

2013 SENATE INDUSTRY, BUSINESS, AND LABOR

SB 2175

2013 SENATE STANDING COMMITTEE MINUTES

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

SB 2175
January 22, 2013
Job Number 17498

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the liabilities of husband and wife

Minutes:

Testimony Attached

Chairman Klein: Opened the hearing.

Todd D. Kranda, Attorney at the Kelsch Law Firm: Said he is representing the North Dakota Collectors Association. Written Testimony Attached (1).

Kim Granfor, North Dakota Collectors Association: Written Testimony (2).

Senator Sorvaag: Asked if the items of necessity are defined in the code.

Kim Granfor: Said the law specifically states that items of necessity include; food, clothing, fuel, medical care and shelter for themselves and their family.

Senator Andrist: Asked what was involved in getting a legal separation.

Kim Granfor: Said she has information on how to get a legal separation and she can show that to them. It is almost the same steps to get a legal separation as a divorce.

Chairman Klein: Said in getting the legal separation it would get them out of what we are trying to do here. We are talking about living separate not separated.

Kim Granfor: That's correct our state says they are equally liable.

Kathy Schimetz, Owner of Pro-Collect Services in Minot: Written Testimony Attached (3).

Chairman Klein: Said he sees where living separately could of created the discussion we are in and this provides that "why" we would want to do this.

Kathy Schimetz: Made comments on the types of situations that may cause problems.

John Cozby, Credit Collections Bureau: In support of the bill.

Todd D. Kranda: Explained legal separation and went over parts of the bill that were not understood, 14-07-07. They would take another look at that part of the bill.

Chairman Klein: Said they would hold off on taking any action on the bill so they could make sure the language is correct.

Discussion and questions were asked about legal separation.

Chairman Klein: Closed the hearing.

2013 SENATE STANDING COMMITTEE MINUTES

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

SB 2175
January 28, 2013
Job Number 17789

Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

Relating to liabilities of husband and wife

Minutes:

Proposed Amendment Attached

Chairman Klein: Handed out the proposed amendment.

Todd D. Kranda, Attorney at the Kelsch Law Firm: Said he worked with Legislative Council, Vonette Richter, to develop these amendments. What they decided to do for the bill is to take out that legally separated concept. They came up with an amendment that strips the bill back and fine-tuned it; all they are doing is removing the legally separated concept as an exception completely. He continued going over and explaining the amendments. (1:10 - 4:40)

Chairman Klein: Asked if they had any questions and if the committee was ready to take some action.

Senator Andrist: Motioned to adopt the amendment.

Senator Sorvaag: Seconded the motion.

Roll Call Vote: Yes - 7 No - 0

Absent: 0

Senator Andrist: Motioned a do pass as amended.

Senator Murphy: Seconded the motion.

Roll Call Vote: Yes - 7 No - 0

Floor Assignment: Senator Sorvaag

January 28, 2013

VR
11/29/13

PROPOSED AMENDMENTS TO SENATE BILL NO. 2175

Page 1, line 1, replace "sections 14-07-07 and" with "section"

Page 1, remove lines 4 through 11

Page 1, line 14, overstrike "**Separate and mutual rights**" and insert immediately thereafter "**Rights**"

Page 1, line 15, overstrike "separate and mutual"

Page 1, line 17, overstrike "The earnings of one spouse are not liable for the debts of the other spouse, and the"

Page 1, overstrike line 18

Page 1, line 19, overstrike "either spouse or in one spouse's custody, while the husband and wife are"

Page 1, line 20, remove "legally separated"

Page 1, line 20, overstrike "from each other, are the separate property of each spouse"

Page 1, line 20, remove the underscored comma

Page 1, line 21, remove "except as to third parties as provided in section 14-07-07"

Page 1, line 21, overstrike the period

Page 1, line 22, overstrike "3."

Page 1, line 23, overstrike the first comma

Page 1, line 23, remove "unless legally separated"

Page 1, line 23, overstrike the second comma

Page 2, line 2, remove "except as provided in section 14-07-07"

Page 2, line 3, overstrike "4." and insert immediately thereafter "3."

Renumber accordingly

**2013 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2175**

Senate Industry, Business, and Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.8219.01001

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Senator Andrist Seconded By Senator Sorvaag

Senators	Yes	No	Senator	Yes	No
Chairman Klein	x		Senator Murphy	x	
Vice Chairman Laffen	x		Senator Sinner	x	
Senator Andrist	x				
Senator Sorvaag	x				
Senator Unruh	x				

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

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

**2013 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2175**

Senate Industry, Business, and Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.8219.01001

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Senator Andrist Seconded By Senator Murphy

Senators	Yes	No	Senator	Yes	No
Chairman Klein	x		Senator Murphy	x	
Vice Chairman Laffen	x		Senator Sinner	x	
Senator Andrist	x				
Senator Sorvaag	x				
Senator Unruh	x				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Sorvaag

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

REPORT OF STANDING COMMITTEE

SB 2175: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2175 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "sections 14-07-07 and" with "section"

Page 1, remove lines 4 through 11

Page 1, line 14, overstrike "**Separate and mutual rights**" and insert immediately thereafter "**Rights**"

Page 1, line 15, overstrike "separate and mutual"

Page 1, line 17, overstrike "The earnings of one spouse are not liable for the debts of the other spouse, and the"

Page 1, overstrike line 18

Page 1, line 19, overstrike "either spouse or in one spouse's custody, while the husband and wife are"

Page 1, line 20, remove "legally separated"

Page 1, line 20, overstrike "from each other, are the separate property of each spouse"

Page 1, line 20, remove the underscored comma

Page 1, line 21, remove "except as to third parties as provided in section 14-07-07"

Page 1, line 21, overstrike the period

Page 1, line 22, overstrike "3."

Page 1, line 23, overstrike the first comma

Page 1, line 23, remove "unless legally separated"

Page 1, line 23, overstrike the second comma

Page 2, line 2, remove "except as provided in section 14-07-07"

Page 2, line 3, overstrike "4." and insert immediately thereafter "3."

Re-number accordingly

2013 HOUSE JUDICIARY

SB 2175

2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

SB 2175
March 13, 2013
Job 19836

Conference Committee



Explanation or reason for introduction of bill/resolution:

The liabilities of husband and wife.

Minutes:

Testimony 1,2,3

Chairman Koppelman: Opens SB 2175.

Todd Kranda, attorney at the Kelsch Law Firm: Supports SB 2175.

Rep Klemin: It doesn't address the reason why subsection 2 is deleted?

Todd: Legislative counsel felt that it was somewhat circular language.

Rep Klemin: What is meant by accumulations?

Todd: I am not certain; I assume assets and money that is retained.

Rep Klemin: What about estate inheritance, would that have to be used to satisfy the debt of the other party as well?

Todd: We would have to address that with Legislative counsel.

Rep Klemin: If this is removed that would possible be included?

Todd: Marital rights in ND does exist in ND such as spousal property would be available.

Rep Klemin: 7:30 Even if they have a prenuptial agreement that cannot supersede the law.

Todd: Prenuptials can stand up in court.

Rep Klemin: I am not sure that if we take out subsection it wouldn't include that.

Rep Larson: Does this bill say that even if you're living separate from your spouse that the other one is still responsible for your living expenses?

Todd: This does not deal with x spouse, it is if your still married?

Rep Larson: What about as you're getting a divorce?

Todd: During the interim period, there are a number of legal options; usually during that period it is made clear who is responsible for what.

Rep Karls: What happens when you just go online to get a divorce and a judge is not involved?

Todd: This bill deals with prior to the divorce, not the divorce itself.

Rep Klemin: What about 3rd party collectors? 15:50

Todd: The judge assigns the debt, creditors are not bound by that however if the spouse does not paid the assigned debt they can be held in contempt of court.

Chairman Koppelman: Asks Vonette Richter from Legal Counsel to come forward to answer some questions.

Rep Klemin: Why is subsection 2 is deleted in this bill?

Vonette Richter, LC: I believe the attempts in the amendments in the Senate was to simplify the liabilities and to clear up living together or not living together while married.

Rep Klemin: So by taking out does it make savings and other money available to one spouse while living apart from the other spouse.

Vonette: My understanding the effect of this would be that there is no longer distinction between living together and living apart. What is taken out in subsection two is in the scenario when the responsibility of the parties for each while they are living separately while living together is what is in subsection 3 and that was the necessities. If this passes in its form there joint liabilities for the necessities regardless if they are living together or not.

Rep Klemin: It is not limited to necessities in subsection 2?

Vonette: 23:23 The confusion is what is legal as far as living together or not.

Rep Klemin: The original bill it basically clarified what you are talking. So I would still like to know why the amendments were done?

Todd: Rep Klemin could be correct by referring back to the original bill, we could take a look back and make it more consistent. 26:15

Chairman Koppelman: How does a legal separation work?

Todd: The Senate committee discovered that legal separation and the language was cumbersome and workable. We were trying to work together to make it more standard. Legal separation is just like a divorce but you remain married. I advise my clients not to go that route because it is a two-step process and gets costly in legal fees.

Chairman Koppelman: If the bill were to pass as it stands before us now in the engrossed version, it would seem to me that even if someone was legally separated they would still be jointly reliable for debt, correct?

Todd: The court will determine who is responsible for each debt and we felt that was adequate protection because ultimately the judge will be determining that.

Chairman Koppelman: Aren't there circumstances where this could be abused?

Todd: I think the judge would make that situation. 34:50

Rep Klemin: 39:00 On lines 18 and 19 of the existing language seems to answer some of this.

Todd: It would remain consistent, prenuptials is an example. All we are trying to deal with is the necessities in section 3; some of section 2 should probably come back.

41:00

Chairman Koppelman: What happens if only one spouse is listed on say, a land purchase?

Todd: If it was purchased prior to legal separation or divorce then it is marital assets.

Chairman Koppelman: What is the definition of community property state, and is ND?

Todd: We as a state indicate anything during marriage will be equally distributed.

Kim Granfor, ND Collectors Association: See testimony 2.

Rep Karls: What if they were not married?

Kim: If they are not married then they are not responsible for each other.

Chairman Koppelman: I believe the original bill made that clear, if we take this bill now it is saying until we have a final divorce decree you are responsible, that isn't what you want either, is that correct?

Kim: Absolutely.

Chairman Koppelman: Are we legally encouraging cohabitation because one immunity from financial obligation?

Kim: I plead the 5th on that one.

Rep Paur: Where does this change the current practice?

Kim: An example is once the husband tells his wife he wants out of the marriage and decides he is going to Vegas and spends a lot of money, the wife is not responsible for that type of spending. However if something medical would have happened the wife is responsible unless they were legally separated or divorced.

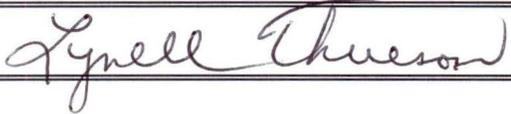
Kathy Schimetz, Owner of Pro-Collect Services: See testimony 3.

2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

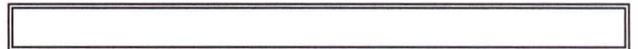
SB 2175
April 2, 2013
Job 20757

Conference Committee



The rights and liabilities of husband and wife dealing with assets and collections.

Minutes:



Chairman Kim Koppelman: Opens SB 2175 for committee work.

Discussed the language on the proposed amendment that was handed out.

Representative Maragos: made a **motion to approve** the proposed amendment. Withdrawn to cover other language suggested by Vice Chairman Klemin.

4:36 Chairman Koppelman: Representative Klemin and Kretschmar are recommending before we move the amendment we substitute the word "provided from the word outlined" on page 1, line 9, and add the amendment remove "overstrikes" over the words "while living together" on line 14.

Representative Paur: Does the reference brought up earlier regarding subsection apply here?

Chairman Koppelman: No.

5:36 Vice Chairman Klemin: I move the proposed amendments as written with our changes. Seconded by Representative Maragos.

Representative Toman: Wasn't the purpose of the bill to get rid of the "living together" and "living separate" provisions?

Representative Delmore: I think that's covered except for the necessary expenses as outlined. By adding that language in we're covering the area they had concerns with.

A Voice Roll Call vote on the amendments: Motion carried.

Chairman Koppelman: The amended bill is before us, what are the wishes of the committee?

Representative Brabandt: I move a Do Pass on the amended Engrossed SB 2175. Seconded by Representative Steiner.

A Do Pass Roll Call vote: Yes = 14, No = 0, Absent = 0. **Carrier:** Representative Brabandt.

VK
4/2/13

April 2, 2013

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2175

Page 1, line 6, remove the overstrike over "~~Separate and mutual rights~~"

Page 1, line 6, remove "Rights"

Page 1, line 7, remove the overstrike over "~~separate and~~"

Page 1, line 9, after "The" insert "Except for necessary expenses as provided in subsection 3,
the"

Page 1, line 9, remove the overstrike over "~~earnings of one spouse are not liable for the debts
of the other spouse, and the~~"

Page 1, remove the overstrike over lines 10 through 12

Page 1, line 13, remove the overstrike over "~~3.~~"

Page 1, line 14, remove the overstrike over "~~, while living together,~~"

Page 1, line 17, remove the overstrike over "~~4.~~"

Page 1, line 17, remove "3."

Renumber accordingly

Date: 4-2-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2175

House Judiciary Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.8219.02001

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Klemin Seconded By Rep. Maragos

Representatives	Yes	No	Representatives	Yes	No
Chairman Kim Koppelman			Rep. Lois Delmore		
Vice Chairman Lawrence Klemin			Rep. Ben Hanson		
Rep. Randy Boehning			Rep. Kathy Hogan		
Rep. Roger Brabandt					
Rep. Karen Karls					
Rep. William Kretschmar					
Rep. Diane Larson					
Rep. Andrew Maragos					
Rep. Gary Paur					
Rep. Vicky Steiner					
Rep. Nathan Toman					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice vote carried

Date: 4-2-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2175

House Judiciary Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Brabandt Seconded By Rep. Steiner

Representatives	Yes	No	Representatives	Yes	No
Chairman Kim Koppelman	/		Rep. Lois Delmore	/	
Vice Chairman Lawrence Klemin	/		Rep. Ben Hanson	/	
Rep. Randy Boehning	/		Rep. Kathy Hogan	/	
Rep. Roger Brabandt	/				
Rep. Karen Karls	/				
Rep. William Kretschmar	/				
Rep. Diane Larson	/				
Rep. Andrew Maragos	/				
Rep. Gary Paur	/				
Rep. Vicky Steiner	/				
Rep. Nathan Toman	/				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep Brabandt

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

REPORT OF STANDING COMMITTEE

SB 2175, as engrossed: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2175 was placed on the Sixth order on the calendar.

Page 1, line 6, remove the overstrike over "~~Separate and mutual rights~~"

Page 1, line 6, remove "Rights"

Page 1, line 7, remove the overstrike over "~~separate and~~"

Page 1, line 9, after "The" insert "Except for necessary expenses as provided in subsection 3, the"

Page 1, line 9, remove the overstrike over "~~earnings of one spouse are not liable for the debts of the other spouse, and the~~"

Page 1, remove the overstrike over lines 10 through 12

Page 1, line 13, remove the overstrike over "~~3.~~"

Page 1, line 14, remove the overstrike over "~~, while living together,~~"

Page 1, line 17, remove the overstrike over "~~4.~~"

Page 1, line 17, remove "3."

Re-number accordingly

2013 CONFERENCE COMMITTEE

SB 2175

2013 SENATE STANDING COMMITTEE MINUTES

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

SB 2175
April 16, 2013
Job Number 21167

Conference Committee

Committee Clerk Signature

Ea Libelt

Explanation or reason for introduction of bill/resolution:

Relating to liabilities of husband and wife

Minutes:

Discussion and Vote

Chairman Sorvaag: Opened the conference committee on SB 2175 and the clerk took the roll. Senator Sorvaag, Senator Unruh, Senator Sinner, Representative Klemin, Representative Brabandt and Representative Delmore were present.

Chairman Sorvaag: Said the bill was rewritten a few times in the Senate and the House made a few changes also. He asked Representative Klemin to go over the changes.

Representative Klemin: Said the objective is to provide that spouses are liable to creditors for necessary expenses regardless of whether they are living apart or living together. (:38-3:46)

Chairman Sorvaag: Said that they were trying to do the same thing and that the initial bill was amended a few times to reflect that. He feels comfortable with the rewording.

Representative Klemin: The problem with taking all of section two out is there might be some other things we might end up eliminating something's that we didn't intend too.

Todd Kranda, Kelsch Law Firm for the North Dakota Collectors Association: Said he also spoke with Vonette Richter and she saw the same language opportunity as ascribed. (5:00-6:45)

Representative Brabandt: Asked if the part; "while living together" should not be there.

Todd Kranda: That was their initial thought that the removal of that would be the primary focus of why they wanted this legislation addressed. The interpretation was to focus on that and we are still up in the air and haven't heard from the attorneys as to the further interpretation other than what Representative Klemin has stated on the record as covering both scenarios. Removing that could create a redundancy that both those provisions might cover the same things. Vonette Richter also concurred with that and also thought sometime in the future we should take a look at this whole thing and maybe those two sections could

be consolidated into better language. The interpretation that you are covering both scenarios; living together or living separate, necessary expenses are the responsibility of the married couple is our focus.

Representative Delmore: Asked if Vonette Richter had offered any better solution to marry those two so they are clearer.

Todd Kranda: Said she did not have the time at this point. He just asked if she concurred and she said she recognizes both scenarios being covered. She did say this may be a statute that at some point we need to fix together.

Representative Klemin: Said it seems pretty clear to him right now without changing the whole statute around. We are covering the situation for necessary expenses, either living apart or living together which is the intent.

Chairman Sorvaag: That is the intent of the bill. We are not here to redo all of it at this point.

Representative Klemin: Made a motion that the Senate accede to the House amendment.

Senator Unruh: Seconded the motion.

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

Senate Carrier: Senator Sorvaag House Carrier: Representative Klemin

Chairman Sorvaag: Adjourned the meeting.

Date: 4/16/2013

Roll Call Vote #1

**2013 SENATE CONFERENCE COMMITTEE
ROLL CALL VOTES**

BILL/RESOLUTION NO. **SB 2175** as (re) engrossed

Senate Industry, Business and Labor Committee

- Action Taken**
- SENATE accede to House Amendments
 - SENATE accede to House Amendments and further amend
 - HOUSE recede from House amendments
 - HOUSE recede from House amendments and amend as follows
 - Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Representative Klemin Seconded by: Senator Unruh

Senators	4/16		Yes	No	Representatives	4/16		Yes	No
Sorvaag	✓		x		Klemin	✓		x	
Unruh	✓		x		Brabandt	✓		x	
Sinner	✓		x		Delmore	✓		x	
Total Senate Vote			3		Total Rep. Vote			3	

Vote Count Yes: 6 No: 0 Absent: 0

Senate Carrier Senator Sorvaag House Carrier Representative Klemin

LC Number _____ of amendment

LC Number _____ of engrossment

REPORT OF CONFERENCE COMMITTEE

SB 2175, as engrossed: Your conference committee (Sens. Sorvaag, Unruh, Sinner and Reps. Klemin, Brabandt, Delmore) recommends that the **SENATE ACCEDE** to the House amendments as printed on SJ page 1097 and place SB 2175 on the Seventh order.

Engrossed SB 2175 was placed on the Seventh order of business on the calendar.

2013 TESTIMONY

SB 2175

**TESTIMONY IN SUPPORT OF
SENATE BILL NO. 2175**

**SENATE INDUSTRY BUSINESS & LABOR COMMITTEE
JANUARY 22, 2013**

Good morning Chairman Klein and members of the Senate Industry Business & Labor Committee, my name is Todd D. Kranda. I am an attorney at the Kelsch Law Firm in Mandan and I am representing the North Dakota Collectors Association which association includes several North Dakota owned collection agencies who assist with the recovery of debts owed to a creditor.

SB 2175 is being presented to you in order to clarify the joint liability that exists between spouses for necessities under circumstances where one spouse may be living separate from the other spouse. Currently, the law recognizes the joint liability of spouses for necessary expenses but includes an exception for situations in which a spouse is “living separate” from the other spouse. The change proposed by SB 2175 would continue the joint liability for necessary expenses and clarify that spouses are not responsible for the other spouses necessary expenses when the spouses are “legally separated” rather than just living apart from each other.

Members of North Dakota Collectors Association are here to testify in support of SB 2175 and examples of the reason for this change are available within their testimony and experience, so I will end my formal testimony at this point and stand for any questions and simply conclude with a request that you give a favorable **Do Pass** recommendation to SB 2175.



North Dakota Collectors Association

an association of collection specialists

(2)

TESTIMONY IN SUPPORT OF SB 2175

SENATE IBL
JANUARY 22, 2013

Chairman Klein and members of the Senate IBL Committee, my name is Kim Granfor and I represent the ND American Collector's Association.

Section 14-07-07 and section 14-07-08 of the ND Century Code relates to the liabilities between husbands and wives. The law states that spouses are separately and mutually responsible for items of necessity for each other.

There is no mistaking that a husband and wife are mutually and severally liability for each other's items of necessity. But there is an issue of defining when that responsibility ends. This section of law limits this responsibility to only while living together, but does not define what exactly that means. Does it mean while living together 7 days a week, 365 days a year? SB 2175 addresses this issue by requiring that a legal separation be required to negate the mutual responsibility for debts.

In the agency that I manage, Hospital Services, Inc. we have seen debtors use this "while living separately" to get out of paying bills. This has been most common when a couple lives separately for purposes of employment. The oil country is a prime example of this. One spouse works in the oil field and the other lives in the marital home in Fargo. She ends up in the hospital while he is working in the oil field. He claims they were not living together at the time of service, therefore he should not be held responsible for the debt.

If a couple took this section of law as written they could deduce that it would be in their best interest to have the breadwinner of the family move out temporarily while bills are being incurred by the other spouse, in order to avoid mutual financial responsibility. We need to stop this abuse from happening.

These changes in SB 2175 will clarify what we believe was intended at the time the law was written. These changes will eliminate the potential for spouses to negate their financial responsibility for each other.

Please give your favorable recommendation to SB 2175.

TESTIMONY IN SUPPORT OF
SB 2175
SENATE IBL COMMITTEE
JANUARY 22, 2013

Chairman Klein and members of the Senate IBL Committee, my name is Kathy Schimetz, and I am the owner of Pro-Collect Services in Minot. We are a professional debt collection agency that recovers medical debt, small business debt, rents, utilities and other types of debt. We are a member of the ND Collector's Association.

Senate Bill 2175, if approved, will eliminate a problem that has cropped up as the demographics in ND have changed. We have workers living apart from their spouses because their job is on the opposite side of the state... therefore not living with their spouse on a regular basis. The current law states that a husband and wife are not mutually responsible for each other's debts while "living separately". With the current law, the oil worker who uses an address in Watford City and only "visits" his wife every 10 days in Grand Forks would not be held liable for debts incurred by his wife in Grand Forks, nor would the wife be held liable for any debts the husband incurs.

We have also had couples who claim to be living apart, yet they are in fact living together. One may be using a physical address and the other a PO Box. We have asked for proof that they are living apart, but they are unwilling to provide this information.

It is my belief that the intent of the law was to have spouses mutually and individually liable for each other's items of necessity while married.

I request that you give a favorable Do Pass recommendation to SB 2175.

/

**TESTIMONY IN SUPPORT OF
ENGROSSED SENATE BILL NO. 2175**

**HOUSE JUDICIARY COMMITTEE
MARCH 13, 2013**

Good morning Chairman Koppelman and members of the House Judiciary Committee, for the record my name is Todd D. Kranda. I am an attorney at the Kelsch Law Firm in Mandan and I am representing the North Dakota Collectors Association in support of Engrossed SB 2175.

Engrossed SB 2175 is being presented to you in order to clarify the joint liability that exists between spouses for necessities such as household supplies, food, clothing, fuel, medical care and shelter for the spouse and family members as well as the education expense of any children. Currently, the law recognizes the joint liability of spouses for such necessary expenses but includes an exception for situations in which a spouse is “living separate” from the other spouse. The change proposed by Engrossed SB 2175 would continue the joint liability for necessary expenses and clarify that spouses are responsible for the other spouse’s necessary expenses without the exception for a situation in which spouses may happen to be living apart from each other.

Members of North Dakota Collectors Association are here to testify in support of Engrossed SB 2175 and examples of the reason for this change are available within their testimony and experience, so I will end my formal testimony at this point and stand for any questions and simply conclude with a request that you give a favorable **Do Pass** recommendation to Engrossed SB 2175.



North Dakota Collectors Association

an association of collection specialists

TESTIMONY IN SUPPORT OF
SB 2175
HOUSE JUDICIARY COMMITTEE
March 13, 2013

Chairman Koppelman and members of the House Judiciary Committee, my name is Kim Granfor and I represent the ND Collector's Association.

Section 14-07-07 and section 14-07-08 of the ND Century Code deal with responsibilities between husbands and wives. There is no mistaking that a husband and wife are mutually and severally liability for each other's items of necessity. But there is an issue of defining when that responsibility ends. The current law states that the liability is only upon both spouses if they are living together. If they are living apart for any reason - there is no mutual liability.

What happens if the husband works for long periods of time away from the marital home, such as long haul truck drivers, sales people who travel extensively, oil workers, and construction people, just to name a few. During the time the husband is away, the wife has a medical procedure during his absence, who is responsible to pay this bill? They weren't living together at the time the bill was incurred? Both parties, as a married couple, should be mutually and severally liable.

SB 2175 removes any reference to "while living together", thus making a clear definition that spouses are equally and severally responsible for any debts for items of necessity.

These changes will eliminate the potential for spouses to negate their financial responsibility to each other. If a couple took this section of law as written they could deduce that it would be in their best interest to have the breadwinner of the family move out temporarily while bills are being incurred by the other spouse, in order to avoid financial responsibility. We need to stop this abuse from happening.

TESTIMONY IN SUPPORT OF
SB 2175
HOUSE JUDICIARY COMMITTEE
March 13, 2013

Chairman Koppelman and members of the House Judiciary Committee, my name is Kathy Schimetz, and I am the owner of Pro-Collect Services in Minot. We are a professional debt collection agency that recovers medical debt, small business debt, rents, utilities and other types of debt. We are a member of the ND Collector's Association.

Senate Bill 2175, if approved, will eliminate a problem that has cropped up as the demographics in ND have changed. We have workers living apart from their spouses because their job is on the opposite side of the state... therefore not living with their spouse on a regular basis. The current law states that a husband and wife are not mutually responsible for each other debts while "living separately". With the current law, the oil worker who use an address in Watford City and only "visits" his wife every 10 days in Grand Forks would not be held liable for debts incurred by his wife in Grand Forks, nor would the wife be held liable any debts the husband incurs.

We have also had couples who claim to be living apart, yet they are in fact living together. One may be using a physical address and the other a PO Box. We have asked for proof that they are living apart, but they are unwilling to provide this information.

It is my belief that the intent of the law was to have spouses jointly and severally liable for each other's items of necessity while married.

I request that you give a favorable Do Pass recommendation to SB 2175.