

DATE: January 18, 2021

TO: North Dakota Human Services Committee

FROM: Joe Sheehan

RE: Testimony for HB 1254

Dear Mr. Chairman Weisz and members of the Human Services Committee

I am testifying in favor of HB 1254 and the necessary changes this bill offers to protect North Dakota families in the future. In the current law, 14-05-14.1, the district courts have nearly unlimited authority to award life time spousal support, change spousal support to life time after the original judgement, and raise the support originally awarded based on new financial circumstances after the divorce. Under the current law, the district courts have the power to tether divorced spouses together in life time conflict that is unhealthy and bleeds out the family' future. It bleeds out the financial future for the family while making attorneys tens upon tens of thousands of dollars.

In 2014, I left my marriage. I was not perfect in our marriage, but my ex-wife also had an undisclosed mental illness. We were not healthy partners and we were damaging to our family. I believe there is a need for spousal support. My ex-wife already attained her Master's degree and a career. However she became a stay at home mom after our 2<sup>nd</sup> daughter was born. She was a stay at home mom for about 7 years before we separated. I believe I made every attempt to settle our divorce outside of the court. My offer included more than 90% of our assets and spousal support for a period of time that would allow her to renew any certifications or get a new education to support herself. She refused this offer. She refused to settle. She preferred to take it to the court to see if she could get a lifetime award.

The court battle drug on from the divorce filing in 2014 to a trial date of June 2016. In the end, she was awarded life time spousal support. However, the court costs were astronomical. We were ordered to sell a Florida condo, worth about \$235,000 to pay our attorney fees. This equaled nearly 30% of our family wealth. I grieve the loss of opportunity to my children. To pay this to attorney's instead of my daughters' college educations still pains me.

Most of my career I have been paid on commission. My industry, the mortgage industry, ebbs and flows on Federal Reserve actions and economic cycles. At the time of my divorce, I enjoyed one of the largest booms in my industry. However, the Federal Reserve starting changing policy in 2016 and as business in my sector contracted so did my income. By January of 2018 my income had fallen to less than half of what it was the year the divorce was filed. After my child support and spousal support were drawn, I had enough money to pay my house payment and approximately \$890 to pay all bills and buy food for myself and my daughters, whom I have 50% of the time.

I was advised by my attorney that I couldn't apply for a review until I could prove the change in my income was permanent. I finally filed for review in October 2018. The court date was set for August of 2019. I received the modification to reduce my support at the beginning of 2020. I was forced to live on \$890 for more than 26 months. I amassed more than \$50000 in additional court costs and nearly drained what was left of my retirement. Again, I offered to settle. One such settlement included additional money from my retirement and 10% of my income going forward. My intention was to keep the money in my family instead of giving it to attorneys. Again my ex-wife refused to settle, in the absence of good law that incentivizes the parties to settle, why not try your chances in court? Since 2014 the fight over spousal support has squandered my children's future and my family has been in court for more than half of the past 6 years. Our lives have been riddled with tension between myself, my ex-wife and my children. As long as we have a persistent and inevitable court fight to look forward to there is no real peace.

We try to move on from the past and get closure, but this difficult when you are permanently shackled to your past. I am really afraid of being more successful. More income will mean another review. It will mean more time in court. It will mean more resources spent on lawyers instead of my children. It will mean more tension and pain for my daughters. I would like to move forward and build a new life with my fiancé, but I never know how much money I will have. When I get reviewed, will the court award the original amount of support? Will the court increase that original amount to also make me match the old child support amount? The uncertainty makes it impossible for my family to plan a future for college educations, a new marriage, retirement etc. etc.

I ask this committee to support HB 1254 to change the law because the current law is not fair, and it tethers and entangles couples together permanently in unhealthy conflict. It incentivizes going to court to play the "spousal support lottery" (quote from Justice Sandstrom) instead of settling outside of court. My friend Monte Rogneby, the attorney that argued that case, said to me, "Joe every spousal support claim is at least a million dollar claim. In the absence of predictability it is malpractice to settle." I further implore this committee to consider amendments to the bill that keep the court from raising awards beyond the original court decision for any existing decision. I know Monte offered Representative Steve Vetter possible language the committee might use to make this minor and very meaningful change to bring specificity to the law. Specificity to the law will encourage parties to settle. This law will keep financial resources in families to be used for the children's future. The outcome of the current law is endless reviews as financial situations change and the bleeding of family resources into the pockets of attorneys while closure on the traumatic end of a marriage is denied.

Respectfully

Joe Sheehan