2021 SENATE JUDICIARY

SB 2340

2021 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Peace Garden Room, State Capitol

SB 2340
2/3/2021
AM Hearing

A BILL for an Act to amend and reenact section 14-15-19 of the North Dakota Century Code, relating to termination of parental rights.

Chairwoman Larson called the meeting to order, all Senators are present: Myrdal, Luick, Dwyer, Fors, Bakke, Heitkamp, Larson [9:00 AM]

Discussion Topics:

- Termination of parental rights
- North Dakota state law in regards to absentee parents

Senator JoNelle Bakke of District 43 introduces the bill and provided written and oral testimony in favor #4242 [9:00]

Laurie J Blackberg of Grand Forks provided written and oral testimony in favor #5085 [9:12]

Bethany Blackberg of Grand Forks provided oral testimony in favor [9:25]

Mikal Blackberg of Grand Forks provided oral testimony in favor [9:27]

Chairwoman Larson adjourns the meeting. [9:30]

Jamal Omar, Committee Clerk

Testimony for SB2340 Senator JoNell Bakke

Chairman Larson and members of the Judiciary Committee. It is my pleasure to stand before you and introduce SB2340. This bill would give the courts the ability to terminate the rights of a biological parent if the parent has had no physical or verbal contact with the child for five years

As a foster mother and the mother of two adopted sons, I understand the excitement of growing your family and forming those bonds with a forever family. I also know from the children I have had in my home the pain of absent parents and sense of not really belonging anywhere. Unfortunately, in our country we have children who are stuck in a state of limbo when they don't meet all the requirement for adoption by a family that loves them and wants to adopt.

That is the reason for this bill. The family I am talking about is a blended family. The father had a daughter by a previous wife and the wife abdonded the family and moved overseas with another man. After the divorce, the father received custody of the daughter and the mother was to pay child support to him. In this case, the mother did not consistently pay child support and hasn't paid for several years. She has not seen the child in years and the only contact has been a yearly birthday.

The father remarried and his new wife has been raising this child since she was 6 years old. The new wife would like to adopt the girl to give her a sense that she belongs and is a permanent member of the family. The child is experiencing some emotional difficulties because of the lack of a permanent connection to her now stepmother. However, because of one sentence in North Dakota Century Code, which says that the rights of a biologically parent cannot be involuntarily terminated if there is contact at least once a year, has kept that from happening. The court in this case feel the yearly birthday counts as contact.

I am asking in this bill that we add the word "physical or verbal" in front of the word contact to open the way for the courts to allow the involuntary termination of parental rights when there is no meaningful interaction between a child and a biological parent. Every child deserves a forever family and permanence. This slight change will allow this child and others in the state to achieve this status.

I will stand for questions.

My name is Laurie Blackberg. I married my husband, Mikael Blackberg, seven years ago and his daughter, Bethany, has been residing with us since our marriage. Bethany has been residing with Mikael, her biological father, her whole life. Bethany's biological mother, Elizabeth Paulat-Reitz, chose to leave Mikael and Bethany when Bethany was four years old and meet a man in Germany whom she had met while playing Magic Land, which was accessed through Facebook. She had never met this man in person, but still chose to leave her 4-year-old daughter behind while she went to Germany to meet and live with this man. Elizabeth did call Bethany and talk and/or Skype with Bethany every weekend for nine months. After being gone for approximately nine months, Bethany's biological mother, Elizabeth, returned to the United States because her visa had expired and she needed to complete her divorce from Mikael so she could marry the man she went to meet in Germany, Micah. She resided in Granby, Colorado, for approximately nine months. During this time, she saw Bethany once a week for an evening and part of a day while her father was at work. Mikael's and Elizabeth's divorce was finalized in November 2013. Elizabeth was court ordered, as part of the divorce decree, to pay child support to Mikael. Mikael received a partial payment in December 2013. In January of 2014, Micah came to the United States and Elizabeth and Micah were married in Hot Sulphur Springs, Colorado, on January 21, 2014, which was also Bethany's birthday. Bethany's birthday was not acknowledged by her mother, at that time Bethany turned 6 years old. On January 22, 2014, Elizabeth and Micah boarded a plane and returned to Germany. That was the last time Bethany saw her biological mother, seven years ago. For approximately one year, Elizabeth would call, and Bethany would speak to her. Upon my listening to many conversations between Bethany and Elizabeth, the conversations were full of delusional thinking on Elizabeth's part of fairies, princesses, and convincing Bethany that she was a real princess and that fairies as well as unicorns were real. The conversations were also unhealthy in that Elizabeth would cry and ultimately Bethany would feel bad and guilty that they were not together, which eventually led to Bethany wondering what was wrong with her that her mother would leave her behind. As a result, Bethany developed attachment issues with females and did not trust females including myself but remained very close to her father and her older brothers but not her sister that she acquired through her father's marriage to me. After about a year or a year and a half, Bethany began to decide that she did not want to talk to her Elizabeth when she called, which we supported because it was Bethany's wish. Many conversations took place with Bethany to make sure she knew that it was okay for her to talk to Elizabeth and for her to love Elizabeth. Bethany insisted many times that she did not want to talk to her and she did not love her or want anything to do with her so when Elizabeth would call, we would ask Bethany first and if she said she did not want to talk to her, which was every time, we would say that Bethany was not available to talk. In May 2016, Elizabeth called to tell us that she and Micah had moved and that she would not have access to a phone for a few weeks and she would call in a few weeks, which we said was fine. That was the last time we ever received a phone call from Elizabeth. During the years of 2016-2018, in between Christmas and the first week of February, Bethany would receive a small box that would

be for her Christmas/birthday present that contained candy and some trinkets that Bethany was not remotely interested in and a card that usually said how much Elizabeth missed Bethany and loved Bethany. Bethany would become very upset when this box would arrive and cry and tear up the card and put everything in the box in the donate bag. She wanted to be adopted by me and she knew every time that box came, which was the only contact for each year, that we would have to wait another year due to ND law regarding termination of parental rights. In the years 2018-2020, Bethany received an envelope in the mail with a few trinkets, the usual card, and possibly $20.00 in German currency. Again, each time, Bethany would become very upset, angry, cry, tear up the card, and put whatever trinkets were in the envelope in the donate bag. So, now, it is February 2021, and she turned 13 on January 21, 2021, and we are, again, holding our breath that maybe this year that dreaded envelope will not come so that I can adopt her. Elizabeth has paid a total of $250.00 in 7 years, $150.00 in December 20013 and $50.00 in August of 2014.

Bethany's biological mother has not seen Bethany since January 21, 2014, and would not know who her daughter was if she passed her on the street nor would Bethany know her. Her biological mother has not called in four or five years and the only contact has been an envelope once a year of useless trinkets with a card professing her love for a daughter she walked away from at the age of four years old. She currently knows nothing about her daughter. She does not know her daughter's favorite color, how she likes to dress, who her friends are, her talents, her hobbies, what kind of student she is, her achievements, what makes her happy, what makes her sad, her favorite food, her favorite drink, her shoe size, her clothing size, etc. When Elizabeth was in Germany and Bethany was living in Colorado with her father, it was me Bethany insist on doing bedtime prayers with every night before she would go to bed and I would step out of meetings, social events, stop what I was doing at home, etc. to make it happen, to be present for her. It was me who would read her stories over the phone and who she would call to tell me about her day on her first day of kindergarten and every day after that. It was me who sent Bethany winter coats, clothes, toys, coloring books, shoes, socks, etc. when Mikael needed them due to limited opportunities to shop where he was living. It was me who helped Mikael put together outfits for Bethany to wear to school by him sending me pictures of what he was thinking and asking if what matched. It was me who taught Mikael how to brush Bethany's hair out so that it did not hurt. Even when Elizabeth was in Colorado, it was me who was fulfilling the role as Bethany's mother. After Mikael and I were married, Mikael and Bethany moved to Grand Forks where myself and my kids were living. Mikael and I have raised and provided for all of Bethany's wants and needs together. Mikael is an amazing father and is present in every aspect of Bethany's life. It is me, not Elizabeth, who has been present for Bethany's first day of school for 6 years, attended parent/teacher conferences, attended band/orchestra/choir concerts, wiped tears, watched her grow, has nurtured Bethany the way a mother should, who has given hugs, words of encouragement, celebrated achievements, encouraged and supported her when things have not gone the way Bethany had hoped, has watched her and helped her to develop social skills

and grow socially into the social butterfly she is, laughs at her jokes, taken her to where she needed and wanted to go, picked her up from places, taken care of her when she was ill, watched her independence grow, and has loved her and protected her and supported her every minute of every day. It is me who is so proud of the young lady she has become and is so excited to see what she will be, not Elizabeth. This is all in addition to all the love and support her father pours into her and devotes to her, who has always been Bethany's foundation since the day she was born, now just reinforced by a mother's love.

Bethany has for at least five years referred to her biological mom as the "fake mom." Bethany does not even remember or know her biological mom and has no desire to see or be with her biological mom. I think it is very unfair that because someone puts a card in the mail once a year and writes they love and miss their daughter that suddenly that is meaningful contact. Bethany is my daughter, if you ask me which of my five children are my biological children, I will tell you that I do not remember. There is no difference in my mind but more importantly my heart between the children I gave birth to and the child I have been honored and privileged to help raise, who I consider to be my daughter. At this time, we do not even know where Elizabeth is living in Germany, and the last card that Bethany received a year ago indicated that she was not with her husband anymore and appeared to be homeless. Even when Elizabeth was in Bethany's life for four years and five months, the last few months she would leave Bethany at home crying with her father at night because she would not tell her good night as she had to hurry to sit in the parking lot at the public library all night so she could use their Wi-Fi to play Magic Land and make plans to leave her child behind to go to a country across the ocean to be with a man she had never personally met. She sat Bethany in front of a TV in a highchair with cheerios for a lot of the day while Mikael was at work so she could nap from being up all night. So even when she had a chance to be a mother to Bethany she was not. I have loved Bethany every day since I have known her and have been present in every aspect of her life and I have meaningful contact with her every day. I often tell people that the only steps in our house go up and down from the basement or to the front and back door. I do not have a stepdaughter, I have a daughter who desperately wants to be adopted, to have the permanence of knowing that she is legally my daughter and that her biological mother has no legal rights to her. Bethany has referred to me as mom since the day her father and I were married, on her own accord not because she was told to. Bethany, when talking to teachers etc. has always referred to me as mom. I am mom in Bethany's mind and heart, and I think it is only fair and right that North Dakota changes the law so that parental rights can be terminated when there has not been any physical or verbal contact as well as not having received child support. I do not care about not receiving child support from Elizabeth, I just care about Bethany and her well being and happiness; physically, emotionally, psychologically, and spiritually, and that her heart stops being broke, and her hopes and dreams are dashed because once a year a card comes in the mail that she has been praying for a year would not appear. I would lay down my life for Bethany as I would all my children because I am her mother in my mind

and heart and I want to be legally. This is the same frustration many other couples who have blended families dealing with a biological parent who has been absent in every way possible except for a random communication. A man can father a child and a woman can give birth to a child but that does not make them a mother or a father. Being a mother or a father is loving, nurturing, caring for, raising, and providing for a child's every need in all aspects of their lives, it requires sacrifice and being present, which a real mother and father does gladly and willing.

To put this all into perspective, I have been a mother to Bethany for 202,752,000 seconds, 3,679,200 minutes, 61,320 hours, 2555 days, 84 months, and 7 years as well as an unknown amount of financial resources providing for Bethany: not important but just for argument's sake. Elizabeth was with Bethany 141,912,000, seconds, 2,192,400 minutes, 35,040 hours, 1460 days, 48 months, and 4 years. Financial resources in the last 9 years, $200.00. As the saying goes, numbers do not lie and here they are in black and white. I have been Bethany's mother for over half of her life, yet I cannot legally adopt her because someone who has been in her life, if you want to call it that, for four years holds the legal title of mother because she sends a card/envelope/or little box of no relevance once a year. The law regarding terminating parental rights needs to be changed for every child who has found themselves in Bethany's situation.

2021 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Peace Garden Room, State Capitol

SB 2340
2/3/2021
PM Hearing

A BILL for an Act to amend and reenact section 14-15-19 of the North Dakota Century Code, relating to termination of parental rights.

Chairwoman Larson called the meeting to order, all Senators present: **Myrdal, Luick, Dwyer, Bakke, Fors, Heitkamp [2:00]**

Discussion Topics:

- Definition of parenthood termination
- Clarification of "abandonment"

Senator Dwyer introduces the proposed amendments [2:02]

Senator Myrdal moved amendment 21.1048.01001
Senator Luick seconded the motion
Vote passed 7-0-0 passes

Vote to Amend SB 2340	Vote
Senator Diane Larson	Y
Senator Michael Dwyer	Y
Senator JoNell A. Bakke	Y
Senator Robert O. Fors	Y
Senator Jason G. Heitkamp	Y
Senator Larry Luick	Y
Senator Janne Myrdal	Y

Senator Luick Moved a DO PASS AS AMENDED
Senator Myrdal seconded the motion

Vote passed 7-0-0

Senator Bakke carried the bill

Hearing Adjourned [2:23]

Jamal Omar, Committee Clerk

Vote on DO Pass for SB 2340	Vote
Senator Diane Larson	Y
Senator Michael Dwyer	Y
Senator JoNell A. Bakke	Y
Senator Robert O. Fors	Y
Senator Jason G. Heitkamp	Y
Senator Larry Luick	Y
Senator Janne Myrdal	Y

SB 2340 1-21

21.1048.01001
Title.02000

Prepared by the Legislative Council staff for
Senate Judiciary Committee
February 3, 2021

PROPOSED AMENDMENTS TO SENATE BILL NO. 2340

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact subsection 1 of section 14-15-01 of the North Dakota Century Code, relating to termination of parental rights.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 14-15-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Abandon" means:

   a. As to a parent of a child not in the custody of that parent, failure by the noncustodial parent significantly without justifiable cause to:

      (1) Communicate <u>through physical or verbal communication or contact</u> with the child; or

      (2) Provide for the care and support of the child as required by law.

   b. As to a parent of a child in that parent's custody:

      (1) To leave the child for an indefinite period without making firm and agreed plans, with the child's immediate caregiver, for the parent's resumption of physical custody;

      (2) Following the child's birth or treatment at a hospital, to fail to arrange for the child's discharge within ten days after the child no longer requires hospital care; or

      (3) To willfully fail to furnish food, shelter, clothing, or medical attention reasonably sufficient to meet the child's needs."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2340: Judiciary Committee (Sen. Larson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2340 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact subsection 1 of section 14-15-01 of the North Dakota Century Code, relating to termination of parental rights.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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      (3) To willfully fail to furnish food, shelter, clothing, or medical attention reasonably sufficient to meet the child's needs."

Renumber accordingly

2021 HOUSE JUDICIARY

SB 2340

2021 HOUSE STANDING COMMITTEE MINUTES

Judiciary
Room JW327B, State Capitol

SB 2340
3/24/2021

Relating to termination of parental rights

Chairman Klemin called the hearing at 9:40 AM

Present: Representatives Klemin, Karls, Becker, Buffalo, Cory, K Hanson, Jones, Magrum, Paulson, Paur, Roers Jones, Satrom, and Vetter. Absent: Christensen

Discussion Topics:

- Child abandonment
- Communication between biological parents

Senator Bakke: Introduced the bill. Testimony # 10639

Tony Weiler, Executive Director State Bar Association: Oral testimony - Neutral 9:59

Chairman Klemin closed the hearing at 10:01.

Rep. Roers Jones: Motion to move amendment 21.1048.02001
Rep. K. Hanson: Seconded

Voice vote carried

Rep. Roers Jones: Do Pass as Amended
Rep. B. Paulson: Seconded

House Judiciary
SB 2340
March 24, 2021

Roll Call Vote:

Representatives	Vote
Chairman Klemin	Y
Vice Chairman Karls	Y
Rep Becker	A
Rep. Christensen	A
Rep. Cory	A
Rep T. Jones	Y
Rep Magrum	A
Rep Paulson	Y
Rep Paur	A
Rep Roers Jones	Y
Rep B. Satrom	Y
Rep Vetter	Y
Rep Buffalo	Y
Rep K. Hanson	Y

9-0-5 Motion carried

Carrier: Rep. Roers Jones

Additional Written Testimony: #10419

Stopped 10:09

DeLores D. Shimek
Committee Clerk

Adopted by the House Judiciary Committee

March 24, 2021

3/24/21

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2340

Page 1, line 9, remove "or verbal communication or"

Page 1, line 9, after "contact" insert "or oral conversation"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2340, as engrossed: Judiciary Committee (Rep. Klemin, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 0 NAYS, 5 ABSENT AND NOT VOTING). Engrossed SB 2340 was placed on the Sixth order on the calendar.

Page 1, line 9, remove "or verbal communication or"

Page 1, line 9, after "contact" insert "or oral conversation"

Renumber accordingly

Testimony for SB2340 Senator JoNell Bakke

Chairman Klemin and members of the House Judiciary Committee. It is my pleasure to stand before you and introduce SB2340. This bill would give the courts the ability to terminate the rights of a biological parent if the parent has had no physical or verbal contact with the child.

As a foster mother and the mother of two adopted sons, I understand the excitement of growing your family and forming those bonds with a forever family. I also know from the children I have had in my home, the pain of absent parents and sense of not really belonging anywhere. Unfortunately, in our country we have children who are stuck in a state of limbo when they don't meet all the requirement for adoption by a family that loves them and wants to adopt.

That is the reason for this bill. The family I am talking about is a blended family. The father had a daughter by a previous wife and the wife abandoned the child in years and the only contact has been a yearly birthday.

The father remarried and his new wife has been raising this child since she was 6 years old. The new wife would like to adopt the girl to give her a sense that she belongs and is a permanent member of the family. The child is experiencing some emotional difficulties because of the lack of a permanent connection to her now stepmother. However, because of one sentence in North Dakota Century Code, which says that the rights of a biologically parent cannot be involuntarily terminated if there is contact at least once a year, has kept that from happening. The court in this case feel the yearly birthday counts as contact.

I am asking in this bill that we add the word "physical or verbal" in front of the word contact to open the way for the courts to allow the involuntary termination of parental rights when there is no meaningful interaction between a child and a biological parent. Every child deserves a forever family and permanence. This slight change will allow this child and others in the state to achieve this status.

I will stand for questions.

House Member,

Why is this bill even needed?

The district court Unconstitutionally/illegally takes your children away from a father and when he fights to regain his Constitutional right as a parent the district courts and ND Supreme Court punishes him for fighting to get his rights back!

If you read sociology textbooks they even state that after about a year and a half a father will abandoned his children and start a new family because he cannot take the hurt of being controlled like a dog on a leash just to try to see his children and the court does **NOT** enforce the visitation schedule when the mother does not follow it.

The family law industry is a joke in ND and **YOU** the legislature needs to fix it!!!!!!

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Mitchell S. Sanderson