

N.D.A.G. Letter to Clapp (Dec. 28, 1990)

December 28, 1990

Ms. Sonja Clapp
Assistant State's Attorney
Grand Forks County Courthouse
P.O. Box 607
Grand Forks, ND 58206-0607

FAX 701-224-2226

Dear Clapp:

Thank you for your December 6, 1990, letter regarding N.D.C.C. § 14-09-08.2. You ask if the state's attorney's office has any duties or obligations with regard to this section. You enclose with your inquiry a copy of an "Affidavit of Custodial Parent and Order," which you indicate is provided by the office of the clerk of district court for the convenience of a custodial parent.

N.D.C.C. § 14-09-08.2 contains no reference at all to the office of the state's attorney. There is no language in the statute which implies any duty on behalf of the state's attorney. Other statutes which impose duties upon the state's attorney or relate to duties of the state's attorney do not suggest N.D.C.C. § 14-09-08.2 imposes any duty, representational or otherwise, upon the state's attorney. Further, the legislative history concerning Senate Bill No. 2356, Section 1, which is codified as N.D.C.C. § 14-09-08.2, does not contain any suggestion that the state's attorney would have some representational duty concerning modifications sought under that statute.

Based upon this review, I have concluded that the state's attorney does not have a duty to represent a custodial parent at a modification hearing brought pursuant to N.D.C.C. § 14-09-08.2(2).

Sincerely,

Nicholas J. Spaeth

jfl