulson, Senators: Castaneda, Cory, Luick, Braunberger.
Senator Myrdal absent.

Discussion Topics:

- Investigative work
- Committee Action

3:35 p.m. Senator Braunberger moved a Do Not Pass.

3:36 p.m. Senator Castaneda seconded the motion.

Senators	Vote
Senator Diane Larson	Y
Senator Bob Paulson	N
Senator Ryan Braunberger	Y
Senator Jose L. Castaneda	Y
Senator Claire Cory	Y
Senator Larry Luick	Y
Senator Janne Myrdal	A

Motion Passed 5-1-1.

3:36 p.m. Senator Luick will carry the bill.

3:36 p.m. Committee discussion on upcoming schedule.

3:38 p.m. Chair Larson closed the meeting.

Kendra McCann, Committee Clerk

REPORT OF STANDING COMMITTEE
SB 2240 ([25.0112.01000](#))

Judiciary Committee (Sen. Larson, Chairman) recommends **DO NOT PASS** (5 YEAS, 1 NAY, 1 ABSENT OR EXCUSED AND NOT VOTING). SB 2240 was placed on the Eleventh order on the calendar. This bill does not affect workforce development.

2025 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Peace Garden Room, State Capitol

SB 2240
2/17/2025

Relating to prohibiting a political subdivision from seizing personal property without notice and relating to theft of property; and to provide a penalty.
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10:26 a.m. Chair Larson opened the hearing.

Members present:

Chair Larson, Vice Chairman Paulson, Senators: Castaneda, Cory, Luick, Myrdal, Braunberger.

Discussion Topics:

- Confiscation of evidence

10:26 a.m. Senator Paulson updated committee on possible amendment concerning confiscation of property and reconsideration of bill.

10:27 a.m. Chair Larson explained why the amendment was needed to address law enforcement's concerns that discussing a potential crime while observing something in plain view allowed them to confiscate it and use it, but that the bill would have prevented such actions.

10:29 a.m. Chair Larson closed the hearing.

Kendra McCann, Committee Clerk