

House Bill No. 1489
House Judiciary Committee
Testimony Presented Seth O'Neill, JD, MSW
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Chairman Klemin and the Members of the House Judiciary Committee, my name is Seth O'Neill, and I represent the North Dakota Domestic & Sexual Violence Coalition, in support of HB 1489. This bill would consolidate the various civil protection order provisions into one section of the North Dakota Century Code and make a few adjustments to the law.

The first civil protection order law in North Dakota was passed in the 46th Legislative Assembly in 1979. Our organization (then known as the Council on Abused Women's Services) worked with then-Senator Wayne Stenehjem to pass the first version of the Domestic Violence Protection Order. Since 1979, we have worked on refining the law to ensure it protects victims of domestic and sexual violence including last session when this Committee worked with us to add stalking to the definition of domestic violence. Throughout time, disorderly conduct restraining orders and sexual assault restraining orders were also added.

As you heard from Ms. Behrens, this bill would consolidate the various civil protection order provisions into one section of the North Dakota Century Code and make a few adjustments to the law. One adjustment that we are in disagreement with is on Page 13 starting on line 27. Presently, a second or subsequent violation of a DVPO is a Class C Felony. This bill would reduce that penalty to all violations being a Class A Misdemeanor. We do not believe that decreasing penalties for domestic violence offenders is in the best interests of North Dakota. Individuals who violate a protection order often have a disregard for the court and law enforcement. We believe that offenders should have to deal with this enhanced consequence for a subsequent violation of a civil protection order. I have included in my testimony a suggested amendment to correct this.



This bill also makes some necessary improvements regarding provisions dealing with protection orders for minors. When the case involves a minor, often times it is a petitioner and respondent are both minors. One addition we have is clarifying a situation when a minor does not have a parent or guardian to assist in petitioning for the civil protection order. I have attached an amendment to clarify that a guardian ad-litem could assist in petitioning for a civil protection order in the absence of a parent. If a seventeen year old is sexually assaulted and needs protection from their perpetrator, a guardian ad-litem could assist with seeking the order in the absence of a parent.

Chairman Klemin, and members of the committee, we encourage the committee to give HB 1489 a “Do-Pass” recommendation with the suggested amendments. I appreciate your time and I am happy to answer any questions you may have. Thank You.



Amendments

14- 07.7-02. Petition for civil protection order.

1. An individual who is or has been a victim of disorderly conduct, domestic violence, or sexual assault may file a petition for a civil protection order against:
 - a. A family or household member who commits an act of domestic violence; or
 - b. An individual who has committed disorderly conduct or sexual assault.
2. The petition must identify which type of civil protection order is sought.
3. If the individual to be protected is a minor, the parent ~~or~~ guardian, or guardian ad-litem shall file a petition on behalf of the minor. The parent ~~or~~ guardian of the minor, or guardian ad-litem is the petitioner and the minor is the protected individual.

14- 07.7-17. Penalty for violation of a civil protection order.

When a civil protection order is granted under this chapter and the respondent or individual to be restrained is served a copy of the order, the first violation of ~~any~~ the order is a class A misdemeanor. A violation of a civil protection order also constitutes contempt of court. After conviction for a first violation, a second or subsequent violation of the order is a class C felony.

14- 07.7-14. Appointment of guardian ad litem of minor.

1. The court, upon the request of either party or upon its own motion, may appoint a guardian ad litem in an action for a civil protection order to represent a minor concerning primary residential responsibility, support, ~~or~~ parenting time, or to petition for a civil protection order in the absence of a parent, if either party or the court has reason for special concern for the immediate future of the minor.
2. A guardian ad litem may be appointed at the time of a temporary civil protection order or any time before the full hearing.
3. The role of the guardian ad litem consists of investigation and making a recommendation and report to the court or in the absence of a parent, petition for a civil protection order. At no time may the involvement of the guardian ad litem alter the requirements set forth in section 14-07.7-02.
4. Appointment of the guardian ad litem expires immediately after the full hearing unless the court retains the right, upon specific finding of need, to continue the appointment of a guardian ad litem to represent a minor in matters concerning parenting time.
5. The guardian ad litem shall have access to records before the court, except as otherwise provided by law.

6. The court may direct either or both parties to pay the guardian ad litem fees established by the court. If neither party is able to pay the fees, the court, after notice to the state's attorney of the county of venue, may direct the fees to be paid, in whole or in part, by the county of venue. The court may direct either or both parties to reimburse the county, in whole or in part, for the payment.