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Deanna Ballin
Operator's Signature

10/22/03

Date

2003 SENATE JUDICIARY

SB 2329

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10/22/03

Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2329

Senate Judiciary Committee

☐ Conference Committee

Hearing Date 02/10/03

Tape Number	Side A	Side B	Meter #
1	X		17.6 -31.4
Committee Clerk Signature <i>Maria J. Selberg</i>			

Minutes: Senator John T. Traynor, Chairman, called the meeting to order. Roll call was taken and all committee members present. Sen. Traynor requested meeting starts with testimony on the bill:

Testimony Support of SB 2329

Sen. O'Connell Introduced the Bill (meter 17.6) Attachment #1.

Senator Carolyn Nelson - Presented Amendment - Attachment #2 (meter 19.3) Read Testimony Attachment #3.

Bonnie Palecek - ND Council on Abused Women's Services (meter 21.4) Read Testimony - Attachment #4.

Lynne Tally - Executive Directory of Safe Shelter in Jamestown. (meter 24.8) Read Testimony Attachment #5.

Testimony in opposition of SB 2329

None

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Deanna D. Hall
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10/22/03
Date

Page 2
Senate Judiciary Committee
Bill/Resolution Number SB 2329
Hearing Date 02/10/03

Testimony Neutral to SB 2329

None

Senator Stanley W. Lyson, Vice Chairman closed the hearing

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10/22/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2329

Senate Judiciary Committee

☐ Conference Committee

Hearing Date 02/14/03

Tape Number	Side A	Side B	Meter #
1	X		26 - End
Committee Clerk Signature <i>Maria L. Solby</i>			

Minutes: Senator Stanley W. Lyson, Vice Chairman, called the meeting to order. Roll call was taken and not all committee members present. Sen. Lyson requested meeting starts with committee work on the bill: Senator Carolyn Nelson moved (meter 26.5) moved to pass amendments on bill

Motion Made to DO PASS Amendments of SB 2329 by Senator Carolyn Nelson and seconded by Senator Dennis Bercier.

Roll Call Vote: 5 Yes. 0 No. 1 Absent

Motion Passed

Motion Made to DO PASS SB 2329 with Amendments by Senator Dennis Bercier and seconded by Senator Carolyn Nelson.

Roll Call Vote: 6 Yes. 0 No. 0 Absent

Motion Passed

Floor Assignment Sen. Nelson - Senator Stanley Lyson, Vice Chairman closed the hearing

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Dennis Bercier
Operator's Signature

10/22/03
Date

FISCAL NOTE
Requested by Legislative Council
01/27/2003

Bill/Resolution No.: SB 2329

1A. 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.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

There is no anticipated fiscal impact from the proposed amendments.

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.

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.

C. Appropriations: Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

Name:	Ted Gladden	Agency:	N.D. Supreme Court
Phone Number:	3284216	Date Prepared:	01/28/2003

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Deanne Gladden
Operator's Signature

10/22/03
Date

30722.0101
Title.0200

Prepared by the Legislative Council staff for
Senator Nelson
February 10, 2003

[Signature]
2-12-03

PROPOSED AMENDMENTS TO SENATE BILL NO. 2329

Page 2, line 27, remove "if two"

Page 2, remove line 28

Page 2, line 29, remove "effect at the same time." and replace "one of those orders" with "order"

Page 2, line 30, replace "one" with "two"

Page 2, line 31, remove "any two or more"

Renumber accordingly

Page No. 1

30722.0101

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[Signature]
Operator's Signature

10/22/03
Date

Date: February 12, 2003
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2329

Senate JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 30722.0101

Action Taken Amendment

Motion Made By Sen. Nelson Seconded By Sen. Bercier

Senators	Yes	No	Senators	Yes	No
Sen. John T. Traynor - Chairman	A	A	Sen. Dennis Bercier	X	
Sen. Stanley Lyson - Vice Chair	X		Sen. Carolyn Nelson	X	
Sen. Dick Dever	X				
Sen. Thomas L. Trenbeath	X				

Total (Yes) FIVE (5) No ZERO (0)

Absent ONE

Floor Assignment _____

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

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Dennis Bercier
Operator's Signature

10/22/03
Date

Date: February 12, 2003
Roll Call Vote #: 2

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2329

Senate JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 30722.0101

Action Taken DO PASS as Amended

Motion Made By Sen. Bercier Seconded By Sen. Nelson

Senators	Yes	No	Senators	Yes	No
Sen. John T. Traynor - Chairman	A	A	Sen. Dennis Bercier	X	
Sen. Stanley Lyson - Vice Chair	X		Sen. Carolyn Nelson	X	
Sen. Dick Dever	X				
Sen. Thomas L. Trenbeath	X				

Total (Yes) FIVE (5) No ZERO (0)

Absent ONE

Floor Assignment Sen. Nelson

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

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Dennis Bercier 10/22/03
Operator's Signature Date

REPORT OF STANDING COMMITTEE (410)
February 13, 2003 8:41 a.m.

Module No: SR-28-2526
Carrier: Nelson
Insert LC: 30722.0101 Title: .0200

REPORT OF STANDING COMMITTEE

SB 2329: Judiciary Committee (Sen. Traynor, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2329 was placed on the Sixth order on the calendar.

Page 2, line 27, remove "if two"

Page 2, remove line 28

Page 2, line 29, remove "effect at the same time." and replace "one of those orders" with "order"

Page 2, line 30, replace "one" with "two"

Page 2, line 31, remove "any two or more"

Renumber accordingly

2003 HOUSE JUDICIARY

SB 2329

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Deanna Walker
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10/22/03

Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2329

House Judiciary Committee

☐ Conference Committee

Hearing Date 3-18-03

Tape Number	Side A	Side B	Meter #
1	xx		15-30
1		xx	2.1-2.8
Committee Clerk Signature <i>A. Penrose</i>			

Minutes: 10 members present, 3 members absent (Rep. Eckre, Grande, Wrangham).

Chairman DeKrey: We will open the hearing on SB 2329.

Sen. Carolyn Nelson: Introduced the bill. This bill clarifies two sections (see attached testimony).

Chairman DeKrey: Thank you. Further testimony in support.

Bonnie Palacek, ND Council on Abused Women's Services: Support (see attached testimony).

Rep. Kretschmar: Where are these domestic violence offender treatment programs. Who puts them on.

Ms. Palacek: There are a number of them in the state. Some are provided through human service centers, some are private businesses that operate a program in Fargo. In Grand Forks, the program is operated in conjunction with the human service center. There is a human service center in Minot, Williston, and Dickinson. In Bismarck, there are a couple of programs, one

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Deanna Wallin
Operator's Signature

10/22/03

Date

Page 2
House Judiciary Committee
Bill/Resolution Number SB 2329
Hearing Date 3-18-03

operates through Lutheran Social Services. There are a number of programs in the state. By no means do we have statewide coverage and that's why if there is an extreme hardship, the judge may indicate that would be a reason why he shouldn't want to impose treatment. We do have a number of programs.

Rep. Kretschmar: But there aren't many, very few, in the rural areas in North Dakota, the smaller communities.

Ms. Palacek: That's right, and indeed people do travel a fair amount to participate in these treatments.

Rep. Kretschmar: How long is the program? So many hours or what?

Ms. Palacek: The length of the program varies. We have recommended standards for treatment programs, it may be up to several months.

Chairman DeKrey: Do you know why the fiscal effect is \$0. Is it because the defender has to pay for it, in case the defendant can't afford to pay for it, who picks up the tab.

Ms. Palacek: The services as far as I know, in going through them in my mind, are all paid for either by the programming, which finds individual grants to pay for it, or initially in combination with the offender actually paying a portion of it, on a sliding fee scale. There should be no fiscal impact that I'm aware of.

Chairman DeKrey: Thank you. Further testimony in support.

Senator Dave O'Connell: Support.

Chairman DeKrey: Thank you. Further testimony in support.

Mary Thysell, Asst. Director of Safe Shelter: Support (see attached testimony).

Rep. Kretschmar: Were the protection orders for the same person.

Page 3
House Judiciary Committee
Bill/Resolution Number SB 2329
Hearing Date 3-18-03

Ms. Thyrell: No, different people.

Chairman DeKrey: Thank you. Further testimony in support. Testimony in opposition. We will close the hearing.

(Reopened later in the same session)

Chairman DeKrey: What are the committee's wishes in regard to SB 2329.

Rep. Delmore: I move a Do Pass.

Rep. Maragos: Seconded.

10 YES 0 NO 3 ABSENT

DO PASS

CARRIER: Rep. Onstad

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10/22/03
Date

Date: 3/18/03
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2329

House Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Delmore Seconded By Rep. Maragos

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Rep. Delmore	✓	
Vice Chairman Maragos	✓		Rep. Eckre	AB	
Rep. Bernstein	✓		Rep. Onstad	✓	
Rep. Boehning	✓				
Rep. Galvin	✓				
Rep. Grande	AB				
Rep. Kingsbury	✓				
Rep. Klemin	✓				
Rep. Kretschmar	✓				
Rep. Wrangham	AB				

Total (Yes) 10 No 0

Absent 3

Floor Assignment Rep. Onstad

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Operator's Signature Date

REPORT OF STANDING COMMITTEE (410)
March 18, 2003 10:25 a.m.

Module No: HR-48-5008
Carrier: Onstad
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
SB 2329, as engrossed: Judiciary Committee (Rep. DeKrey, Chairman) recommends **DO PASS** (10 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). Engrossed SB 2329 was placed on the Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-48-5008

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10/22/03
Date

2003 TESTIMONY

SB 2329

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10/22/03

Date

Att #1

Senator O'Connell

Regarding SB 2329 - relating to mandated treatment of domestic violence offenders and violation of a protection order.

SB 2329 would expand the list of offenses that would mandate an individual in violation to complete a domestic violence offender program. It has been unclear whether judges have the ability to order individuals to complete the program for offenses other than simple assault. The revised list of offenses would include (in addition to simple assault);

- assault,
- aggravated assault,
- reckless endangerment,
- terrorizing and menacing

The bill also clarifies the definition of "first violation" of protection orders as the first time an individual violates ANY protection order. For an individual with more than one protection order this would mean that the first time an individual violates a protection order would constitute a "first violation" for each and every protection order that individual is subject to. Again, there has been confusion about when expanded penalties can be issued for violations.

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10/22/03

Date



NORTH DAKOTA SENATE

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0380



Senator Carolyn Nelson
District 21
1125 College Street
Fargo, ND 58102-3433

COMMITTEES:
Judiciary
Government and Veterans
Affairs

SB 2329

I am here today in support of SB 2329 and to bring testimony from Bonnie Palecek, Executive Director of the ND Council on Abused Women's Services, ~~who is not able to be here today:~~

SB 2329 is an attempt to clarify two sections of the domestic violence statute which appear to be problematic because of oversights or vagueness.

The first issue deals with mandated treatment for offenders. The issue has been raised with batterers' treatment programs that judges only have the authority to mandate programs for simple assault under 14-07.1. This bill amends the current statute so that it is clear that *all* assaults are included when they involve family or household members. Obviously it doesn't make sense to require treatment for a simple assault offender and not for an aggravated assault offender.

The second issue is enhanced penalties for violating a protection order. States attorneys have indicated that it isn't clear whether the enhanced penalty engages when the *same* order is violated with the *same* victim or if the statute should be more broadly construed. The original intent was to get at a *pattern* of breaking orders.

Lynne Tally, director of Jamestown's SAFE Shelter, is here to give some scenarios from her district.

Vonette Richter drafted the amendment because the language in the bill was confusing.

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10/22/03
Date

Att # 4

BISMARCK
Abused Adult Resource Center
222-8370

BOTTINEAU
Family Crisis Center

LAKE
Safe Alternatives for
Abused Families
1-888-662-7378

DICKINSON
Domestic Violence and
Rape Crisis Center
225-4506

ELLENDALE
Kodish House
349-4729

FARGO
Rape and Abuse Crisis Center
800-344-7273

FORT BERTHOLD RESERVATION
Coalition Against
Domestic Violence
627-4171

GRAFTON
Tri-County Crisis
Intervention Center
352-4242

GRAND FORKS
Community Violence
Intervention Center
746-0405

JAMESTOWN
Shelter
7233

MCLEAN COUNTY
McLean Family
Resource Center
800-651-8643

MERCER COUNTY
Women's Action and
Resource Center
873-2274

MINOT
Domestic Violence Crisis
Center
852-2258

RANSOM COUNTY
Abuse Resource Network
683-5061

SPIRIT LAKE
Victim Assistance
766-1816

STANLEY
Domestic Violence Program,
NW, ND
628-3233

VALLEY CITY
Abused Persons Outreach
Center
845-0078

WAKPETON
Family Crisis Center

WYNDSTON
Family Crisis Shelter
572-0757

Chair John Traynor

Testimony on SB 2329

Senate Judiciary Committee

February 10, 2003

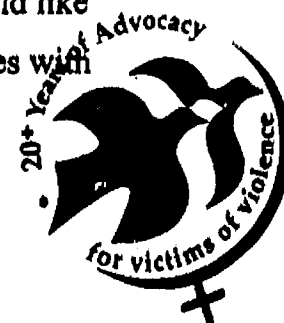
I am Bonnie Palecek speaking on behalf of the North Dakota Council
on Abused Women's Services in support of SB 2329.

This bill was drafted in response to a need for clarification of two
areas of the domestic violence statute. The first relates to a provision passed
last session which required judges to order treatment for offenders who assault
"family or household members." The provision was part of a larger effort to
create a separate crime of domestic violence, which failed. That bill was very
murky by the end of the session and what remained was an odd situation in
which only simple assaults were included.

This has become a problem particularly in the Grand Forks area, where
they have a strong batterers' treatment program and an excellent working
relationship with the court and the Human Service Center, but have been
faced with defense attorneys arguing that judges have no authority to mandate
treatment for more serious offenses such as terrorizing and aggravated assault
because they are not included in the statute. Line 13 - 18 would fix that by
listing all categories of assault as eligible for mandated treatment.

The second part of the bill addresses the need for clarification of the
enhanced penalty for violations of protection orders, and for that I would like
to introduce Lynne Tally from Jamestown to speak about her experiences with
implementing this statute.

Bonnie Palecek



North Dakota Council on Abused Women's Services • Coalition Against Sexual Assault in North Dakota
ndeaws@ndeaws.org • 418 East Rosser #320 • Bismarck, ND 58501 • Phone: (701) 255-6240 • Toll Free 1-888-255-6240 • Fax 255-1904

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10/22/03
Date

HH #5

Testimony of Lynne Tally
To the Senate Judiciary Committee
In Support of Senate Bill 2329
February 10, 2003

Chairman Traynor and members of the Committee, my name is Lynne Tally. I am the Executive Director of Safe Shelter in Jamestown. While I am in support of Senate Bill 2329 in its entirety, I am here today to speak specifically to Section 3, which addresses the issue of second or subsequent violations of protection orders.

I believe this amendment will clarify the intent of the 1993 legislative session when it passed legislation to raise the crime classification for second or subsequent violations of protection orders from a Class A misdemeanor to a Class C felony.

I was a member of the legislative committee of the Council on Abused Women's Services during the 1993 legislative session. When we approached the legislature to address this issue, our intent was to raise the stakes for what could be called "habitual protection order violators." We had had enough experience with abusers who went from victim to victim, violating one protection order after another, to know that repeatedly charging them with Class A misdemeanors was not effective as a punishment or a deterrent. Our intent with the initial legislation was to make it clearer to these habitual violators that the State of North Dakota would not tolerate their behavior and that their choices to continue that behavior would lead to more serious consequences.

We have, however, had some problems with the interpretation of this law. For instance, in Stutsman County, a respondent will be charged with a Class C felony for a second or subsequent violation only if it is a violation of the same order. The State's Attorney's Office believes that the terms "a protection order" and "the protection order" refer to one order only. In other words, it has to be the same victim, the same court order. If a second victim files a protection order against that same respondent, it becomes a whole new ballgame and the first violation of that order will, once again, be a Class A misdemeanor.

I will use one individual from Stutsman County, whom I'll call Charles Smith, as an example:

- ◆ In 1993 a protection order was filed against Charles Smith. He violated that order and was charged with and convicted of a Class A misdemeanor.
- ◆ In 1996, another protection order was filed against him. He violated that order and was again charged with and convicted of a Class A misdemeanor.
- ◆ In 1997, another protection order was filed against Mr. Smith. He violated that order twice. The first time he was charged with and convicted of a Class A misdemeanor. The second time he was charged with and convicted of a Class C felony.
- ◆ In 1998, another protection order was filed against him. He violated that order twice. The first time he was charged with and convicted of a Class A misdemeanor. The second time he was charged with and convicted of a Class C felony.
- ◆ In 2001, another protection order was filed against Mr. Smith. He violated that order twice. The first time he was charged with and convicted of a Class A misdemeanor. The second time he was charged with a Class C felony but that charge was later dismissed.

This has been frustrating for our office, for law enforcement, and particularly for the victims of these crimes. It has also been frustrating for the State's Attorneys Office in Stutsman County, but they felt they had no choice, considering the language of the law and their interpretation of it.

This man, and others like him, are in the business of violating protection orders. They obviously demonstrate a clear pattern of disregard for the law. The original intent of this law, on our part, was to get at that pattern of violations. We are now in need of a change in language to clarify that intent.

Unfortunately, the bill, as drafted, has the potential for creating further confusion so it is our understanding that the legislative council has drafted an amendment to address the issue and we support that amendment.

I ask that you recommend a do pass on Senate Bill 2329, with the amendment, in order to clarify the language and allow our State's Attorneys Offices to appropriately address these criminal actions.

Thank you.

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Deanna Waller
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10/22/03
Date

Testimony of Mary Thysell
To the House Judiciary Committee
In Support of Senate Bill 2329
March 18, 2003

Chairman DeKrey and members of the Committee, my name is Mary Thysell. I am the Assistant Director of Safe Shelter, an agency which provides advocacy and assistance for victims of domestic violence and sexual assault in Stutsman and Foster Counties. While I am in support of Senate Bill 2329 in its entirety, I am here today to speak specifically to the amendment in Section 3, which addresses the issue of second or subsequent violations of protection orders.

I believe this amendment will clarify the intent of the 1993 legislative session when it passed legislation to raise the crime classification for second or subsequent violations of protection orders from a Class A misdemeanor to a Class C felony.

Safe Shelter was a member of the Council on Abused Women's Services during the 1993 legislative session and our executive director served on the legislative committee for that organization. When CAWS approached the legislature to address this issue, the intent was to raise the stakes for what could be called "chronic protection order violators." We had all had enough experience with abusers who went from victim to victim, violating one protection order after another, to know that repeatedly charging them with Class A misdemeanors was not effective as a punishment or as a deterrent. Our intent with the initial legislation was to make it clearer to these habitual violators that the State of North Dakota would not tolerate their behavior and that their choices to continue that behavior would lead to more serious consequences.

We have, however, had some problems with the interpretation of this law. For instance, in Stutsman County, a respondent will be charged with a Class C felony for a second or subsequent violation only if it is a violation of the same order. The State's Attorney's Office believes that the terms "a protection order" and "the protection order" refer to one order only. In other words, it has to be the same victim, the same court order. If a second

victim files a protection order against that same respondent, it becomes a whole new ballgame and the first violation of that order will, once again, be a Class A misdemeanor.

I will use one individual from Stutsman County, whom I'll call Charles Smith, as an example:

- ◆ In 1993 a protection order was filed against Mr. Smith. He violated that order and was charged with and convicted of a Class A misdemeanor.
- ◆ In 1996, another protection order was filed against him. He violated that order and was again charged with and convicted of a Class A misdemeanor.
- ◆ In 1997, another protection order was filed against him. He violated that order twice. The first time he was charged with and convicted of a Class A misdemeanor. The second time he was charged with and convicted of a Class C felony.
- ◆ In 1998, another protection order was filed against him. He violated that order twice. The first time he was charged with and convicted of a Class A misdemeanor. The second time he was charged with and convicted of a Class C felony.
- ◆ In 2001, another protection order was filed against him. He violated that order twice. The first time he was charged with and convicted of a Class A misdemeanor. The second time he was charged with a Class C felony but that charge was later dismissed.

This has been frustrating for our office, for law enforcement, and particularly for the victims of these crimes. It has also been frustrating for the State's Attorney's Office in Stutsman County, but they felt they had no choice, considering the language of the law and their interpretation of it.

This man, and others like him, are in the business of violating protection orders. They obviously demonstrate a clear pattern of disregard for the law. The original intent of this law, on our part, was to get at that pattern of violations. We are now in need of a change in language to clarify that intent.

Unfortunately, this bill, as originally drafted, had the potential for creating further confusion so the Senate Judiciary Committee amended the bill to make the language clearer and we fully supported that amendment, which is now part of the bill you have before you.

I ask that you recommend a do pass on Senate Bill 2329 which will clarify the language concerning second and subsequent violations of protection orders, and will allow our State's Attorneys to appropriately address these criminal actions.

Thank you.

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Deanna Hall
Operator's Signature

10/22/03

Date

BISMARCK
Abused Adult Resource Center
222-8370

BOTTINEAU
Family Crisis Center
028

S LAKE
Alternatives for
Abused Families
1-888-662-7378

DICKINSON
Domestic Violence and
Rape Crisis Center
225-4504

ELLENDALE
Kadish House
349-4729

FARGO
Rape and Abuse Crisis Center
800-344-7273

FORT BERTHOLD RESERVATION
Coalition Against
Domestic Violence
627-4171

FORT YATES
Tender Heart Against
Domestic Violence
854-3402

GRAFTON
Tri-County Crisis
Intervention Center
352-4242

GRAND FORKS
Community Violence
Intervention Center
05

JAMESTOWN
S.A.F.E. Shelter
888-353-7233

MCLEAN COUNTY
McLean Family
Resource Center
800-651-8643

MERCER COUNTY
Woman's Action and
Resource Center
873-2274

MINOT
Domestic Violence Crisis
Center
852-2258

RANSOM COUNTY
Abuse Resource Network
683-5061

STANLEY
Domestic Violence Program,
NW, ND
628-3233

VALLEY CITY
Abused Persons Outreach
Center
845-0078

WAMPETON
Crisis Center

WILLISTON
Family Crisis Shelter
572-0757

Chair Duane DeKrey

Testimony on SB 2329

House Judiciary Committee

March 18, 2003

Chair DeKrey and Members of the Committee:

I am Bonnie Palecek speaking on behalf of the North Dakota Council on
Abused Women's Services in support of SB 2329.

This bill was drafted in response to a need for clarification of two areas
of the domestic violence statute. The first relates to a provision passed last
session which required judges to order treatment for offenders who assault
"family or household members." The provision was part of a larger effort to
create a separate crime of domestic violence, which failed. That bill was very
murky by the end of the session and what remained was an odd situation in
which only simple assaults were included.

This has become a problem particularly in the Grand Forks area, where
they have a strong batterers' treatment program and an excellent working
relationship with the court and the Human Service Center, but have been faced
with defense attorneys arguing that judges have no authority to mandate
treatment for more serious offenses such as terrorizing and aggravated assault
because they are not included in the statute. Line 13 - 18 on Page 2 of the bill
would fix that by listing all categories of assault as eligible for mandated
treatment.

The second part of the bill addresses the need for clarification of the
enhanced penalty for violations of protections orders, and for that I would
like to introduce Mary Thysell from Jamestown to speak about her
experiences with implementing this statute.



North Dakota Council on Abused Women's Services • Coalition Against Sexual Assault in North Dakota
ndcaws@ndcaws.org • 418 East Rosser #320 • Bismarck, ND 58501 • Phone: (701) 255-6240 • Toll Free 1-800-472-2911 • Fax 255-1904

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Duane DeKrey
Operator's Signature

10/22/03

Date

NORTH DAKOTA SENATE

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0380



COMMITTEES:
Judiciary
Government and Veterans Affairs

Senator Carolyn Nelson
District 21
1125 College Street
Fargo, ND 58102-3433
cnelson@state.nd.us

SB 2329 – Domestic Violence

SB 2329 clarifies two sections of the domestic violence statute which appear to be problematic because of oversights or vagueness.

The first issue deals with mandated treatment for offenders. The issue has been raised with batterers' treatment programs that judges only have the authority to mandate programs for simple assault under 14-07.1. This bill amends the current statute so that it is clear that *all* assaults are included when they involve family or household members. Obviously it doesn't make sense to require treatment for a simple assault offender and not for an aggravated assault offender.

The second issue is enhanced penalties for violating a protection order. States attorneys have indicated that it isn't clear whether the enhanced penalty engages when the *same* order is violated with the *same* victim or if the statute should be more broadly construed. The original intent was to get at a *pattern* of breaking orders.

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Deanne Ballantyne
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