

FISCAL NOTE
Requested by Legislative Council
01/14/2015

Amendment to: HB 1212

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$43,200	\$0	\$43,200
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties	\$0	\$0	\$0
Cities	\$0	\$0	\$0
School Districts	\$0	\$0	\$0
Townships	\$0	\$0	\$0

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1212 changes unemployment insurance eligibility and employer benefit charging requirements as they relate to claims for benefits resulting from individuals who leave employment due to stalking. The fiscal impact relates to additional benefits paid from the unemployment insurance trust fund

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 2 of the bill provides the fiscal impact in the form of additional benefit payments paid to claimants. Section 1 of the bill provides for an impact upon the employers of the state, as any benefits paid as a result of Section 2 will be charged to all employers of the state via unemployment insurance tax rates.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

None

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

No information technology programming changes will need to be made. FTE counts will not be impacted. Expenditures will relate to additional benefits paid to claimants, with these expenditures coming from the Unemployment Insurance Trust Fund. Based upon actual claims filed as a result of domestic violence or sexual assault since 2011, it is estimated that 9 eligible claims per biennium will result from this bill. Average weekly benefit amount (\$400) X Average claim duration (12) X Number of claims per biennium (9) = \$43,200.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

None

Name: Darren Brostrom

Agency: Job Service

Telephone: 701-328-2843

Date Prepared: 01/16/2015

FISCAL NOTE
Requested by Legislative Council
01/14/2015

Bill/Resolution No.: HB 1212

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None

Name: Darren Brostrom

Agency: Job Service

Telephone: 701-328-2843

Date Prepared: 01/16/2015

2015 HOUSE INDUSTRY, BUSINESS AND LABOR

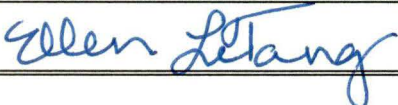
HB 1212

2015 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Peace Garden Room, State Capitol

HB 1212
1/20/2015
22222

- ☐ Subcommittee
☐ Conference Committee



Explanation or reason for introduction of bill/resolution:

Eligibility for unemployment compensation benefits for victims of stalking.

Minutes:

Attachment 1-2

Chairman Keiser: Opens the hearing on HB 1212.

Representative Delmore~District 43: The bill makes one important change to existing statute. It adds the crime stalking to a list of crimes against individuals who may be eligible for unemployment compensation, if specific requirements for eligibility are met under current law.

Representative Laning: In the case of stalking, what inhibits the person from going to work?

Representative Delmore: People can harass you in the work place by phone calls and other types of activity. It still has to meet the criteria for the reason that you would apply.

Representative Louser: Are we going to hear what those criteria are in the term "stalking" or how's that defined in the law?

Delmore: There is someone who can give you a better definition.

4:00

Janelle Moos~Executive Director of CAWS North Dakota: (See Attachment 1)

6:30

Representative Ruby: Do we know how many cases have been filed.

Moos: Stalking is very under reported crime. Going back to Representative Louser question, it is under chapter 12.1-17-07.1 which outlines what stalking is.

Representative Ruby: Is there a difference between harassment and stalking?

Moos: If you look at that section of code, it's a course of conduct for a specific purpose, repetitively.

Chairman Keiser: One of the principles of unemployment compensation is that whether voluntary or involuntary separation occurs, the individual makes a reasonable attempt to find employment so they can discontinue the unemployment compensation. In cases of domestic violence, that reaches a level of severity that frequently, they relocate. As the function of relocating, they are going to seek employment. Does the same kind of relocation occur with stalking or is it just at the lower level.

Moos: Stalking usually occurs with some other form of violence. Whether or not they choose to relocate, we don't have any documentation.

Representative Hanson: Do we have a definition for stalking in century code?

Moos: Yes, it's under chapter 12.17-07.1 and it's under the criminal code.

Representative Louser: How would one verify that they are being stalked short of the report? How does an employer recognize that?

Moos: We would hope the employer is aware or they tell their employer. You will have police reports and the victim keeps logs.

Representative Louser: Is there any reference to cyber stalking under ND statute?

Moos: It's not spelt out specifically under the criminal code, but if you can demonstrate to meet the criteria, you could use that.

Representative Ruby: One of the other tenants of unemployment insurance is that it's a benefit that is provided to the employee who is separated from work of no fault of their own. It's been broad in the past through the violence and other issues. By adding stalking, it really broadens it more. It's broadening the reasons why somebody could leave employment and receive benefits.

Moos: The only change that is proposed is just to add stalking to the list of crimes that make victims eligible for unemployment compensation. It hasn't changed anything else in current statute. Stalking coincides with domestic violence.

Representative Becker: You mentioned 20 Facebook posts a day, isn't it also stalking if there are two Facebook posts, one Monday & one on Tuesday. It's still stalking even if the person receiving the Facebook posts, hey, doesn't send me Facebook posts or if they are frightened from Facebook posts. If I broke up with a girlfriend and she put on Facebook that I'm not a good guy, could I not claim to be a stalking victim.

Moos: You could, but it has to show that it is a course of conduct that shows what the intentional purposes are. We leave that to the law enforcement to make that determination.

Representative Becker: But it does say specifically, it serves no legitimate purpose, it's harassing because it bothersome and frightening. What you're saying, we need to not look at the definition set forth in the century code but use common sense. But we have to look at century code. This is a very wide open definition.

Moos: I don't think we're debating the criminal code, but I can see how the definition of stalking would have an impact. You have to have more criteria on hand if you are going to make a claim for unemployment under this current statute.

Representative Becker: Explain what things you need in hand.

Moos: If you look at what is in current statute, you need different criteria to backup their claim.

Representative Frantsvog: What was your number of cases when this was drafted?

Moos: We have 2 per month but a lot go unreported.

Representative Kasper: If this bill passes, will they need to seek another employment or are they going to be able to claim indefinitely that I was a victim; therefore, I'm not going to work? What is your thought?

Moos: Nothing changes, they have the same requirements. It gives them the eligibility.

Chairman Keiser: Is there anyone here to testify on HB 1212 in support, opposition, neutral?

Cheri Giesen~Executive Director of Job Service of North Dakota: (Attachment 2).

28:30

Representative Ruby: This change and along with the other provisions that are in existing law, do they directly affect the employer's account.

Giesen: No, it actually goes against all employers.

Representative Louser: You said that 13 individuals utilized the unemployment insurance based on just domestic violence or was it a combination to include sexual assault?

Giesen: It was a combination.

Chairman Keiser: This is opening and expanding to a new category. The current law isn't really defined to what the definition of stalking is. Do you have any concerns from your agency about further modifying and limiting those that would qualify under the stalking provision?

Giesen: We haven't had any discussion. I do feel comfortable that we do not try, at job service, to interpret. We rely on that documentation to determine eligibility.

Representative Ruby: Would this require that if somebody did leave, that it would be from an employment that met the other qualifications to receive unemployment benefits or they if they haven't worked for several years and they get back into the workforce, they work 2 quarters and then they are stalked. Would they immediately qualify for the benefits or would they still have to meet the requirement of the normal procedures of the number of quarters worked.

Giesen: They would need to meet the same requirements.

Representative Ruby: I was looking at the area of subsection I, and reads the subsection. It sound to me like it might be different than what you state.

Giesen: I'm going to ask Darrin Brostrom to answer that question.

Darron Brostrom~Director of Unemployment Insurance for Job Service: The difference is a two prong eligibility. The monetarily first and then the impact of non-monetarily eligibility. They would have to meet the other requirements.

Chairman Keiser: Is there anyone else here to testify in the neutral position on HB 1212? Seeing none, closes the hearing. What are the wishes of the committee?

Representative Lefor: Motions a Do Pass.

Representative Beadle: Second.

Chairman Keiser: Further discussion.

Representative Becker: I'm going to vote no. I think this opens it up significantly to add so many other things. It's too loose and free. It's at an appropriate level as far as which concerns warrant unemployment insurance.

Representative Ruby: I'm going to echo the same concerns. I concern with the broadness of the term.

Representative Lefor: There is still a liability on behalf of the person that reports themselves as victims of stalking. I'm not as concerned about the broadness of this and under no control of their own; they are victims of stalking. The greater weight is working with them to help make their lives easier. Under section 4, criminal provisions, they have to prove that they are victims of stalking. I would like the committee to take the side of the stalking victims.

Representative Louser: As I look at chapter 12.1-17, where stalking is defined, we included...., and yet this bill only addresses stalking in that section of code. If we are going to take it to that extent, it should include probable everything in chapter 12.1-17 or none of those sections. I will be voting against the bill.

Representative Ruby: It has to be tight. It's pretty broad who provides the documentation. That's why I'm going to vote no.

Chairman Keiser: Further discussion.


Voting roll call was taken for a Do Pass on HB 1212 with 8 yes, 6 no, 1 absent and Representative Lefor is the carrier.

2015 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Peace Garden Room, State Capitol

HB 1212
1/26/2015
22573

- ☐ Subcommittee
☐ Conference Committee



Explanation or reason for introduction of bill/resolution:

Eligibility for unemployment compensation benefits for victims.

Minutes:

Chairman Keiser: It's up to the committee where you can say, no we are sending the bill back with a Do Pass, 8 to 6 but in talking with the sponsor to that bill, it brought me back to a point made by Representative Becker, this added stalking to one of the conditions that would qualify for unemployment. How do you define stalking? In talking I should have suggested. If we wanted to add stalking as a condition for unemployment compensation, they need to do something more than just report stalking to one of those groups. They have to file a formal complaint to the police department or law enforcement. That takes it to a different level for me. It is back in committee, if you want to add to the stalking condition requirement to include, reporting to a legal authority before they can file for unemployment compensation. We need a motion to retract the motion.

Representative Kasper: Is current statue, isn't that required that you have to file a report?

Chairman Keiser: They are criminal by themselves. If one of those agencies and if they have any suspicion, they by law have to report it. Is there an obligation to report stalking?

Representative Louser: No.

Representative Kasper: In order for a person to receive unemployment because of domestic violence and sexual assault, they (the five groups) would have to report it to some law enforcement agency?

Chairman Keiser: I believe so.

Representative Boschee: No, it is not. In some of the bills that are going through are trying to figure that out.

Representative Ruby: Under existing law, if they filed for some of those benefits and never go to the emergency room but being counseled.

Chairman Keiser: That's correct.

Representative Ruby: If they went to one of these who certify or write an affidavit saying that they were in discussion with that person, then that would qualify for them. This is why I oppose this because stalking is broad. There is also no level of threat and it's very subjective.

Chairman Keiser: It's certainly a bigger step.

Representative Kasper: On line 13, it's verified by documentation submitted by job service and then you go down to line 22, and it starts listing. It does provide the documentation must be submitted.

Representative Ruby: I'm all for having the best bill before us. I move that we reconsider our actions and take discussion for there.

Representative Boschee: Second.

Representative Louser: Is the difference between unemployment and worker's compensation? I thought that worker's comp was referenced in this bill and testimony. It's only unemployment insurance.

Chairman Keiser: This is just unemployment insurance.

Representative Boschee: On page 2, line 4, removing "stalking" will take care of what we are looking to do?

Representative Ruby: Would it also be removed to line 15?

Representative Beadle: No.

Chairman Keiser: This should be taken to a high level. It is justification for receiving unemployment.

Roll call was taken for the motion to reconsider the bill with 12 yes, 2 no, 1 absent.

Chairman Keiser: The question is do we want to provide an amendment to require for the stalking portion, a criminal complaint is filed?

Representative Ruby: I would move that amendment and remove stalking from page 2, line 4.

Chairman Keiser: Yes, we will need to create a new subsection for stalking.

Representative Lefor: Second.

Chairman Keiser: Further discussion?

Voice vote on HB 1212, motion carried.

Chairman Keiser: We now have HB 1212 before us, what are your wishes.

Representative Boschee: Moves a Do Pass as Amended.

Representative Beadle: Second.

Chairman Keiser: Further discussion?

Representative Ruby: I wanted to make it a better bill but it's still too subjective and broad. I'm going to oppose a Do Pass as Amended.

Representative Becker: I do feel the bill with the amendment is slightly less bad. It takes out the frivolous, but it doesn't take my concern away that stalking is defined as two or more acts with no specific contended purpose. You don't have to tell the person to stop. The person doing the stalking didn't need to intend to frighten you, this is wide open. I'm going to vote no because that opens too wide for too little of events.

Chairman Keiser: I do like the bill in its current form and we have to look at the whole picture. You have to leave your job. I don't see people who will take advantage of this. I can support it.

Representative Lefor: I agree with your position and I'm going to vote with you. You do have to leave your job, look for unemployment and report it to the police.

Representative Frantsvog: Line 17, paragraph 4, that will still stay there?

Chairman Keiser: Yes.

Representative Kasper: We are adding that the victim must file a complaint, get an affidavit and leave the job, I comfortable with the bill and amendment now.

Representative Louser: My concern all along was the definition of stalking, in our law and century code as it relates to terrorizing. They both are class C felonies and terrorizing is a threat on the life and stalking is it's frightens or intimidates and we are not addressing terrorizing. Stalking is so loosely defined. If we are serious about this, why would we include terrorizing that have a threat on your life? I'm going to resist the motion.

Chairman Keiser: Further discussion?

Roll call was taken for a Do Pass as Amended on HB 1212 with 9 yes, 5 no, 1 absent and Representative Lefor is the carrier.

sl
1-2715

January 26, 2015

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1212

Page 1, line 22, after "documentation" insert "of domestic violence or sexual assault"

Page 2, line 4, remove ", stalking,"

Page 2, line 12, after "(3)" insert "For purposes of this subdivision, documentation of stalking must include:

- (a) A police or law enforcement record; and
- (b) A written affidavit provided by an individual who has assisted the claimant in dealing with the stalking and who is a:
 - [1] Licensed counselor;
 - [2] Licensed social worker;
 - [3] Member of the clergy;
 - [4] Director of domestic violence advocate at a domestic violence sexual assault organization as defined in section 14-07.1-01; or
 - [5] Licensed attorney.

(4)"

Page 2, line 17, overstrike "(4)" and insert immediately thereafter "(5)"

Renumber accordingly

Date: Jan 20, 2015Roll Call Vote: 1

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1212**

House Industry, Business & Labor Committee
☐ Subcommittee

 ☐ Conference Committee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
 ☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
 ☐ As Amended ☐ Rerefer to Appropriations
 Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep Lefor Seconded By Rep Beadle

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	x		Representative Lefor	x	
Vice Chairman Sukut		x	Representative Louser		x
Representative Beadle	x		Representative Ruby		x
Representative Becker		x	Representative Amerman	x	
Representative Devlin	x		Representative Boschee	x	
Representative Frantsvog		x	Representative Hanson	x	
Representative Kasper	Ab		Representative M Nelson	x	
Representative Laning		x			

Total (Yes) 8 No 6Absent 1Floor Assignment Rep Lefor

If the vote is on an amendment, briefly indicate intent:

Date: Jan 26, 2015Roll Call Vote: 1

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1212**

House Industry, Business & Labor Committee☐ Subcommittee☐ Conference Committee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment☐ Do Pass☐ Do Not Pass☐ Without Committee Recommendation☐ As Amended☐ Rerefer to AppropriationsOther Actions: ☒ Reconsider☐ _____

Motion Made By

Rep Ruby

Seconded By

Rep Boschee

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Representative Lefor	X	
Vice Chairman Sukut	X		Representative Louser	X	
Representative Beadle	x		Representative Ruby	X	
Representative Becker	X		Representative Amerman	Ab	
Representative Devlin	x		Representative Boschee	x	
Representative Frantsovog	x		Representative Hanson	x	
Representative Kasper	x		Representative M Nelson		X
Representative Laning		X			

Total (Yes) 12 No 2Absent 1

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

reconsider the bill

Date: Jan 26, 2015Roll Call Vote: 2

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1212**

House Industry, Business & Labor Committee
☐ Subcommittee ☐ Conference Committee
Amendment LC# or Description: See below

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
 Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep Ruby Seconded By Rep Lefor

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Lefor		
Vice Chairman Sukut			Representative Louser		
Representative Beadle			Representative Ruby		
Representative Becker			Representative Amerman		
Representative Devlin			Representative Boschee		
Representative Frantsvog			Representative Hanson		
Representative Kasper			Representative M Nelson		
Representative Laning					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

removing stalking on page 2, line 4
 stalking - Add a new section for stalking &
 make a criminal report
 voice roll call - motion carried

Date: Jan 26, 2015Roll Call Vote: 3

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1212**

House Industry, Business & Labor Committee☐ Subcommittee☐ Conference Committee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation☒ As Amended ☐ Rerefer to AppropriationsOther Actions: ☐ Reconsider☐ _____Motion Made By Rep Boschee Seconded By Rep Beadle

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	x		Representative Lefor	x	
Vice Chairman Sukut	x		Representative Louser		x
Representative Beadle	x		Representative Ruby		x
Representative Becker		x	Representative Amerman	Ab	
Representative Devlin		x	Representative Boschee	x	
Representative Frantsvog	x		Representative Hanson	x	
Representative Kasper	x		Representative M Nelson	x	
Representative Laning		x			

Total (Yes) 9 No 5Absent 1Floor Assignment Rep Lefor

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1212: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **DO PASS** (8 YEAS, 6 NAYS, 1 ABSENT AND NOT VOTING).
HB 1212 was placed on the Eleventh order on the calendar.

Rep Lefor
due to the
fact that
Rep Devlin
is temp
Speaker of
the house

REPORT OF STANDING COMMITTEE

HB 1212: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 5 NAYS, 1 ABSENT AND NOT VOTING). HB 1212 was placed on the Sixth order on the calendar.

Page 1, line 22, after "documentation" insert "of domestic violence or sexual assault"

Page 2, line 4, remove ", stalking,"

Page 2, line 12, after "(3)" insert "For purposes of this subdivision, documentation of stalking must include:

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 - [5] Licensed attorney.

(4)"

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Renumber accordingly

2015 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1212

2015 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Roosevelt Park Room, State Capitol

HB 1212
3/4/2015
Job Number 24305

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Eva Liebelt

Explanation or reason for introduction of bill/resolution:

Relating to eligibility for unemployment compensation benefits for victims of stalking

Minutes:

Attachments

Chairman Klein: Opened the hearing.

Representative Delmore: Said the bill makes one important change to existing statute, it adds the crime of stalking to the list of crimes against individuals who may be eligible for unemployment compensation if specific requirements are met for the eligibility under existing law. (:12-1:29)

Chairman Klein: To qualify you would have had to file a police report or is it a or b, you could fall under the other category having a written affidavit from a counselor, social worker, clergy or an attorney?

Representative Delmore: Yes, it was put into the bill so there is important documentation. This only says that this happened to me, so I may apply but I still have to meet all of the other eligibility requirements before I am allowed to do that. (1:51-2:56)

Chairman Klein: It is not like someone on Facebook doesn't like you?

Representative Delmore: No and that was one of the things the House was concerned about to make sure that rationale was met. These are truly victims of stalking.

Tom Ricker, President of the North Dakota AFL-CIO: They are in support of the bill. This would give them the opportunity to file the claim and they must provide the documentation and the documentation is pretty significant. (3:48-4:54)

Cheri Giesen, Job Service of North Dakota: In support. Written Testimony Attached (1). (6:02-7:33)

Chairman Klein: You spoke of the fund and the slight impact, would you speak to the fund for discussion purposes? We have heard concerns now as western North Dakota is seeing a bit of a decline. Are we concerned at all about the fund?

Cheri Giesen: The trust fund is in very good shape. The legislators have put the trust fund in a position that we can handle a recession. (8:01-9:41)

Chairman Klein: Where are we at with the average weekly wage?

Cheri Giesen: An average pay out is around four hundred and twenty dollars. The highest you can get is five ninety five. (9:46-10:04)

Senator Miller: Can you repeat the numbers on the fund and your weekly payout?

Cheri Giesen: So 185 million is for the trust fund balance the 3.5 million is the weekly totally weekly benefit amounts that we are paying individuals. (10:15-10:33)

Senator Burckhard: Asked why these weren't included in the 2011 legislation.

Cheri Giesen: They didn't introduce the bill.

Chairman Klein: Said that there were more concerns with domestic violence then stalking.

Senator Campbell: Asked if this was comparable to other states?

Cheri Giesen: I am not familiar with the balance fund but I can tell you that North Dakota and the legislators have done probably a better job than the rest of the states where they had to borrow during the recession. (11:41-12:11)

Chairman Klein: Said that he could go back a few sessions where they were wishing they had this amount of money because back in the early 2000 we were at a tipping point where we didn't have any money and we did boost the rates especially to the negative balance of employers who were suggested were getting a free ride. We increased that top side substantially for the negative balance employers? (12:12-13:05)

Darren Brostrom, Unemployment Insurance Director of Job Service: Our trust fund in the early 2000 we did adjust the model. In order to insure that those negative balance employers were paying their fair share, which in effect did raise rates for a period of time. In the last five years we have seen those rates go down. (13:21-13:54)

Senator Campbell: What is a negative balance employer?

Darren Brostrom: One who has paid out more in benefits to someone who works for them then they have paid in in taxes.

Chairman Klein: Generally what sort of employer is that?

Darren Brostrom: Seasonal employers, a lot of road crews. Construction has typically been a much higher user of the unemployment insurance system, however as technology has changed construction is working much more through the winter and we are not seeing quite as many as those folks coming through.

Chairman Klein: When we speak to job attached, what have we done or provided so those folks that are laid off in December and not come back until April, what do they not have to do?

Darren Brostrom: When we code someone as job attached their employer has told us they will be returning to their employment within a period of time. The employers really strongly support this because they want to get back those trained employees. When we file those claims those individuals don't have to be searching for work however they have to be available for recall. They still have to report to us weekly on what their status is.

Chairman Klein: We went of the subject a little bit.

Senator Miller: Moved a do pass.

Senator Burckhard: Seconded the motion.

Roll Call Vote: Yes-7 No-0 Absent-0

Senator Miller will carry the bill.

Also handed in at the end of the meeting was testimony from **Janelle Moos, Executive Director of CAWS of North Dakota, Attached (2).**

Date: 3.4.15
Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1212

Senate Industry, Business and Labor Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Miller Seconded By Burckhard

Senators	Yes	No	Senators	Yes	No
Chairman Klein	✓		Senator Murphy	✓	
Vice Chairman Campbell	✓		Senator Sinner	✓	
Senator Burckhard	✓				
Senator Miller	✓				
Senator Poolman	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen. Miller

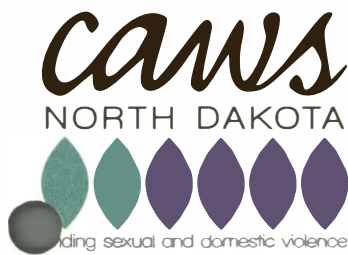
If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1212, as engrossed: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1212 was placed on the Fourteenth order on the calendar.

2015 TESTIMONY

HB 1212



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Testimony on HB 1212

House Industry, Business and Labor

January 20, 2015

Chairman Keiser and Members of the Committee:

My name is Janelle Moos and I am the Executive Director of CAWS North Dakota. Our Coalition is a membership based organization that consists of 20 domestic violence and rape crisis centers that provide services to victims of domestic violence, sexual assault, and stalking in all 53 counties and the reservations in North Dakota. I'm speaking this morning on their behalf in support of HB 1212.

Many victims and survivors of domestic violence, sexual assault, and stalking must leave work in order to protect themselves, their families, and their coworkers. A woman may be harassed by threatening phone calls at work or may need to miss days of work because of injuries or attempts to seek legal remedies for the abuse. In the worst cases, a victim may be attacked by the perpetrator at work. Rape, sexual assault, and stalking are aspects of domestic violence that may prevent a victim from maintaining employment. A perpetrator may stalk a victim at her workplace because it may be the only place he knows to find her. Stalking may include up to 20 calls in a day, waiting outside her workplace in his car, or coming into the workplace and verbally or physically assaulting her. These experiences may cause a victim to be forced to leave her employment to seek safety.

Workers are generally not able to qualify for unemployment insurance when they leave work "voluntarily", unless they have "good cause" related to work. In many states, including North Dakota, personal reasons cannot constitute "good cause" for leaving a job so survivors must leave work to protect themselves from violence and stalking may not qualify for unemployment insurance.

HB 1212 expands the current statute that was originally passed in the 2013 ND Legislative Session to now include victims of stalking to be considered eligible for unemployment insurance. As I testified to during that session the inclusion of stalking victims by no means guarantees them anything, just that they are eligible. This change is proposed in the non charging section of the statute.

A majority of states, thirty two, recognize that domestic violence often follows its victims to work and can affect their ability to retain a job, therefore making them eligible for benefits. Most states that cover victims under their unemployment insurance laws have found that there are only a handful of claims per year. In one year Connecticut granted benefits to 47 domestic violence victims, with an average weekly benefit of \$397.00 or a total cost of \$169,850. And in the state of Washington for one calendar year, it had 110 claims- resulting in only .3% of all the unemployment insurance claims in the state that year.

North Dakota is one state where survivors of stalking who must leave their jobs to protect their safety can be disqualified from receiving unemployment benefits because it isn't considered good cause for leaving a job. HB 1212 changes that. Please join me in supporting HB 1212. Thank you.

pg 1

WHAT IS STALKING?

While legal definitions of stalking vary from one jurisdiction to another, a good working definition of stalking is a *course of conduct directed at a specific person that would cause a reasonable person to feel fear.*

STALKING VICTIMIZATION

- 7.5 million people are stalked in one year in the United States.
- 15% of women and 6% of men have experienced stalking victimization at some point during their lifetime in which they felt very fearful or believed that they or someone close to them would be harmed or killed.
- The majority of stalking victims are stalked by someone they know: 61% of female victims and 44% of male victims of stalking are stalked by a current or former intimate partner, 25% of female victims and 32% of male victims are stalked by an acquaintance.
- About half of all victims of stalking indicated that they were stalked before the age of 25. About 14% of female victims and 16% of male victims experienced stalking between the ages of 11 and 17.

approaching the victim or showing up in places when the victim didn't want them to be there; making unwanted telephone calls; leaving the victim unwanted messages (text or voice); and watching or following the victim from a distance, or spying on the victim with a listening device, camera, or global positioning system were the most commonly reported stalker tactics by both female and male victims of stalking.

[Matthew J. Breiding et al., "Prevalence and Characteristics of Sexual Violence, Stalking, and Intimate Partner Violence Victimization - National Intimate Partner and Sexual Violence Survey, United States, 2011", *Centers for Disease Control and Prevention Morbidity and Mortality Weekly Report*, Vol. 63, No. 8 (2014)]

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- 11% of stalking victims have been stalked for 5 years or more.

[Katrina Baum et al., "Stalking Victimization in the United States," (Washington, DC: Bureau of Justice Statistics, 2009).]

STALKING AND INTIMATE PARTNER FEMICIDE

- 76% of intimate partner femicide victims have been stalked by their intimate partner.
- 67% had been physically abused by their intimate partner.
- 89% of femicide victims who had been physically assaulted had also been stalked in the 12 months before their murder.
- 79% of abused femicide victims reported being stalked during the same period that they were abused.
- 54% of femicide victims reported stalking to police before they were killed by their stalkers.

[Judith McFarlane et al., "Stalking and Intimate Partner Femicide," *Homicide Studies* 3, no. 4 (1999)]

Last updated January 2015

THE STALKING RESOURCE CENTER

The mission of the Stalking Resource Center is to enhance the ability of professionals, organizations, and systems to effectively respond to stalking. The Stalking Resource Center envisions a future in which the criminal justice system and its many allied community partners will effectively collaborate and respond to stalking, improve victim safety and well-being, and hold offenders accountable. Visit us online at www.victimsofcrime.org/src. Contact us at 202-467-8700 or src@nvc.org.

This document may be reproduced only in its entirety. Any alterations must be approved by the Stalking Resource Center.

This document was developed under grant number 2014-TA-AX-K056 from the Office on Violence Against Women (OVW) of the U.S. Department of Justice. The opinions and views expressed in this document are those of the author(s) and do not necessarily represent the official position of the Office on Violence Against Women of the U.S. Department of Justice. For more information on the U.S. Department of Justice Office on Violence Against Women visit <http://www.ovw.usdoj.gov>.

RECON STUDY OF STALKERS

- 2/3 of stalkers pursue their victims at least once per week, many daily, using more than one method.
- 78% of stalkers use more than one means of approach.
- Weapons are used to harm or threaten victims in 1 out of 5 cases.
- Almost 1/3 of stalkers have stalked before.
- Intimate partner stalkers frequently approach their targets, and their behaviors escalate quickly.

[Kris Mohandie et al., "The RECON Typology of Stalking: Reliability and Validity Based upon a Large Sample of North American Stalkers," *Journal of Forensic Sciences*, 51, no. 1 (2006)]

IMPACT OF STALKING ON VICTIMS

- 46% of stalking victims fear not knowing what will happen next.
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- 1 in 8 employed stalking victims lose time from work as a result of their victimization and more than half lose 5 days of work or more.
- 1 in 7 stalking victims move as a result of their victimization.
- The prevalence of anxiety, insomnia, social dysfunction, and severe depression is much higher among stalking victims than the general population, especially if the stalking involves being followed or having one's property destroyed.

[Eric Blauuw et al., "The Toll of Stalking," *Journal of Interpersonal Violence*, 17, no. 1 (2002): 50-63]

STALKING LAWS

- Stalking is a crime under the laws of 50 states, the District of Columbia, the U.S. Territories, and the Federal government.
- Less than 1/3 of states classify stalking as a felony upon first offense.
- More than 1/2 of states classify stalking as a felony upon second or subsequent offense or when the crime involves aggravating factors.
- Aggravating factors may include: possession of a deadly weapon, violation of a court order or condition of probation/parole, victim under 16 years, or same victim as prior occasions.

For a compilation of state, tribal, and federal laws visit www.victimsofcrime.org/src.

House Bill 1212
Testimony of Cheri Giesen
Job Service North Dakota
Before the
House Committee On
Industry, Business and Labor
Representative George Keiser, Chair
January 20, 2015

Mr. Chairman, members of the committee, I am Cheri Giesen, Executive Director of Job Service North Dakota. I am here today to provide information on House Bill 1212.

During the 2011 legislative session, domestic violence and sexual assault were added to North Dakota statute as non-disqualifying items for purposes of unemployment insurance. The impact of this change was that individuals who had to quit employment due to either of these actions could be found eligible for unemployment insurance benefits. Passage of House Bill 1212 would add being the victim of stalking as a situation in which an individual could quit employment and be found eligible for unemployment insurance benefits.

Based upon our experience with the usage of the domestic violence provision in North Dakota statute, the financial impact of House Bill 1212 is expected to be fairly minimal. Since 2011, we have had a total of 13 individuals utilize the unemployment insurance system based upon this circumstance. The total cumulative amount paid in benefits to these individuals was \$32,709; an average of approximately \$2,500 per individual.

It should be noted that benefits paid under the domestic violence provision are charged to the entire population of liable employers in North Dakota rather than to the employer from whom the individual had to quit. It should also be noted that given the small amount of benefits paid under this clause, the impact on employer tax rates has been basically undetectable.

Mr. Chairman, this concludes my testimony. At this time I would be happy to answer questions from the committee.

#1

House Bill 1212
Testimony of Cheri Giesen
Job Service North Dakota
Before the
Senate Committee On
Industry, Business and Labor
Senator Jerry Klein, Chair
March 4, 2015

Mr. Chairman, members of the committee, I am Cheri Giesen, Executive Director of Job Service North Dakota. I am here today to provide information on House Bill 1212.

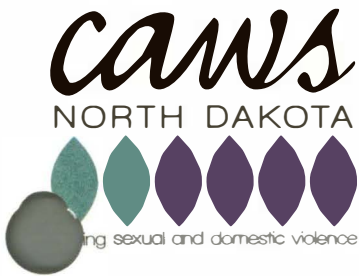
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While reviewing this bill and preparing the appropriate information to answer any questions you may have, we found that at least thirteen states have a stalking provision in place, with Montana and Minnesota being two of the thirteen. Additionally, we have provided the bill to the US Department of Labor to complete a conformity review. They found that the bill conforms to Federal law.

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#2-1

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Workers are generally not able to qualify for unemployment insurance when they leave work "voluntarily", unless they have "good cause" related to work. In many states, including North Dakota, personal reasons cannot constitute "good cause" for leaving a job so survivors must leave work to protect themselves from violence and stalking may not qualify for unemployment insurance.

HB 1212 expands the current statute that was originally passed in the 2013 ND Legislative Session to now include victims of stalking to be considered eligible for unemployment insurance. As I testified to during that session the inclusion of stalking victims by no means guarantees them anything, just that they are eligible to apply for unemployment compensation. As you can see from the engrossed version of the bill the House added language that in cases of stalking the victim must have two forms of documentation- a police report- and a written affidavit (Subsection 3 starting on line 14- 23). This change is proposed in the non charging section of the statute.

A majority of states, thirty two, recognize that domestic violence often follows its victims to work and can affect their ability to retain a job, therefore making them eligible for benefits. Most states that cover victims under their unemployment insurance laws have found that there are only a handful of claims per year. In one year Connecticut granted benefits to 47 domestic violence victims, with an average weekly benefit of \$397.00 or a total cost of \$169,850. And in the state of Washington for one calendar year, it had 110 claims- resulting in only .3% of all the unemployment insurance claims in the state that year.

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FAQ's ON ENGROSSED HB 1212

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Stalking is defined under Chapter 12.1-17-07.1 and means to engage in an intentional course of conduct directed at a specific person which frightens, intimidates, or harasses that person, and that serves no legitimate purpose. The course of conduct may be directed toward that person or a member of that person's immediate family and must cause a reasonable person to experience fear, intimidation, or harassment.

HB 1212 expands the current statute that was originally passed in the 2011 ND Legislative Session to now include victims of stalking to be considered eligible for unemployment insurance. The inclusion of stalking victims **by no means guarantees them anything, just that they are eligible to file a claim.** This change is proposed in the non-charging section of the statute and according to the Director of Job Service the fiscal impact of HB 1212 to be MINIMAL and there was NO testimony in opposition of the bill.

The IB & L Committee amended the bill so that in cases of stalking victims **have to secure a police or law enforcement record AND a copy of the following documentation along with their claim in order to be considered eligible for unemployment insurance:**

- A written affidavit provided by an individual helping the claimant with their case such as a licensed counselor, attorney, advocate, member of the clergy or licensed social worker.

Since the passage of the law in 2011 that expanded protections to domestic violence and sexual assault victims only 13 claims have been approved for a total of \$32,709 or an average of \$2,500 per individual.

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Last updated January 2015

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