



March 16, 2021

Honorable Judy Lee
State Capitol Building
600 East Boulevard Avenue
Bismarck, ND 55505

RE: HB 1254

Dear Senator Lee:

My name is DeAnn Pladson and I am an attorney practicing in the area of family law since 1992. I am writing in opposition to House Bill 1254 which relates to spousal support.

There is no doubt that our laws regarding spousal support should be carefully examined and possibly reconsidered. Spousal support claims are often litigated, resulting in varying decisions as to amount and duration. The lack of clarity in this area, makes it difficult to resolve these matters outside of court. However, HB 1254 does not address many concerns family law practitioners have, and will likely create new issues for those litigants needing spousal support for longer durations.

HB 1254 seeks to limit all spousal support awards so that they may not exceed 18 years. It is not clear why 18 years is proposed as the maximum term for spousal support, and the language of the proposed law is arbitrary. With this hard and fast rule, the court would be without discretion to determine if support for a longer term is warranted. I researched the spousal support laws in Minnesota, South Dakota, Montana, Wyoming, Delaware, Rhode Island, Maryland and Nebraska and none of those states cap spousal support at a set or defined number of years.

If HB 1254 is passed, the court would be required to terminate spousal support after 18 years. The court would not have the ability to look at the individuals before the court and make a fair determination based upon the circumstances

of the parties. The court would not be able to consider the length of the marriage, the relative incomes of each party and the health of each party. If HB 1254 is adopted, it is very likely that where a former spouse is in need of support longer than 18 years, that spouse will need to look to public assistance for support to meet his/her basic needs.

Consider a scenario where husband and wife divorce after 20 years of marriage. Wife is 42 and husband is 40. Wife earns \$300,000 per year as a doctor and husband, although college educated, decided to stay home with the children for most of the marriage, and had minimal income as a para professional at school. Three years before the parties' divorce, husband suffers a stroke and requires significant care. If HB 1254 were passed, wife's obligation to her former husband would end after 18 years. End of story. Husband would be 58 years old and not eligible for Medicare or Social Security. He has no income. Who should have to assume this responsibility for the husband's care? The State? His family? His parents?

This is exactly the type of case which will be impacted by HB 1254. Should there be parameters for spousal support? Should there be guidelines? Should the court be required to consider certain factors? It is very possible that all of these issues should be addressed and changes to our law should be made. But the proposed change is too arbitrary and would like harm those who need the support the most.

The law would also restrict a judge from modifying spousal support awards to increase the amount under any circumstances. Life changes, needs change, and incomes change. So too, should spousal support change if the circumstances warrant. The court should retain the discretion to make these decisions, without limitations in the law. If the parties choose to make these limitations, they are free to do so. However, limiting judicial discretion to modify these awards will do nothing to make the original awards of spousal support more reasonable. The court must be in a position to look at the facts of each case and make a fair determination based upon those facts. HB 1254 will limit the court's ability to do so.

I am urging the legislature to study this issue in greater detail and develop laws which will address the legitimate concerns, and remedy the issues, not create additional issues for our citizens.

I sincerely thank you for your consideration of my comments, and please do not hesitate to contact me should you have any questions.

Very truly yours,

PLADSON LAW OFFICE, P.L.L.C.

A handwritten signature in cursive script that reads "DeAnn M. Pladson".

DeAnn M. Pladson