

## TESTIMONY OF ROBERT A. KEOGH RE HB 1130

I write as President of the ND Municipal Judge's Association, and as Dickinson Municipal Judge for 38 years.

HB 1130 has passed the house. This is a bill that I was somewhat involved in developing. Our association at its annual meeting passed a resolution that we have such a bill prepared and introduced into the legislative session. The current version of the bill is not exactly as initially drafted, but our association's Board of Governors supports it.

All this bill does is gives Municipal Court's the same rights as is currently allowed to the District Courts to convert their criminal judgments into civil judgments. At present in order to collect on our criminal judgments the fines or costs owed to our courts or cities is the use of order to show cause hearings, warrants of arrest when defendants don't appear or pay, and sometimes jail. These procedures work when we can locate the defendants, but if the defendants can't be located or are out of state they won't. Civil judgments can be utilized across state lines and defendants would not then be subject to the possibility of incarceration for not paying.

One of the concerns raised in the houses by Rep. Roers-Jones was about the matter of appeals from Municipal Courts. In my experience, virtually all of the cases in which this procedure of converting criminal judgments to civil judgments would occur in cases where the defendants have entered into plea agreements with the city, or simply pled guilty, thus waiving their rights to appeal anyhow. And even where the criminal judgment is the result of a trial and thus a determination of the Municipal Judge of the amount to pay, the bill in its present form does not allow for conversion to a civil judgment until after the time for appeal has expired.

I can also say that a number of defendants have asked me in recent years if they could have their criminal judgments converted to civil. These are likely persons who know that can be done in District Court, and they likely prefer that process to being summoned to Municipal Court to face the possibility of further costs or jail.

I should also say that most criminal judgments that contain conditions other than the payment of fines or costs. I would expect the Municipal Court would demand that those other conditions be met before

the criminal judgment would be converted to civil.

What actual impact this legislation will have on our courts is not known precisely. For my part, I think it is highly unlikely that amounts under \$500 will ever be converted to civil judgments, unless the defendant is from another state. Our city administration would also have to agree to the conversion, as the collection process would then be up to that branch of municipal government.

While I don't have exact numbers, from what I have obtained so far would indicate that the amount of fines and costs currently owing to the Municipal Courts and municipalities across the state is in the range of 4-5 million dollars.

Rob Port has written an editorial critical of Municipal Courts, and has urged the legislature not to pass this bill. He may weigh in again. I do not know what experience influences his thinking on the matter. I would say that the legislature has created the Municipal Courts and given these courts the authority to enforce violations of municipal law. That involves imposing penalties. In some cases, the legislature has mandated certain minimum penalties. For example, for a conviction of a second DUI in the last 7 years, the fine must be \$1,500. If the legislature demands that imposes such a monetary penalty, then it must equally wish that we collect such amounts. The Municipal Courts are doing no more than the law requires us to do in these cases where defendants have been found guilty of or have pled guilty to violating the law. And with this bill, Municipal Judges are simply asking for the same right to convert criminal judgments to civil judgments as the District Court now has, and thus allow us the same civil right to enforcement as the District Court has. We think that is in the best interests of our municipalities, the state, and the defendants.

Mr. Port makes the point that Municipal Judges have no experience in civil proceedings. He apparently thinks that this bill would allow civil judgments to be created in the Municipal Court. That would be a misreading of the bill. The Municipal Court criminal judgment would be converted to a civil judgment in the **District Court**. Once a judgment is converted to civil, the Municipal Court would not be involved any further in the collection process. All collection remedies would be in the District Court.

Mr. Port apparently believes that somehow the fines and costs collected by Municipal Courts should be paid to the state. This is of course a matter for the legislature. But it is likely well known that municipalities incur substantial expense in providing local law enforcement and prosecution, as well as the cost of incarceration.

Thank you for your consideration. I can be reached at 701-290-9146 if anyone has any questions concerning this legislation.

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