



March 28, 2023
RE: HB 1268

Chair Larson and Members of the Senate Judiciary Committee,

Good morning. For the record my name is Laura Frisch and I serve on the executive leadership team at the Community Violence Intervention Center (CVIC) in Grand Forks, ND. I have overseen the legal services project at our agency for over 12 years. Prior to that I held roles as a certified advocate, authorized to assist with protection order paperwork, an advocacy supervisor, and therapist for victims of domestic violence and sexual assault. In total, I have been a staff member at CVIC for over 25 years.

I am testifying in support of House Bill 1268. The first change this bill makes is to allow the option of service by publication, something that is already available in the related sexual assault restraining order statute, as well as other civil actions. This option helps victims whose former partners are evading service and preventing a hearing from being held on the matter. Unfortunately, due to pressures on court scheduling, the order may be dismissed if it is unable to be served. Once the respondent inevitably resumes their abusive behavior, the victim is required spend several hours to go through the entire application process again, which ties up court time and resources, and is unnecessarily taxing to persons who simply want no contact with the person who has harmed them.

To be clear, this option is used as a last resort when traditional attempts at service in-person have already failed, and the court has already rescheduled the hearing once. Service by publication is more costly and complicated than personal service, so most petitioners in protection order cases will prefer in-person service when possible. This change in the law simply clarifies that service via publication is allowable after all other conditions are met.

The second change in the bill is to add stalking to the definition of domestic violence in the ND century code. Stalking has long been a part of domestic violence dynamics, both during and after a relationship. Through numerous studies, it has also been identified as a lethality factor in domestic violence, meaning that this behavior indicates an increased risk of death to the victim. In fact, one study of female murder victims, who were also previous victims of domestic violence, found that nearly 89% of them had been stalked by the person who murdered them prior to their death.

In North Dakota, we have three types of civil “stay away” orders, the Domestic Violence Protection Order (DVPO), the Sexual Assault Restraining Order (SARO), and the Disorderly Conduct Restraining Order (DCRO). Advocates employed by membership agencies with the state coalition, CAWS ND, undergo extensive training and are allowed to assist with applications for DVPOs and SAROs under administrative rule 34.

One of the challenges for domestic violence survivors who escape an abusive relationship is that though their ex-partner no longer has access to them to be physically violent, stalking often becomes a major tactic of control. This may include behavior such as driving by their home, sitting outside their place of work, monitoring their mail, sending unwanted texts, letters, gifts, etc., and using technology like GPS, hacking into accounts, cell phone tracking, and social media apps to surveil, harass and otherwise intimidate their former partner. And while this onslaught of tactics inflicts terror and fear, our laws consider the behavior to be “nonviolent.” The behavior can also be very challenging to prove in criminal court, and that often means that the best remedy to stop the behavior is for victims to apply for a civil stay-away order. Unfortunately, because the North Dakota definition of domestic violence is focused “imminent harm or violence,” survivors are only left with the option to apply for a DCRO.

There are numerous reasons why this civil remedy is problematic. First, certified advocates like ones employed by CVIC are not authorized to assist with DCROs, leaving victims in our state in the position of trying to navigate an unfamiliar system while already being in a state of exhaustion and fear. Second, DCROs do not have temporary remedies to address issues that are common in domestic relationships, such as custody, visitation, child support, authorizing use of a vehicle, or restricting access to firearms, potentially increasing the dangerousness of the situation and leaving numerous areas unaddressed. And third, only a DVPO offers an enhanced penalty for multiple violations, increasing from a class A misdemeanor to a class C felony. This can be critical for deterring behavior that is, in some cases, obsessive and relentless.

On behalf of survivors across the state of North Dakota, I urge you to vote Do Pass on HB1268. Thank you for the opportunity to testify today and I am happy to answer any questions.