

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2079

2001 SENATE JUDICIARY

SB 2079

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2079

Senate Judiciary Committee

Conference Committee

Hearing Date January 10th, 2001

Tape Number	Side A	Side B	Meter #
1	X		26.2-end
		X	0-16.2
Committee Clerk Signature <i>Mike Hruby</i>			

Minutes:

SENATOR TRAYNOR opened the hearing on SB 2079: A BILL FOR AN ACT TO AMEND AND REENACT SUBSECTIONS 4 AND 7 OF SECTION 12.31.2-01 AND SUBSECTION 3 OF SECTION 14-07.1-03 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO TEMPORARY PROTECTION AND DISORDERLY CONDUCT RESTRAINING ORDERS. JIM GANGE, Staff Attorney for the Office of the State Court Administrator, testified in favor of SB 2079. (Testimony attached)

SENATOR WATNE: Asked if section 14.07.1-03 dealt only with family disputes.

JIM GANGE: Answered in the negative

SENATOR BERCIER: Asked if this applied to tribal jurisdiction.

JIM GANGE: Answered in the negative.

SENATOR TRENBEATH stated that this bill has a definite termination to it and that the State Court Administrator wants to amend that to where it goes on forever unless the court takes action.

JIM GANJE replied that this was conceptually the case. However a statute is required. Then it is terminated if one is issued. Quite possible that you may have a temporary order floating forever but that is if you disregard other statutes.

SENATOR TRENBEATH stated that the existing statute, according to this bill, makes clear that 30 days is not enough. As alternative maybe you should look at the thirty days as extended time in good cause by the court requested by one party or the other.

JIM GANJE protection acts only have a window of 14 days. There is a potential hole in this bill.

SENATOR TRENBEATH the real problem in this bill is the gap between terminating the temporary order by signing the permanent order and not having service.

JIM GANJE with respect to protection orders that is true; with disorderly conduct orders it's different. However, the end result is the same. The committee may conclude that there is a more definitive and less open ended way of doing this. I would suggest that if this happens, the process would slow down if the court is involved. Folks don't want this it happen.

SENATOR TRENBEATH Once a temporary order is signed the one benefiting, namely their attorney, there is no rush to get it back to the court. But, there are reasons to postpone.

JIM GANJE I don't know how often this happens.

SENATOR TRAYNOR The respondent would still have the right to a hearing no later than fourteen days. That's not changed?

JIM GANJE correct.

BONNIE PALECEK, speaking on behalf of the ND Council on Abused Women's Services in support of SB 2079. (Written testimony attached)

(Meter #43.0 Tape 1, side A)

SUE RAU, employed as a licensed social worker at the Abused Adult Resource Center, speaks in support of SB 2079. (Meter # 45.1, side A) (Written testimony attached)

JOHN EMTER (Meter # 9.1, side B) testified against SB 2079. Stated that people tried to get restraining order on him to get to him. Doesn't believe in justice. Believes anything can be appealed. Believes there is confusion in laws.

Committee Discussion, January 10th, 2001-Tape 1, Meter # 16.2, side B

SENATOR TRAYNOR closed the hearing on SB 2079. Following the discussion, SENATOR LYSON moved to Do Pass SB 2079. SENATOR BERCIER seconded the motion. Vote indicated 7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING. SENATOR LYSON volunteered to carry the bill.

Date: 1/10/2001
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2079

Senate Judiciary Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By S. Lyson Seconded By S. Bercier

Senators	Yes	No	Senators	Yes	No
Traynor, J. Chairman	X		Bercier, D.	X	
Watne, D. Vice Chairman	X		Nelson, C.	X	
Dever, D.	X				
Lyson, S.	X				
Trenbeath, T.	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment S. Lyson

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

REPORT OF STANDING COMMITTEE (410)
January 10, 2001 12:34 p.m.

Module No: SR-02-0861
Carrier: Lyson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2079: Judiciary Committee (Sen. Traynor, Chairman) recommends DO PASS
(7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2079 was placed on the
Eleventh order on the calendar.

2001 HOUSE JUDICIARY

SB 2079

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2079

House Judiciary Committee

Conference Committee

Hearing Date 02-28-01

Tape Number	Side A	Side B	Meter #
TAPE I	x		01 to 796
TAPE I	x		4308 to 5932
TAPE II	x		01 to 210
Committee Clerk Signature <i>Joan Deers</i>			

Minutes: Chairman DeKrey opened the hearing on SB 2079. Relating to temporary protection and disorderly conduct restraining orders.

Jim Ganje: staff attorney, Office of the State Court Administrator. (see attached testimony)

Chairman DeKrey: When an ex parte temporary protection order is issued, that is usually with only one side present.

Jim Ganje: That is correct.

Chairman DeKrey: Is the judge under any obligation to hear the other side after the order has been issued?

Jim Ganje: There is a statutory requirement that notice of entry and temporary order is served on the respondent and a hearing is set, they can come into the hearing and contest the order at that time.

Chairman DeKrey: Has this been a problem with the reduction of judges?

Jim Ganje: It is possible, but in this case the issue is more to how the statute operates from temporary to permanent.

Vice Chr Kretschmar: Is there a definition of disorderly conduct in this statute.

Jim Ganje: He reads the definition of disorderly conduct to illustrate that the definition is fairly broad.

Rep Mahoney: How long can the ex par te order continue?

Jim Ganje: It continues only until the permanent order is served or it is terminated by the court.

Rep Mahoney: Can the order go however long and the judge determines which way it is going?
There is no outside limit.

Jim Ganje: If the permanent order is never served, the temporary can continue on for a long time.

But that is not the intention of the law.

Rep Mahoney: Makes a comment about the time constraints that is put on the judges.

Jim Ganje: In a matter of speaking, yes.

Chairman DeKrey: If there are no further questions, thank you for appearing. We will take a break at this time.

Chairman DeKrey called the committee back to order.

Bonnie Palecek: ND Council on Abused women's Services (see attached testimony)

Rep Mahoney: This came up in the senate, a temporary order can continue and continue under this bill.

Bonnie Palecek: A protection order can continue until further order of the court. A disorderly conduct order has a two year cap.

Rep Mahoney: A temporary protection order with no hearing date, can be a pretty permanent.

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House Judiciary Committee
Bill/Resolution Number SB 2079
Hearing Date 02-28-01

Bonnie Palecek: Yes.

Rep Wrangham: Under current law, a temporary restraining order issued and 30 days later and has not been any further action, is there any problem with issuing another order.

Bonnie Palecek: The order can be extended, but to issue another order you have to have another hearing.

Rep Wrangham: If it can be extended after 30 days, then there is no gap.

Bonnie Palecek: I don't know.

Chairman DeKrey: Are there any further questions, seeing none thank you for appearing. Is there any further testimony.

Sue Rau: licensed social worker at the Abused Adult Resource center, (see testimony attached)

Chairman DeKrey: Are there any further questions, seeing none, thank you for appearing. Is there anyone else wishing to testify either in support or opposition. If not we will close the hearing on SB 2079.

COMMITTEE ACTION

Chairman DeKrey what are the wishes of the committee on SB 2079. Vice Chr Kretschmar moved a DO PASS, seconded by Rep Delmore.

DISCUSSION

Chairman DeKrey: the clerk will call the roll on a DO PASS on SB 2079. The motion passes with 13 YES, 0 NO and 2 ABSENT. Carrier Rep Disrud.

Date: 02-28-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB-2079

House JUDICIARY Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Wm E Kretschmar Seconded By Rep Delmore

Representatives	Yes	No	Representatives	Yes	No
CHR - Duane DeKrey	✓				
VICE CHR -- Wm E Kretschmar	✓				
Rep Curtis E Brekke	✓				
Rep Lois Delmore	✓				
Rep Rachael Disrud	✓				
Rep Bruce Eckre	✓				
Rep April Fairfield					
Rep Bette Grande	✓				
Rep G. Jane Gunter	✓				
Rep Joyce Kingsbury	✓				
Rep Lawrence R. Klemin	✓				
Rep John Mahoney					
Rep Andrew G Maragos	✓				
Rep Kenton Onstad	✓				
Rep Dwight Wrangham	✓				

Total (Yes) 13 No 0

Absent 2

Floor Assignment Rep Disrud

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

REPORT OF STANDING COMMITTEE (410)
February 28, 2001 12:34 p.m.

Module No: HR-34-4441
Carrier: Dierud
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2079: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS
(13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2079 was placed on the
Fourteenth order on the calendar.

2001 TESTIMONY

SB 2079

