

Senate Bill No. 2326
Senate Judiciary Committee
Testimony Presented Seth O'Neill, JD, MSW
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Chairwoman Larson and members of the Senate Judiciary Committee, my name is Seth O'Neill and I am representing the North Dakota Domestic & Sexual Violence Coalition in support of SB 2326.

This bill would close domestic violence protection order and sexual assault restraining order hearings to the public. These hearings contain private information about domestic and sexual violence where a victim testifies in graphic detail regarding the abuse they are experienced. Presently, the court records associated with these cases are confidential under North Dakota Supreme Court Administrative Rule 41(3)(b)(6)(F):

(F) A record maintained in relation to a matter involving:
(i) an application for a domestic violence protection order under N.D.C.C. § 14-07.1-02;
(ii) a petition for a disorderly conduct restraining order under N.D.C.C. Ch. 12.1-31.2 sought on the basis of alleged domestic violence; or
(iii) a petition for a sexual assault restraining order under N.D.C.C. § 12.1-31-01.2.
Orders of the court in these proceedings are confidential only in matters in which the initial petition was dismissed summarily by the court without a contested hearing.

As such, the court records are not accessible to the public besides the final order. However, the hearings themselves are not closed to the public which contain more sensitive information than the court records. We believe it is in the best interests of both parties that the public be excluded from these hearings.

This bill would also clarify that the final order which is presently accessible to the public would not contain the name of the victim. Presently, a final domestic violence protection order or a disorderly conduct restraining order is a public record and contains the name of the victim as well as their personal information. The primary purpose of the document being public is so that members of the public can see if an individual has a



protection order issued against them. It is not necessary for the victim's name to be included in order to serve this purpose.

In addition, federal law prohibits a state from making a protection order publicly available if the publication would be likely to publicly reveal the identity or location of the protected party:

(3) LIMITS ON INTERNET PUBLICATION OF REGISTRATION INFORMATION.-A State, Indian tribe, or territory shall not make available publicly on the Internet any information regarding the registration, filing of a petition for, or issuance of a protection order, restraining order, or injunction in either the issuing or enforcing State, tribal or territorial jurisdiction, if such publication would be likely to publicly reveal the identity or location of the party protected under such order. A State, Indian tribe, or territory may share court-generated and law enforcement-generated information contained in secure, governmental registries for protection order enforcement purposes. The prohibition under this paragraph applies to all protection orders for the protection of a person residing within a State, territorial, or Tribal jurisdiction, whether or not the protection order was issued by that State, territory, or Tribe. 18 U.S.C. § 2265(d)(3).

As such, it is important for the State of North Dakota to remain compliant with this federal law. Due to these reasons, we encourage the committee to give SB 2326 a Do-Pass Recommendation. I appreciate your time and I am happy to answer any questions you may have. Thank You.

