



JUDICIARY COMMITTEE

Wednesday, September 14, 2022
Roughrider Room, State Capitol
Bismarck, North Dakota

Representative Kim Koppelman, Chairman, called the meeting to order at 9:00 a.m.

Members present: Representatives Kim Koppelman, Mary Adams, Ruth Buffalo*, Sebastian Ertelt*, Karla Rose Hanson, Mary Johnson, Terry B. Jones, Karen Karls, Lawrence R. Klemin, Jeffery J. Magrum, Bob Paulson, Shannon Roers Jones, Bernie Satrom, Mary Schneider, Steve Vetter; Senators JoNell A. Bakke, Diane Larson, Janne Myrdal

Member absent: Senator Robert O. Fors

Others present: See [Appendix A](#) for additional persons present.

**Attended remotely*

It was moved by Representative Karls, seconded by Senator Myrdal, and carried on a voice vote that the minutes of the May 4-5, 2022, meeting be approved as distributed.

SPOUSAL SUPPORT STUDY

Ms. DeAnn M. Pladson, family law attorney, introduced a bill draft [[23.0117.01000](#)] relating to spousal support. She noted:

- A group of attorneys worked cooperatively to create the bill draft.
- The bill draft addresses the modification of spousal support and provides a rebuttable presumption for termination of spousal support.
- The bill draft allows the parties in a divorce action to agree to a lump sum settlement.

Ms. Pladson indicated the bill draft should be revised ([Appendix B](#)) to address the following:

- The addition of a definition section to define "length of marriage" as "from the date of the marriage until the service of summons for an action for legal separation or divorce" and "material change of circumstances" as "a change that substantially affects the financial abilities or needs of the parties and that was not contemplated by the parties at the time of the original award";
- On page 1, line 7, replace "The" with "If the court considers the provisions of this section";
- On page 1, line 9, overstrike "accordance with this section. The court may modify its spousal support orders" and insert immediately thereafter "upon expressly finding":
 - a. A party lacks sufficient property or income or his or her property or income is insufficient to enable the party to provide for his or her reasonable needs considering the marital standard of living; and
 - b. The other party has the ability to supply those means without undue economic hardship";
- On page 2, line 2, replace "equalize" with "to equitably divide";
- On page 2, line 10, replace "dictate" with "require";

- On page 2, line 12, replace "alimony" with "spousal support";
- On page 2, line 13, after "the" insert "the number of months of the"; and
- The inclusion of a percent symbol after each line in the chart.

Committee Discussion

It was moved by Representative Vetter, seconded by Representative Paulson, and carried on a voice vote that the bill draft [23.0117.01000] relating to spousal support be amended as proposed by Ms. Pladson.

It was moved by Representative Klemin, seconded by Representative Vetter, and carried on a roll call vote that the bill draft [23.0117.01000] relating to spousal support be amended on page 1, line 7, after the overstruck "the" by inserting "The court may not award permanent spousal support". Representatives Koppelman, Jones, Karls, Klemin, Paulson, Satrom, and Vetter and Senators Larson and Myrdal voted "aye." Representative Adams, Buffalo, Ertelt, Hanson, Johnson, Roers Jones, and Schneider voted "nay."

It was moved by Representative Vetter, seconded by Senator Myrdal, and carried on a roll call vote that the bill draft [23.0117.01000] relating to spousal support be amended on page 3, line 6, by removing the overstrike over "shall". Representatives Koppelman, Buffalo, Ertelt, Jones, Karls, Klemin, Magrum, Paulson, Satrom, and Vetter and Senators Larson and Myrdal voted "aye." Representative Adams, Hanson, Johnson, Roers Jones, and Schneider voted "nay."

It was moved by Representative Johnson, seconded by Representative Roers Jones, and failed on a roll call vote to amend the bill draft [23.0117.01000] relating to spousal support to increase the standard of proof on page 3 from a preponderance of the evidence to clear and convincing evidence. Representatives Adams, Buffalo, Hanson, Johnson, Satrom, Schneider, and Vetter voted "aye." Representatives Koppelman, Ertelt, Jones, Karls, Klemin, Magrum*, Paulson, Roers Jones and Senators Larson and Myrdal voted "nay."

It was moved by Representative Johnson, seconded by Representative Schneider, and carried on a roll call vote to amend the bill draft [23.0117.01000] relating to spousal support on page 2, line 24, by replacing "an order" with "a judgment". Representatives Koppelman, Adams, Buffalo, Hanson, Johnson, Jones, Karls, Klemin, Paulson, Roers Jones, Satrom, Schneider, and Vetter and Senator Larson voted "aye." Representatives Ertelt and Magrum voted "nay."

It was moved by Representative Ertelt, seconded by Representative Klemin, and failed on a roll call vote to amend the bill draft [23.0117.01000] relating to spousal support in subsection 8 on page 2 by removing "The court may require reasonable security from the payor spouse in the event of the payor's death". Representatives Ertelt, Jones, Karls, Klemin, Magrum, Paulson, and Vetter and Senator Myrdal voted "aye." Representatives Koppelman, Adams, Buffalo, Hanson, Johnson, Roers Jones, Satrom, and Schneider and Senators Larson and Bakke voted "nay."

It was moved by Representative Johnson, seconded by Representative Adams, and carried on a roll call vote to amend the bill draft [23.0117.01000] relating to spousal support to add an application clause to clarify the intent of the bill is for the new language to apply to prospective cases and for the language to become effective on August 1, 2023. Representatives Koppelman, Adams, Buffalo, Hanson, Johnson, Jones, Karls, Klemin, Magrum, Paulson, Roers Jones, Satrom, and Schneider and Senators Bakke, Larson, and Myrdal voted "aye." Representatives Ertelt and Vetter voted "nay."

It was moved by Representative Vetter, seconded by Representative Adams, and carried on a roll call vote that the bill draft [23.0117.01000], as revised, relating to spousal support be approved and recommended to the Legislative Management. Representatives Koppelman, Adams, Buffalo, Hanson, Johnson, Jones, Karls, Klemin, Magrum, Paulson, Roers Jones, Satrom, Schneider, and Vetter and Senators Bakke, Larson, and Myrdal voted "aye." Representative Ertelt voted "nay."

FIREARM AND AMMUNITION STUDY

Attorney General Drew H. Wrigley provided information relating to the availability of firearms and ammunition and an update on civil asset forfeiture data. He noted law enforcement agencies are not experiencing any difficulties in obtaining firearms or ammunition.

REPORTS

Representative Klemin, Commissioner, North Dakota Commission on Uniform State Laws, presented a memorandum entitled [Recommendations of the North Dakota Commission on Uniform State Laws - 2023 Legislative Session](#).

Ms. Jennifer S. N. Clark, Senior Counsel and Code Revisor, Legislative Council, presented a memorandum entitled [Testimony - Technical Corrections Bill Draft - Interim Judiciary Committee](#) and a bill draft [21.0171.01000] relating to technical corrections to the North Dakota Century Code.

It was moved by Senator Myrdal, seconded by Representative Schneider, and carried on a roll call vote that the bill draft [23.0171.01000] relating to technical corrections to the Century Code be approved and recommended to the Legislative Management. Representatives Koppelman, Adams, Buffalo, Ertelt, Jones, Karls, Klemin, Magrum, Paulson, Satrom, and Schneider and Senators Bakke, Larson, and Myrdal voted "aye." No negative votes were cast.

Mr. Jason Wahl, Director, Division of Medical Marijuana, Department of Health and Human Services, provided information ([Appendix C](#)) regarding the annual report relating to medical marijuana.

COMMISSION ON JUVENILE JUSTICE

Ms. Lisa Bjergaard, Director, Division of Juvenile Services, Department of Corrections and Rehabilitation, provided a report ([Appendix D](#)) regarding the Commission on Juvenile Justice's recommendations for further implementation of House Bill No. 1035 (2021). She noted:

- Three planning committees worked under the supervision of the Commission on Juvenile Justice and concluded their work in August 2022.
- One of the significant impacts of House Bill No. 1035 is the transition from processing unruly youth in the juvenile court to a new designation of "children in need of services" who are referred to the human service zones.
- It is important to study the juvenile delinquency code in relation to the criminal code as some sections are inequitable in application to youth charged with juvenile delinquencies.
- A bill draft [23.0173.01000] will include cross-references and other cleanup provisions and likely have additional sections added before introduction.

RECOMMENDATIONS FROM THE CHILDREN'S CABINET AND JUDICIARY

Justice Lisa F. Fair McEvers, North Dakota Supreme Court, provided information ([Appendix E](#)) relating to the court's recommendations developed by the Children's Cabinet. She indicated the judiciary's main focus for the upcoming legislative session includes the following recommendations:

- Support new judgeships across the state;
- Create new positions for the Court Improvement Project;
- Expand the use of case aides with high-risk juvenile youth in juvenile court;
- Support additional resources for indigent defense;
- Support additional funding for the expansion of in-home family therapy and drug and alcohol treatment for youth; and
- Address the recruitment barriers for mental health and addiction treatment providers.

COMMITTEE DISCUSSION

Representative Ertelt indicated Executive Orders 14076, 14079, 13990, 14037, 14019, and 14075, signed by President Joseph R. Biden, should be forwarded to the Legislative Management for possible consideration by the Attorney General.

It was moved by Representative Vetter, seconded by Representative Magrum, and carried on a roll call vote that Executive Orders 14076 and 14079, relating to access to reproductive and other health care services, be recommended to the Legislative Management for review and challenged by the Attorney General. Representatives Koppelman, Ertelt, Johnson, Jones, Karls, Klemin, Magrum, Paulson, Roers Jones, Satrom, and Vetter and Senators Larson and Myrdal voted "aye." Representatives Adams, Buffalo, Hanson, and Schneider and Senator Bakke voted "nay."

It was moved by Representative Jones, seconded by Representative Vetter, and carried on a roll call vote that Executive Orders 13990 and 14037, relating to public health and the environment, be recommended to the Legislative Management for review by the Attorney General. Representatives Koppelman, Ertelt, Johnson, Jones, Karls, Klemin, Magrum, Paulson, Satrom, and Vetter and Senators Larson and Myrdal voted "aye." Representatives Adams, Buffalo, Hanson, and Schneider and Senator Bakke voted "nay."

It was moved by Representative Vetter, seconded by Representative Satrom, and carried on a roll call vote that Executive Order No. 14019, relating to voting rights, be recommended to the Legislative Management for review by the Attorney General. Representatives Koppelman, Ertelt, Johnson, Jones, Karls, Klemin, Magrum, Paulson, Satrom, and Vetter and Senators Larson and Myrdal voted "aye." Representatives Adams, Buffalo, Hanson, and Schneider and Senator Bakke voted "nay."

It was moved by Representative Jones, seconded by Representative Magrum, and carried on a roll call vote that Executive Order 14075, relating to equality for lesbian, gay, bisexual, transgender, queer, and intersex individuals, be recommended to the Legislative Management for review by the Attorney General. Representatives Koppelman, Ertelt, Jones, Karls, Klemin, Magrum, Paulson, Satrom, and Vetter and Senators Larson and Myrdal voted "aye." Representatives Adams, Buffalo, Hanson, and Schneider and Senator Bakke voted "nay."

It was moved by Representative Satrom, seconded by Representative Magrum, and carried on a voice vote that the Chairman and Legislative Council staff be requested to prepare a report and the bill drafts recommended by the committee and to present the report and recommended bill drafts to the Legislative Management.

It was moved by Senator Myrdal, seconded by Representative Magrum, and carried on a voice vote that the committee be adjourned sine die.

No further business appearing, Chairman Koppelman adjourned the committee sine die at 4:10 p.m.

Samantha E. Kramer
Senior Counsel and Assistant Code Revisor

ATTACH:5