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Representative Lawrence Klemin
House Judiciary Chair
State Capitol Building
600 E. Boulevard Ave
Bismarck, ND 58505

Re: House Bill 1242

Dear Representative Klemin:

I've been a resident of our state for my entire life and this is the *first time* I've been compelled to reach out to provide testimony pertaining to proposed legislation. I only wish I was able to be present, in person, to provide this testimony and answer any questions your panel may have, but unfortunately, I'm scheduled to be in mediation—assisting a husband and a father negotiate the terms of his divorce from an uncooperative spouse.

My day-job is an attorney. Specifically, a family law attorney. I spend my days working with husbands, wives, mothers, fathers, and former paramours talking about the highly-charged areas of how to share time with their children; how to share holidays; and who gets to host birthday parties and walk the child to the first day of school.

Prior to law school, I was a social worker. Now, after law school, I'm still very much a social worker (but one with knowledge of the law). Not a single week has gone by that I haven't met with a crying client or a scared parent, since I began this career.

This is why I'm reaching out. I believe the authors of HB 1242 think this bill will make my job easier. If this bill passes, that it'll also be easier for parents, right? If this bill passes, it'll mean less time with lawyers and judges and quicker resolutions between disagreeing parents! But, no, based on what I know and see, it won't.



This HB 1242 will make matters worse for our parents already in conflict. Here's a snapshot of why:

- 1) A lot of parents readily agree to equal time with the other parent. They do so without the need of a statute telling them to do so. HB 1242 will have no impact on the parents that agree, on their own, to share equal time.
- 2) This bill will only impact parents that *don't* agree. I need you to think about why parents might not agree: Abuse. Neglect. Control. Addiction. Pride.
- 3) HB 1242 says the automatic presumption doesn't apply if there's been a restraining order in place—any restraining order. I have many concerns about this well-intentioned loop-hole.

But, succinctly, it's incredibly easy to get a Disorderly Conduct Restraining Order (and it probably should be). But, if a controlling jerk of a parent wants to get a leg-up on his/her spouse, he/she just needs to initiate a disagreement and hide the cell phone camera in his/her front pocket and record the aftermath. Boom. Presumption beat because now there's a DCRO.

More importantly, I know that *domestic violence victims* are more likely to plead *guilty* to domestic violence when they fight back against their perpetrator. I have worked with numerous women that have DV restraining orders *against them* because they fought back, one time.



And, here is why North Dakota does not need HB 1242:

- 1) Our current laws work. When parents disagree on how to share time with their children, lawyers and judges review the statutory Best Interest of the Child factors codified in N.D.C.C. 14-09-06.2. These factors allow for individualized consideration of the family's dynamics. Simply, my children's best interest factor analysis will be personalized to them—and not to your family.

HB 1242 ignores the children's best interests and this analysis and says "Parents get equal time unless a parent can prove otherwise." We won't even look at the children's best interests.

- 2) North Dakota has a *wonderful* mediation program that provides 6 hours of mediation *for free* to parents. The program is described in N.D.R.Ct. 8.1. The program has 10 stated objectives, but the first one is: "To support improved parental decision-making and to promote agreement and compromise in place of litigation over parenting rights and responsibilities and to conserve limited family resources in family cases."

Isn't that amazing?

And, I'll tell you something even more amazing: It works. It really does. I've had clients experience great success participating in mediation, when direct communication wasn't working.

I fear this program will be castrated if HB 1242 becomes law. HB 1242 says there is no discussion because both parents are equal—so unless you can convince me that I really have been controlling; absent; or you've obtained a restraining order against me—I get equal time!

- 3) HB 1242 was written by folks that have no idea how family law is practiced in North Dakota. Lawyers and judges were not consulted. Nobody learned about the Best Interest of the Child factors and nobody researched the Family Mediation Program.



Thank you for considering my testimony. Please, consider the ripple effects of this proposed bill and vote Do Not Pass on HB 1242

Sincerely,

Kimberlie Larson

