

2015 HOUSE POLITICAL SUBDIVISIONS

HB 1217

2015 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Prairie Room, State Capitol

HB 1217
1/23/2015
22465

- Subcommittee
 Conference Committee

Amonela Muscha

Explanation or reason for introduction of bill/resolution:

Relating to the rental of a dwelling to a victim of domestic violence

Minutes:

Representative Delmore Testimony #1
Janelle Moos Testimony #2
Krista Andrew Testimony #3
Jeremy Patron Testimony #4

Representative Delmore: Four changes in the bill. Only asking for three. I have the amendments ready. Ensures that housing can be found for victims of domestic violence. Two, Changes the definition that will be taking out. Third it clarifies the notice that must be given to the owner. Fourth it clarifies safety concerns and changing of locks. (See testimony #1)

Janelle Moss: See testimony #2

Representative Koppelman: I understand the changes deal with the state housing program. Further in it applies to any rental property?

Janelle Moos: This section is currently in statute. The only change is the notice.

Representative Koppelman: It does is clean up the language, but it also relaxes the standard? In other words right now there is some verification necessary on lines 19-20 that there really is a domestic violence situation. They have to furnish a copy of the protection order. This applies to any landlord, and while I am concerned for the victims. These are legal contracts and it appears that if this change were made all that would be necessary for someone how signs a year lease and three weeks later they just want to move so they could tell the landlord they feel unsafe and am terminating my lease at the end of the month. Current law does seem to do justice. Why relax that so much?

Janelle Moos: Domestic violence is related to sexual assaults. I don't think we have people making up issues. What remains is they are responsible on the first months' rent and the second if they want to terminate the lease.

Representative Koppelman: On the bottom of page three they may request that the lock be changed but it is not a requirement. What benefit would this add? The landlord can decide whatever they want.

Janelle Moos: It is important to let the victims know they have rights like this. Fourteen other states already have language like that. This just gives permissive language for victims to request and we'll work with landlords to do that.

Chairman Klemin: It doesn't require landlord to replace the lock. I don't think that will change anything.

Janelle Moos: Meaning that it doesn't require them to do so that it is more permissive in nature?

Chairman Klemin: It just says a tenant can request a landlord to replace the lock at no expense to the victim. It doesn't require the landlord to replace the lock at no cost to the victim.

Janelle Moos: The important piece is that it is no cost to the victim.

Chairman Klemin: What happen if landlord says I'll do it if you pay for the lock?

Janelle Moos: I think that would be up to the landlord and the victim.

Representative Strinden: I like the idea of this section because it lets people know they have a right. Do you know of any oarts of the statute that have permissive language like this dealing with domestic violence but aren't directive?

Janelle Moos: Related to housing or in terms of domestic violence?

Representative Strinden: In terms of domestic violence letting victims know what their rights are.

Janelle Moos: I would have to take a closer look but I can provide that information.

Opposition:

Krista Andrews: See testimony #3

Representative Anderson: How much does it cost to change a lock?

Krista Andrews: It may be 75-200 to get a locksmith up to the area.

Representative Strinden: The bill has the tenant pay the last month's rent. I am not aware of many places that have a lot of open units. How many rental units are currently vacant?

Krista Andrews: I do not have statistics on the vacancy rate right now. We don't want to have a statute that says they can get out for any reason because now there isn't a housing crunch.

Representative Strinden: If someone has an eviction due to domestic violence and police calls are made are those on records for that person?

Krista Andrews: Yes. Records are kept on all evictions.

Representative Beadle: I understand the concern with the notice being so vague. Would you have a disagreement to make the notice stricter dealing with the police or organization that the victim may have to go through?

Krista Andrews: Yes, we would it still doesn't have the neutral 3rd party and the court included.

Representative Oversen: There is a section of code that allows a victim to seek unemployment after leaving their job for fear of safety. It is a little more comprehensive even than the protective order but it allows different options. You know why a victim may feel scared of going to the courts or why they may not enter the legal system. If they already fear for their safety, research will show that if they seek a protective order they may be at greater risk. So the other options in here include court order, protection order, restraining order, other record files that the court, police record, medical record, affidavit by a council, clergy, social worker, or someone with a domestic violence background. Is there any flexibility with your association at looking at this requirement because if they are not willing to seek protective order they are allowed no protection in their housing?

Krista Andrews: We would look at them to see if they are options. The greater issue is the folks taking advantage of the landlords.

Representative Oversen: Typically lease agreements have a section that allows you to get out of the lease with not very dissimilar terms to what is allowed under this section as far as paying a lease, or two months ahead of time. What is the burden here that's that much different for those who aren't a victim of domestic violence?

Krista Andrews: There is a duty of landlords to mitigate damages. So if a tenant skips out and they have another renter that is there willing to rent, they can't just say no the unit is unavailable and continue to charge the renter that skipped out. So there is that duty to mitigate already. There are some leases they may provide a little bit of an out but most of the time they say if you signed for a year you have to pay for a year.

Representative Kelsh: What is a typical amount of time to get a protection order?

Krista Andrews: It can happen within a couple of days, then 7-10 days later when they will return to court with the perpetrator for a hearing. That is where the permanent protection order would be issued. It's not too lengthy.

Representative Kelsh: When you talk about emergency does the judge actually do that or is it someone else in the court system? Do you have to go back and get another one? Does it expire quickly?

Krista Andrews: If you file for an emergency order (couple pages) then the court will decide if there is enough information on that to determine if they are able to get the

emergency order. At that time they set it on for hearing (7-10 days) they you can ask for a more permanent order but they generally last for about a year or two.

Chairman Klemin: As I understand the protection order that is referred to on page 2 is something that is only issued after a hearing and then this section also says for an order prohibiting contact which may be a prehearing ex parte emergency order referred to. There seems like the statute already has some alternatives built into it that's common. The other question I have is this section has to do with termination of a lease due to domestic violence so then we are adding on a new subsection 11 at the end of that section talking about replacing locks which has nothing to do with termination of the lease. Which is the subject of this segment? Some other place that this would be more appropriate rather than in this termination section or hand alone section of this statute?

Krista Andrews: For your first question you are correct. You can go for a hearing before a judicial referee. You can go for a hearing. As far as where else it may go, I agree I don't think it is appropriate to put it in the section that deals with termination of leases then you're adding lock changes as Koppelman added it is permissive. It should not be included and second I think it creates ambiguity as to whether or not the landlord has the discursion to say we are or aren't going to replace the locks. It also would place the financial burden on the landlord.

Representative Oversen: If a landlord did change the locks, is there a way they cannot give the keys to the offender and the victim?

Krista Andrews: They are legally supposed to get that key if the perpetrators name is on the lease. Unless they went through the formal process of getting them evicted or removed from the property.

Representative Koppelman: Technical question, with respect to the eviction, I recognize that it is correct if it becomes a legal proceeding and goes through that process but the first step in an eviction process is a notice to the tenant that they are going to be evicted. If the tenant vacates voluntarily before court action id required there wouldn't be record of that would there?

Krista Andrews: No there would not be. You could possibly have a record of a summons and complain being filed.

Representative Koppelman: So it usually doesn't get to that stage does it?

Krista Andrews: No that is not necessarily accurate.

Jeremy Petron: See testimony #4

Representative Oversen: When we're looking at protections for housing indicated that there other lease violations such as nonpayment of rent, damage, or loud party, etc... Wouldn't those violations then be grounds that the applicant otherwise eligible. Is that the statue or the amendment written says of for otherwise eligible so they probably wouldn't be others wised eligible if they have other lease violations not related to domestic violence.

Jeremy Petron: Our concern comes from the phrases evicted from and the reason why is that they were claiming that they were a victim they could other lease violations and we feel that the language is stating that they cannot be evicted then by saying they are a victim of domestic violence.

Representative Koppelman: It appears that you have the most disagreements with pages 2 and 3 of the bill. This other section applies only to housing that is part of a state housing program I am not sure how much of your organization is described by that or not. As I read that section it does say, it talks about eviction, but then it says if the applicant or tenant otherwise qualifies for addition, assistance, participation, or occupancy. If there is loud partying, other things the lease says you can't do, or that are grounds for eviction it seems to me that you would still be able to evict under this? You cannot simply no refuse to rent if you're part of a state housing program, or evict because someone is a victim of domestic violence?

Jeremy Petron: I believe there is something else that states regarding the housing systems part of the state program but also regular residential dwellings. The second part of your question is that if the language is specifically sighting that they can't be evicted or not rented to base on the specific situation of domestic violence, we are fine with that. What our concern is that if it is interpreted more liberally from a judge that it may not be that way. Our concern is that it could be stretched further.

Representative Koppelman: If there is a way to tighten language would you have an objection?

Jeremy Petron: As on organization no we would not.

Rocky Gordon: The issue with the protection order or no contact order that came out of a lot of compromise. Something has to be in place and that is reasonable. We don't want an unattended consequence for destroying lease for term. Leases for term have protection for tenants as well such as freezing their rent and so on. Some discussion about the market. We operate in Bismarck we have had a half percent of vacancy and there was construction but right now we are at about 3-4% vacancy. I hope we don't legislate based on what the market is today. Section 11 I would urge the committee to not fill the century code with things the people may agree to do amongst themselves. I do not know where that would stop.

Representative Oversen: If this was the compromise that the minimal standard that a victim of domestic violence has to show are we really fearful that if we remove or change that requirement that there will be masses of people coming forward to get out of their leases claiming to be victims of domestic violence?

Rocky Gordon: I don't think we will have massive amounts of people there may be some. I think we would be setting up a situation that would be misused. Such as the companion animals issue.

Representative Oversen: Would you be open to the amendment that puts us in line how victims of domestic violence may qualify for unemployment insurance the proof that they are required to show in that situation. Would be open to that amendment?

Rocky Gordon: I do not know yet, I would have to see it. There has to be something specific and worded in a way that can't be misused.

Representative Klein: How many units do you have that you rent out?

Rocky Gordon: 700-800 in the Bismarck area.

Representative Klein: How many instances relating to this have you had in the last couple of years?

Rocky Gordon: I can't bring any to mind.

Chairman Klemin: Closed the hearing on HB 1217

2015 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Prairie Room, State Capitol

HB 1217
2/5/2015
23320

- Subcommittee
 Conference Committee

Amendment Muschoi

Explanation or reason for introduction of bill/resolution:

Relating to the rental of a dwelling to a victim of domestic violence.

Minutes:

Testimony 1

Chairman Klemin: Opened the hearing on HB 1217

Representative Oversen: Testimony 1 we are just clarifying and breaking it out to what is allowed. It is separating the current language into subdivisions so that you can read it.

Representative Beadle: Each of the sentences within that subsection 2 of section 3 ends up being broken into a new subunit abc.

Representative Oversen: Moved to adopt the amendment

Representative Strinden: Seconded

A Voice Vote was Taken: All in favor

Motion carries

Chairman Klemin: In the hearing we had amendments proposed by Representative Delmore. On page two removing lines 3-9.

Representative Maragos: Moved to adopt the amendments

Representative Beadle: Second

A voice Vote was Taken: All in favor

Motion carries

Representative Zubke: On page one there was some testimony about the being evicted; nothing has changed that has it?

Chairman Klemin: No, the notes that I have was that they testified saying this was a new conviction restriction, second part that they should require proof and section four rejected to paying for the lock change. Took care of 2 of the 3.

Representative Oversen: Their concern wasn't completely founded because that section only relates to state housing programs it is not all apartment buildings, only those that have state assistance. Their concern was that if the renter was also violating other sections of lease, that they then wouldn't be able to evict them but that is covered in there saying that they also have to be in compliance with other components of the lease.

Representative Beadle: Motioned a do pass

Representative Klein: Seconded

A Roll Call Vote was Taken: Yes 13, No 0, Absent 1 (Koppelman)

Motion carries

Representative Oversen will carry the bill

Proposed Amendments to HB 1217

Page 2, line 19, after "stating" insert ";

Page 2, line 18, after "stating:" insert a new subdivision "a."

Page 2, line 18, overstrike "that"

Page 2, line 18, capitalize the "t" in the third "the"

Page 2, line 20, remove "the notice"

Page 2, line 20, after the overstricken language insert "

- (1) A court order, protection order, restraining order, or other record filed with a court;
- (2) A police or law enforcement record;
- (3) A medical record indicating domestic violence or sexual assault; or
- (4) A written affidavit provided by an individual who has assisted the tenant in dealing with domestic violence or sexual assault and who is a:
 - (a) Licensed counselor;
 - (b) Licensed social worker;
 - (c) Member of the clergy;
 - (d) Director or domestic violence advocate at a domestic violence sexual assault organization as defined in section 14-07.1-01; or
 - (e) A licensed attorney;

Page 2, line 20, after the comma insert a new subdivision "b."

Page 2, line 20, capitalize the "t" in the second "the"

Page 2, line 21, overstrike "and"

Page 2, line 21, after the comma insert a new subdivision "c."

Page 2, line 21, capitalize the "t" in the second "the"

Page 2, line 21, after the period insert a new subdivision "d."

Page 3, remove lines 28 through 29

SECTION 3. AMENDMENT. Section 47-16-17.1 of the North Dakota Century Code is amended and reenacted as follows:

47-16-17.1. Termination due to domestic abuse.

1. A tenant to a residential lease who is a victim of domestic violence as defined in section 14-07.1-01 or fears imminent domestic violence against the tenant or the tenant's minor children if the tenant or the tenant's minor children remain in the lease premises may terminate a lease agreement, as provided in this section, without penalty or liability.
2. The tenant must provide advance written notice to the landlord stating:
 - a. ~~¶~~The tenant fears imminent domestic violence from a person named in
 - (1) A court order, protection order, restraining order, or other record filed with a court;
 - (2) A police or law enforcement record;
 - (3) A medical record indicating domestic violence or sexual assault; or
 - (4) A written affidavit provided by an individual who has assisted the tenant in dealing with domestic violence or sexual assault and who is a:
 - (a) Licensed counselor;
 - (b) Licensed social worker;
 - (c) Member of the clergy;
 - (d) Director or domestic violence advocate at a domestic violence sexual assault organization as defined in section 14-07.1-01; or
 - (e) A licensed attorney;
 - b. ~~¶~~The tenant needs to terminate the tenancy, and
 - c. ~~¶~~The specific date the tenancy will terminate.
 - d. ~~¶~~The notice must be delivered by mail, facsimile communication, or in person before the termination of the tenancy.
3. A landlord may not disclose...

15.0607.01001
Title.

Prepared by the Legislative Council staff for
Representative Delmore
January 23, 2015

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1217

Page 1, line 1, replace the first "section" with "sections"

Page 1, line 1, remove ", subsection 2 of section 14-07.1-01,"

Page 1, line 2, remove "section"

Page 2, remove lines 3 through 9

Renumber accordingly

February 5, 2015

AS
2-5-15

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1217

Page 1, line 1, replace the first "section" with "sections"

Page 1, line 1, remove ", subsection 2 of section 14-07.1-01,"

Page 1, line 2, remove "section"

Page 2, remove lines 3 through 9

Page 2, line 18, overstrike "that the" and insert immediately thereafter ":

a. The"

Page 2, line 20, remove "the notice"

Page 2, line 20, overstrike ", the" and insert immediately thereafter ":

- (1) A court order, protection order, restraining order, or other record filed with a court;
- (2) A police or law enforcement record;
- (3) A medical record indicating domestic violence or sexual assault;
or
- (4) A written affidavit provided by an individual who has assisted the tenant in dealing with domestic violence or sexual assault and who is a:
 - (a) Licensed counselor;
 - (b) Licensed social worker;
 - (c) Member of the clergy;
 - (d) Director or domestic violence advocate at a domestic violence sexual assault organization as defined in section 14-07.1-01; or
 - (e) Licensed attorney;

b. The"

Page 2, line 21, overstrike the comma and insert immediately thereafter an underscored semicolon

Page 2, line 21, after "and" insert:

"c. The"

Page 2, line 21, after the period insert:

"3."

Page 2, line 25, overstrike "3." and insert immediately thereafter "4."

Page 2, line 30, overstrike "4." and insert immediately thereafter "5."

Page 3, line 4, overstrike "5." and insert immediately thereafter "6."

Page 3, line 7, overstrike "6." and insert immediately thereafter "7."

Page 3, line 12, overstrike "7." and insert immediately thereafter "8."

Page 3, line 19, overstrike "8." and insert immediately thereafter "9."

Page 3, line 21, overstrike "9." and insert immediately thereafter "10."

Page 3, line 25, overstrike "10." and insert immediately thereafter "11."

Page 3, remove lines 28 and 29

Re-number accordingly

**2015 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1217**

House Political Subdivisions Committee

- Subcommittee Conference Committee

Amendment LC# or Description: 15.0607.01002

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Other Actions: Reconsider _____

Motion Made By Oversen Seconded By Strinden

Representative	Yes	No	Representative	Yes	No
Chairman Lawrence R. Klemin			Rep. Pamela Anderson		
Vice Chair Patrick R. Hatlestad			Rep. Jerry Kelsh		
Rep. Thomas Beadle			Rep. Kylie Oversen		
Rep. Rich S. Becker			Rep. Marie Strinden		
Rep. Matthew M. Klein					
Rep. Kim Koppelman					
Rep. William E. Kretschmar					
Rep. Andrew G. Maragos					
Rep. Nathan Toman					
Rep. Denton Zubke					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

voice vote passed

2015 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1217

House Political Subdivisions Committee

- Subcommittee Conference Committee

Amendment LC# or Description: Rep Deimore amendment on page 2, removing lines 3-9

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Other Actions: Reconsider _____

Motion Made By Maragos Seconded By Beadle

Representative	Yes	No	Representative	Yes	No
Chairman Lawrence R. Klemin			Rep. Pamela Anderson		
Vice Chair Patrick R. Hatlestad			Rep. Jerry Kelsh		
Rep. Thomas Beadle			Rep. Kylie Oversen		
Rep. Rich S. Becker			Rep. Marie Strinden		
Rep. Matthew M. Klein					
Rep. Kim Koppelman					
Rep. William E. Kretschmar					
Rep. Andrew G. Maragos					
Rep. Nathan Toman					
Rep. Denton Zubke					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

VOICE vote passed

**2015 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1217**

House Political Subdivisions Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations

Other Actions: Reconsider _____

Motion Made By Beadle Seconded By Klein

Representative	Yes	No	Representative	Yes	No
Chairman Lawrence R. Klemin	X		Rep. Pamela Anderson	X	
Vice Chair Patrick R. Hatlestad	X		Rep. Jerry Kelsh	X	
Rep. Thomas Beadle	x		Rep. Kylie Oversen	X	
Rep. Rich S. Becker	x		Rep. Marie Strinden	X	
Rep. Matthew M. Klein	X				
Rep. Kim Koppelman	/				
Rep. William E. Kretschmar	x				
Rep. Andrew G. Maragos	X				
Rep. Nathan Toman	x				
Rep. Denton Zubke	X				

Total (Yes) 13 No 0

Absent 1 (Koppelman)

Floor Assignment oversen

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

motion passed

REPORT OF STANDING COMMITTEE

HB 1217: Political Subdivisions Committee (Rep. Klemin, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1217 was placed on the Sixth order on the calendar.

Page 1, line 1, replace the first "section" with "sections"

Page 1, line 1, remove ", subsection 2 of section 14-07.1-01,"

Page 1, line 2, remove "section"

Page 2, remove lines 3 through 9

Page 2, line 18, overstrike "that the" and insert immediately thereafter ":

a. The"

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Page 2, line 20, overstrike ", the" and insert immediately thereafter ":

- (1) A court order, protection order, restraining order, or other record filed with a court;
- (2) A police or law enforcement record;
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 - (a) Licensed counselor;
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 - (c) Member of the clergy;
 - (d) Director or domestic violence advocate at a domestic violence sexual assault organization as defined in section 14-07.1-01; or
 - (e) Licensed attorney;

b. The"

Page 2, line 21, overstrike the comma and insert immediately thereafter an underscored semicolon

Page 2, line 21, after "and" insert:

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Page 3, line 25, overstrike "10." and insert immediately thereafter "11."

Page 3, remove lines 28 and 29

Renumber accordingly

2015 SENATE POLITICAL SUBDIVISIONS

HB 1217

2015 SENATE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Red River Room, State Capitol

HB 1217
4/2/2015
Job Number 25770

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the rental of a dwelling to a victim of domestic violence

Minutes:

Written testimony # 1 Rep. Lois Delmore
Written testimony # 2 Janelle Moos
Written testimony # 3 Rocky Gordon
Written testimony # 4 Jeremy Petron
Written testimony # 4b Greg Thompson

Chairman Burckhard opened the committee for HB 1217. All senators were present.

Rep. Lois Delmore here today to urge your favorable consideration for HB 1217. It relates to the rental of a dwelling to victims of domestic violence. The bill increases the protections and provides victims of domestic violence important safeguards in emergency or potentially dangerous situations. Sometimes these victims have a hard time finding housing because of the need to call police protection or because the batterer has caused a disturbance. Sometimes they also need to terminate a lease for those same reasons. Subsection 3, of section 3, of the bill bans discrimination against victims in state housing programs only. The amended Section 2 of subsection 2; expands the acceptable forms of documentation beyond a protection order or order prohibiting contact that a victim may use when requesting termination of their lease. There are others here to testify who can better describe provisions of the bill and the needs for its passage. I would urge you favorable consideration of HB 1217. (Written testimony # 1).

Senator Bekkedahl I am reading on page 2, lines 6-26, and that section specifically deals with if I have these issues I am I fear of staying in the staying in the same residence because I may be inviting attendance by the party that has already done harm to me or my children. Is this the section that allows them to get out the lease? Is that what I am reading there?

Rep. Delmore Yes it does. It is very similar to the provisions of HB 1212 which we also passed that allows victims of domestic violence, stalking, etc. to be eligible for workers compensation, no the unemployment compensation. So, that list was taken from there because it was felt that it was pretty credible substantiation that you would have to provide.

Senator Anderson When I first read this bill, of course I didn't see much problem with it, but since then people have contacted me with concerns that this is another excuse for people to get out of their lease that they've already signed and are looking now to vacate for whatever reason. Can you speak to that a little bit?

Rep. Delmore I certainly can. I see these as pretty solid character witnesses and documentation that you would need to get out of a lease. I think that all bills we pass are subject to someone taking advantage of them but I don't think that is a reason not to pass this bill to protect those victims of domestic violence who may really need to get out of that lease and leave immediately for their own safety and sometimes for the safety of their children. Like I said it was the same amendment that we put on the bill for unemployment compensation and I think the members of the committee and the members of both chambers thought that it was a pretty comprehensive list.

Senator Judy Lee Just looking at what the 1000 version was, the definition of domestic violence was eliminated and perhaps it is elsewhere in that section so, we don't need it. Maybe you could comment on that? Then the very last thing was the tenant who was a victim of domestic violence may request that the landlord replace the door locks on the units occupied by the victim without any cost to the victim. That was deleted as well. Would you just let us know about that please?

Rep. Delmore I am not exactly sure. I don't think the locks would be a huge thing because I don't think we've see massive numbers of domestic violence people leaving apartments every day. But I believe that was an objection so, it was taken out of the bill and the other section. I believe domestic violence is in another section of code.

Janelle Moos Executive Director, of the CAWS of North Dakota (Written testimony # 2). (6:12-10:32)

Chairman Burckhard This is an email message I got from a constituent who was obviously a landlord. " A lease is a binding contract. Abuse victims can get a protection order to release them from the lease. Let's try and protect the landlord for once". What do you say to that kind of comment?

Janelle Moos It takes a lot for a victim to even go into one of our crisis centers let alone to go through the protection on a process to say that they need to have the court intervene in whatever that relationship is, so I don't think. We often get a lot of criticism that protection orders are handed out like candy. They are actually not, they are very difficult to obtain and in some jurisdictions there are incredibly difficult to obtain because judges look at what the most recent incident is, and they want to see documentation that is potentially lethal and it's in the immediate. So I think for a victim to even take a step forward to get help from our crisis center let alone going to the court system is a big step for them in general. It's not that we're trying to tell the landlords that they are doing anything wrong; I think this just gives victims an opportunity to get out of a lease if they need too.

Senator Grabinger Isn't this with the changing of the locks, isn't this the same bill that we saw in Judiciary last session? We had testimony regarding those locks.

Janelle Moos It is similar. The lock provision from the last session was much more expansive. This was really narrowed in focus, but, again we felt it was just too steep of a hill to climb in terms of the opposition we faced from the apartment association.

Senator Grabinger That took care of their arguments? **Janelle Moos** As far as I know I didn't hear any complaints. I mean there are folks in the room today, but I think Rep. Overson was the one that worked on the amendments and I assume she had interacted with them about the changes she had made.

Senator Judy Lee Do you have any idea about how many times a year there might be a tenant who has been a victim who requests an early dismissal or release I should say from a lease?

Janelle Moos We don't track those statistics. I could ask our programs but we don't track that. **Senator Judy Lee** I just thought you might have that information so that we could figure out how much we are talking 6 in 600 I know that is not 600. **Janelle Moos** I don't think it's very high.

Rocky Gordon (14:17-18:00) Lobbyist for the North Dakota Apartment Association. (Written testimony # 3) We oppose HB 1217. Senator Judy Lee had a question about how many times and I don't pretend to have the answer to that, but in the House hearing we had one of our attorney's from Fargo and she said she was aware of about 50 of these in the Fargo area. I don't know if that is helpful or not, but that is the best information I have on that. It would have been the last two years.

Senator Dotzenrod If it's true that if on the termination of the request that the lease be terminated if the renter is obligated then to pay out the fees for that month that they are in, and then they might even be a deposit that they may have to give up or. Aren't the landlords more or less covered by those provisions?

Rocky Gordon In some cases yes, some cases not. I don't think it would go very well if a landlord held a tenants deposit because they did this. I can't envision landlords do that. Does it call for the current month and one more month, yes it does. But if you go in and sign a 12 month lease as a resident, you get rent protections for those 12 months. But really if you can terminate by giving an extra 30 day notice, it kind of destroys the concept of the lease. I also wanted to say that well we recognize that the supply of housing has been very tight in the state of North Dakota, I don't know if many of you have driven around Bismarck in your stay here, there are a ton of apartments coming on the market and that tight situation is going away very rapidly due to a bunch more supply coming on the market. So, I hope that we don't say, ' well if you get an extra month's rent you can re-rent the apartment anyway', that is probably not going to be true even today. But as we go forward in these markets where more supply is added.

Senator Judy Lee I wondered if we could ask Femi to get the section of statute that talks about what the current process is if somebody terminates a lease if the Chairman was willing.

Chairman Burckhard I am willing to have Femi do the work, for the research.

Senator Anderson On page 2, starting with subsection 2, on line 11, it looks to me like the old language provided for the judge to issue a court order and then the person could come in and say I need to get out of this lease because and here is my court order. Now what we're doing here is adding a bunch of other options for people to get out of their lease where before they needed the court order and then they were out, right?

Rocky Gordon That is correct. Our position is that in order to terminate a lease, there has to be some impartial review other than, well, I am going to have my attorney sign an affidavit. You pay your attorney to sign an affidavit or I am going to go to my clergy and ask them to sign an affidavit. I can't imagine that they are going to say no. That is the problem with this. It's not that we disagree that there should be an out, but I think we kind of took a one size fits all approach to this. It worked for something else so it should work here too. But we view it as a big difference between what was done there and terminating a legally binding lease, if we agree that they are legally binding.

Senator Dotzenrod This affidavit that you're concerned about that you could just hire an attorney it appears to me reading this that, that affidavit has to specifically identify the name of the person that they are worried about. It seems to me that wouldn't be a casual exercise I wouldn't think. That is really so of formalizing and putting down in writing something that if it was an untrue statement or if was just made up, would be something that would be considered a pretty serious matter. So I think that you would either have to be to my way of thinking something legitimate here that was going on, because I think you could hire attorneys to sign and perform work and they get paid by the hour so, but I still think that if you're going to specifically identify by name another person and say in that document that your fearful, I think that there is kind of a barrier their or a bar that would have to be met. I just don't know if you could get it attorneys to casually sign these when they specifically are referring to another person by name. I think that there is a little more to it than just a fairly simple matter of signing an affidavit. I don't know if you want to answer to that or not.

Rocky Gordon I would. I've been doing this for 37 years. I've seen lots of things in 37 years and we don't have enough time for the rest of the session to talk about those things. But what I would say is I agree with you to a point, but the question becomes and this is why we ask for an impartial review. At what point does it rise to the level of imminent fear and who makes that judgment? Well we think an impartial party needs to make that judgment. Maybe I didn't speak properly, I don't think people are going to haphazardly do this and sign them. But there is a real question about at what point should this law take effect. We belong to a landlord program with the police department and we get reports of every time there is a police call on our property. We get them every Monday morning. There are a lot of domestic calls. There are police reports, but, some people unfortunately we see them month after month after month. Those don't rise to the level that we believe would trigger this situation where a tenant could terminate their lease. That is our concern is at what point is there agreement that there is fear, there's imminent danger, somebody has to make that determination. Should that be your attorney, should that be your clergy, we don't think so.

Senator Bekkedahl You walk a fine line here and I appreciate that because this is a serious issue for all of us. It appears to me that what's then provided here is an attempt to

error on the side of caution. There have probably been instances I can't site them, where there has been a fear of imminent danger placed on a victim. It hasn't been properly protected through the courts by an order yet, and something more serious has happened and that is just a statement I would make that I think and maybe there are others here that could testify more to this. I think we are trying to error on the side of caution in support of the victims to make sure something worse doesn't happen but if you care to answer that question. I am just stating what I see happening here.

Rocky Gordon I can't disagree with that. I don't know but then you get into well, how far should error on the side of caution go. We think this goes a little further than is reasonable. I guess that is our point. Again, we fully understand there are situations where yes this needs to happen. We get that. I had one of my best friends in the world grew up in a home where there was lots of domestic violence in the 1960's. I get it. They have scars today. Unfortunately what had to happen there is what happened in many of those cases in the 50 and 60's. It went on until the boys got old enough to put a stop to it. Well that's not what should take place. It is just how far do we go?

Senator Judy Lee I am looking at the one and maybe this is one from his most answer. But, on page 2, line 18, it talks about the tenant bringing a medical record indicating domestic violence and sexual assault. Well medical records are prohibited by HIPPA from being shared with anybody, pretty much unless it is another provider or appropriate individual. So, you can't request them, it seems to me, do you have a comment on the medical record part. I know that is new.

Rocky Gordon I know that we can't request them. I think the victim can request them and then they could bring them to us. But then you get into things is it current, how old can it be and this law still would allow them to be released. I know it's not a perfect world but that's not perfect either.

Senator Judy Lee So then at some point I would like Ms. Moos to answer that question as well as Mr. Gordon.

Senator Bekkedahl I deal with HIPPA myself in my practice as well as well as in the military side commanding a medic unit. Ms. Moos can answer this question but I believe if I am the person requesting my medical record if I want too or if they can be released to me. I can make them public to, whoever, I want to at some point, if I am the person whose medical records they belong too. But, there may be something different than Janelle Moos could bring into that situation.

Senator Judy Lee I am going to ask forgiveness instead of permission here by say that if I was a victim of domestic violence I might have photographs showing a woman had been pistol whipped by her boyfriend and photographs came into the court showing terrible bruises. He could bring bruises and the landlord would say, well as long as you can tell me it was your partner. The judge said to the offender at the time, next time don't hit her so hard, so the next time he used the back of the heel of his cowboy boots the leather part because that wasn't sharp and didn't have the same bruises in place. We've come a ways from that, but that happened. So, if I were assaulted and I wasn't just beaten and if there was a rape involved, if there was any kind of thing that required medical records that would

be of a great deal more personal nature or photographs of body parts that were affected by this domestic abuse, I don't think that a medical records should have to be released in order to provide that kind of demonstration. I am not trying to be paranoid about medical records, but Senator Anderson and I spend a lot of time talking about HIPPA.

Senator Grabinger I was just going to say in response to that it looks to me like it just can be used if the victim wants to use that. It is not something they need to use.

Senator Anderson Perhaps Mr. Gordon can respond to this a little bit, but many of these cases are not as simple as Senator Lee points out. Somebody hurts somebody and they have bruises and whatever. (Example cited) I think this was one of the reasons the lock deal was changed. Many of these cases if it just this simple we would just cut them off and say, we're not going to see you anymore. But most of them before that happens have been in and out of this relationship several times.

Rocky Gordon That is correct. You have to also recognize the position that the landlord is in this. In these cases you have two people signed to a lease, and one of them says I want a key. Do we have the right to deny them on the surface of it? We don't, so then we get into the position of who do we believe risking being sued from somebody that we denied access to their apartment, or do we take that risk or do we try to make that decision? It is a tough one sometimes, and the situation that you described happens often.

Chairman Burckhard it is tough to be in the middle.

Senator Anderson Your contention is then when this issue comes before the judge, the judge can make those decisions and then it protects you. If you don't give them the key, lets you give them it and the judge says yes and then all those things are taken care of on the court.

Rocky Gordon That is correct that is why we ask for an impartial review because you know some of these. I still believe that I know and responded to Sen. Dotzenrod' question but are people just going to wholesale sign these things. Well no they are not. But it's a question of degrees. Is what took place to the point where this section of the law, should apply and should we be put into a position of making that decision. We don't want to make that decision.

Senator Bekkedahl My concern that has come up in listening to this is the current statute that talks about protection order after a hearing prohibiting contact. I don't know how it works in domestic violence cases or these fear cases but our district court in the Northwest district, Williston currently, has been reduced from Minot, Williston all being combined into one district; to now just a three county district out of Williston. They've added two judges in the last session and their still currently short 2.7 judges for that small district because of the case load. The chief judge up in that area tells me these types of disputes are now being scheduled in the calendar into 2017. It is a year and half to get a divorce hearing before him in our court system up there. I am a little bit concerned that if that is what is going on and maybe these are handled differently, are these court hearings expedited for the safety of the victims and that would be my concern.

Rocky Gordon We believe they are, but I wouldn't be in a position to give you any statistics. One of the things and we've spent a lot of time thinking about this. It is a real major concern to us and we were quite surprised at what the House of Representatives did, we didn't think that we had communicated our concerns perhaps better than we did. We've had our attorneys work on this and one of the things we might offer as sort of a compromise that my understanding from our attorney's is that attorney's will issue these orders ex parte in other words there doesn't have to be a hearing. Before the order is issued, we have concerns about that as well but we like that better than the clergy and the attorney thing just saying, if they get an ex parte order or a no contact order, at least there's been something. There has at least been a cursory look and somebody says yes. Sometimes these are lifted and sometimes they are made permanent. That was our original thinking of why they are needed to be a hearing. I think at least there would be something, some judicial process started and so on, and I think those can be issued pretty fast I think.

Senator Anderson When you say our attorney's do you mean the state's attorney?

Rocky Gordon No, sir our association attorney.

Senator Anderson So they would review the case and then issue the order, is that how it goes?

Rocky Gordon No the judge would review it but he issues an ex parte order which means there hasn't been a hearing. He just signs and says here's the protection order. Again, sometimes they get lifted. They look at them and say no, there's no reason. But at least there is something there that kind of takes us out of the position of does it rise to the level or not. The judge looks at it and apparently it convinced him at least on the surface that there was a big enough that it rose to the level that something needs to happen. We get that.

Senator Judy Lee I just thought of something entirely separate from domestic violence and that is on page 2, line 1&2, I thought this was illegal. It says, "nothing in this chapter prevents a person from refusing to rent a dwelling to two unrelated individuals of opposite gender who are not married to each other". I didn't think we could discriminate on the basis of marital status in North Dakota, unless it's in the basement of your own home or in a 4 plex or smaller in which you live. Is that part of regulation 32, from the feds?

Rocky Gordon I believe that it is and I think the reason it was in there is they didn't want to enter into a discussion of the basement or 4- unit or something like that.

Senator Judy Lee Well this is old language, but I don't even think it is legal anymore. I just thought I would throw that out to complicate the situation.

Rocky Gordon I think it is in certain situations and I think that is why they said "Not withstanding", just so that wasn't brought into this, would be my understanding.

Jeremy Petron North Dakota Apartment Association (40:20-42:33) written testimony # 4.

Chairman Burckhard You said the 2nd page was whose? **Jeremy Petron** The 2nd page is testimony directly from Greg Thompson, our attorney.

Senator Dotzenrod You're suggesting that some of the requirements that are in this bill are actually fairly not that difficult to obtain they even could be old. So, you're feeling that we could not go that way, but instead just have a requirement for I think your testimony here says, ' a protection order ' and maybe that was it. Are there any of these things that you would put in place of what is in this bill, things that could be obtained on short notice? It looks to me like what you're proposing would be things that would be difficult to get on short notice. Am I wrong about that?

Jeremy Petron I am not suggesting other aspects other than the testimony from our attorney that looked at this further on the time frame. I think that was the most concern of how to expedite process for a true victim of domestic violence. His suggestion was the ex parte part from the judge where that can be obtained within a few days, but then the hearing is scheduled for later. That was his suggestion on it.

Senator Dotzenrod I am thinking about a case where some renter comes to you and says you know I have to be out of here right away. I 've got to get out of here there's some worry about the kids and myself so I'm leaving. Regardless of whether you let me out of my lease or not I sense that something is really dangerous here, so I am leaving. So, I guess if they leave you're going to expect whether they are there or not, that there are going to have keep paying the rent even if they aren't there. Is that what you're saying?

Jeremy Petron What we are asking for is just an impartial neutral party in this case. The judge and the protection order in order to make that lease void. So, we don't want to be put in the tough position as Rocky spoke to before, who do we believe in this situation. But, in order to make that lease void, if it is in fact a legal binding contract, but at the same point, we feel that the list as I described on page 2, lines 15-26 that there is not impartialness in that respect as far as having a counselor or clergy or even an attorney sign those affidavits.

Senator Anderson In response I guess a little bit to Senator Grabinger's question, if there is exist ant emergency here they leave their apartment, they have 2 months really. The current month plus the next month and they have to continue to pay regardless. So that seems to me like that ought to be plenty of time to go to the court and say I would like to have adjudicate this matter here and then get out of my lease. It is not like their stuck in that apartment because now they can't leave. They are going to have to pay the rent regardless of whether they leave today or leave in 2 months. It is just that month and a half or whatever it is, that they have to pay anyway. Now the judge may decide to let them out of that or he may talk to the landlord and say you can rent this and then once you've rented it they don't have to pay anymore. So, that could happen too. They might be able to avoid paying even that month rent if the landlord can re-rent it. But the point here is, that gives them time and they are still paying anyway, and they are out of the exigent ant situation and they can go to the judge or the court and get the order. Wouldn't you agree with that?

Jeremy Petron you took the words right out of my mouth.

Senator Judy Lee I am going to correct what I said because it turns out that marital status is not a federally protected category under federal law. Public housing is an exception, public housing does have that. But otherwise the Federal Fair Housing prohibits

discrimination of race or color, religion, natural origin, gender, familial status having children and pregnancy and physical and mental disabilities. So I wanted to correct what I had said.

Senator Dotzenrod I would like to ask Janelle Moos to respond to this idea that if there's a person, a single Mom and she has a partner and the partner has been a domestic difficulty in that person, really feels threatened, and they need to leave and they tell the landlord I am leaving now, in the am I am going to be gone. So, they still have their obligation to pay remainder of that months' rent plus one more, so, what we've heard this morning is that gives them enough time so they can get the judges' order or ex parte ruling and so they feel that the person asked to leave has enough time so that the law protects them and they can get out of that lease. Is that your understanding of how this would work and they really would have plenty of time to work this out and get their protection so they would be out the lease under current law?

Janelle Moos Yes, I believe that would allow them the time to get the documentation that they would need. Several of the things that were talked about today, so in terms of the protection order process, if you come in to one of our centers and request the court and receive the paperwork on your own. But you fill out the paperwork to request a temporary protection order, there has to be a hearing within 14 days for a permanent protection order and at that point in time the judge has a hearing where both the victim is there, the offender is there, they go through all the affidavits and they actually make the decision whether or not there will be a permanent protection order given to the victim at that point in time or they could dismiss it altogether. So, they get the temporary order and they've 14 days to appear in front of the judge and then he makes the decision whether or not that order will stand. They can order that up to 2 year periods where they'll give protection order. Senator Anderson in terms of your scenario in terms of your wife spending all your money and you changing the locks, if you look at line 6, it talks about how victims of domestic violence are defined under Chapter 14 which is the domestic Violence statute, so the statute talks about what it is. It is physical harm, bodily injury, sexual activity compelled by physical force, fault, inflection of fear, imminent physical, so it outlines what domestic violence is. So, a victim actually has to come in either the court or if they call 911, this is how the judgment is made whether or not someone is a victim. So I don't think landlords are put in a position to decide who a true victim is, or who should they believe in this situation? If they meet what's in statute about what is domestic violence victim it is outlined very specifically who is and who isn't a victim. I think that protects in those situations that Senator Anderson brought up and then Senator Lee in terms of whether or not a victim wants to provide copies of their medical records. That is just an option, and I would think that would probably one of the lowest options that someone would select to provide for documentation to get out of the lease. Someone may provide that if they want to apply for unemployment compensation, but I don't know if someone will release that. So I think it is up to them. It clearly states that someone, a tenant can provide it, it's not requested by the landlord. It is something that someone could have access too, and provide as documentation.

Senator Anderson So the only time really that I need to go to my minister and get this affidavit would be if I forgot to ask the judge to address my lease situation when I was before him within 14 days after I made the complaint.

Janelle Moos When you go in for a protection order you're asking for relief from the court. Say for example you've been physically assaulted that night and you need to have someone removed from a place where you both reside in. You actually have to demonstrate that imminent fear or that there's been some physical or most recent event that has occurred. Again, the judges look pretty critically at what's written in an affidavit when a victim comes in fills out the protection order paperwork.

Senator Anderson I should also ask the judge at that time, about my lease.

Janelle Moos You can ask the judge to have someone removed from your property and maybe it is a property that you share under the lease. The judge is pretty critical of the affidavits especially in situations where there could be imminent fear of someone being physically assaulted. So I think the final point is when you look at the original draft of the version of what it, the bill originally took out all required documentation, either the order prohibiting contact or the protection order. What we tried to do on the House side was to give back some form of documentation. If we are worried about being in the middle of this, then, whom do you believe, who's the victim, and who's not a victim? It is such a neutral 3rd party. A court order, a protection order, a restraining order or other court record filed with the court under line 15, a police or law enforcement record; those are neutral 3rd party. So if you're at the point and time when you have to call 911, because you're being physically assaulted and you need someone to intervene in that situation, law enforcement responds as the neutral party. They are going to come in to the situation, and ask who is the defender who is the victim, they are trained to come in and look at who's been physically assaulted, who may have acted in self-defense. We've got years and years of experience in terms of how law enforcement do their jobs. Those are really, if you look at the neutral 3rd parties. I guess it's up to the committee, and we are happy to work with you in terms of amendments if you feel they are necessary. But I think there is enough in what is in current statute, and then what is in the bill draft to protect against these lines of victims that may show up and say I am victim and I want out of my lease. I mean it's really not something I see people using and again it's really cost prohibited. Who has one month's rent and another month's rent just lying around? There is not a lot of people that have access to resources like that, so I think it's not something we're going to run into a lot of problems with.

Senator Bekkedahl Just so that I understand the situation. If I was a victim of domestic abuse, I have the opportunity then to go then to the Clerk of Court and file something about domestic abuse. Is that what you're saying? I am trying to figure out how that happens pre or the ex-parte. I can go to the shelter and get assistance there in filing the correct paperwork. I can go to the Clerk of Court; I can go to the police. Basically that is my three options to seek relief from the court at this point?

Janelle Moos In terms of a protection order yes. You can come in to our crisis centers to receive one. You could actually download the form on line through the Supreme Court. If you want to fill out the paperwork on your own, you can do that. You can also get one through the State's Attorney's office, through the Victim Witness Coordinator so there is several ways you can fill out paperwork.

Senator Bekkedahl Do any of those avenues that I pursue would require something for the courts to respond to, you're saying, within 14 days for a hearing?

Janelle Moos Yes that is correct. Fill out the temporary paperwork and then you have to bring it to the clerk of court who signs off on it and then gives it to the judge and then the judge has to schedule a hearing within 14 days to actually review what is in the affidavit of the temporary order, in order to decide whether or not the case will be dismissed, or if you're going to get the permanent protection order.

Senator Bekkedahl So can you explain then the ex parte document that has been brought up today and how that would or could not work in this situation?

Janelle Moos That is what the temporary order is called. It is an ex parte protection order so you receive it and then you have to have it within 14 days. So that is the same thing. Temporary protection order is the same as an ex parte.

Senator Bekkedahl So to just clarify then, if I file the paperwork on the incident either through your assistance with domestic and child services, the police department, or through the Clerk of Court, the ex parte or temporary restraining order or temporary order is issued at that time by the signature of the judge and then we go to the 14 day window for the protection.

Janelle Moos Yes, that is correct.

Chairman Burckhard closed the hearing on HB 1217.

Committee Discussion

Senator Anderson I am willing to move the amendment in the last paragraph on the testimony from Greg Thompson. I am going to move that we insert that as alternate language in there, after, on page 2, 2(A) and 2(A)4, 2(A) and so forth, instead of that long list of things down below under 2A, we'll just use that.

Chairman Burckhard It is the paragraph that starts out "The North Dakota Apartment Association would agree to compromise by deleting subsections 2(a) through 2(a)(4) but amending subsection 2(a) to delete the words "after a hearing".

Senator Anderson We won't put that language in there, but we will say we will delete subsections 2(a), 2(a)4, 2(a) and then after a hearing then we will put in that language that says, " obtaining an ex parte protection order and no contact order" instead of happening to have the hearing under that 2(a) now.

Chairman Burckhard Are we clear on this with what's going on here? So were going to insert on page 2, around the line 13, the last contents of the last paragraph of Greg Thompson's testimony, he didn't testify today but he did send this with one of those in opposition to the bill. So we have a motion. Is there a 2nd?

2nd Senator Judy Lee

Chairman Burckhard There is a motion and a second to amend HB 1217.

Discussion

Senator Dotzenrod I am reading the bottom of this handout here, it says, " to delete the words after a hearing" that would be on line 13?

Chairman Burckhard Correct.

Senator Dotzenrod Is there an assumption here that the overstrike that is on that line, is removed?

Senator Judy Lee Yes, removed the overstrike.

Senator Anderson Yes that should be part of our amendment.

Senator Dotzenrod Yes, because I was looking for remove the overstrike and I didn't see that.

Senator Judy Lee We didn't write it that way.

Senator Dotzenrod So, you say you delete. So then the sentence would read, " the tenant fears imminent domestic violence from a person named in a protection order under section, then the numbers, or an order prohibiting contacting "the".

Senator Judy Lee I don't think so. I think it is "The tenant fears imminent domestic violence from a person named in a, actually it doesn't make sense.

Senator Anderson Actually what Femi would do would say, " will remove the overstrike of 'a protection order' and leave the overstrike where it says "after a hearing" and then say, under section 14:07.102 or an order prohibiting

Chairman Burckhard ' the contact', or contact the...

Senator Grabinger Prohibiting contact period.

Senator Dotzenrod I think they want to leave lines 15 & 16.

Senator Anderson And then you're leaving lines 27-28.

Chairman Burckhard What about lines 15 & 16 in there as well?

Senator Anderson I think that is out. **Senator Judy Lee** That's out.

Senator Judy Lee No, 15 & 16 are in.

Chairman Burckhard ' a court order, protection order, restraining order, or other record filed with the court'. That would stay in. Then it goes, 2(a)2- 2(a)4 .

Senator Judy Lee So 17 through 26 would be out.

Senator Dotzenrod So, really the way those numbers are arranged on 1,2,3, & 4 there on 15-19, those numbers, he wants to leave 15 & 16 which has a one in front of it; but that is the only one he is leaving, so there is really no point in it. The sentence would have to change so that one wouldn't be there.

Chairman Burckhard Right. **Senator Judy Lee** Why don't we let Femi fix it? **Senator Dotzenrod** Yes, that's what I am thinking. That is the idea of the amendment.

Senator Grabinger It is basically removing lines 17-26, period. **Senator Judy Lee** Yes.

Senator Bekkedahl Do we need to in the language in one, then have maybe it's already in there, but would we need to say a court order, protection order, restraining order, ex parte protection order or other record filed? Because you mentioned ex parte and I don't know if that's in place already under a court order or protection order?

Senator Judy Lee He says to delete the words "after a hearing" that would allow the person who actually fears imminent domestic violence to terminate a lease by obtaining an ex parte protection order or no contact order. So, if we actually delete the words "after a hearing" then the hearing doesn't have to take place before that happens. You see the last sentence of.

Chairman Burckhard Is that after hearing on line 15? **Senator Judy Lee** Is that Mr. Thompson's message? **Senator Anderson** The idea is that the hearing does occur. **Senator Judy Lee** No **Senator Anderson** Yes, but it doesn't have to be as the previous language indicated, after a hearing, protection order, we've taken out after a hearing your right.

Chairman Burckhard Femi, are you as clear as you should be on this motion?

Femi I am not and the reason I am not is because when I reading 'A' and from a person named in a protection order under section 14-07.102, or an order prohibiting contact and then goes ' a court order' ' a protection order' that sentence goes into what that would may so I don't know exactly. **Chairman Burckhard** Can we blend it in with that previous sentence and not number it number 1? **Senator Judy Lee** what about the accurate to say that the goal here is to make sure that they can get the immediate order in that 14 day period that was mentioned. It just takes a long time to get the permanent order, is that kind of where we are headed?

Senator Dotzenrod I think so. I was going to suggest that after those numbers are on line 13, that 14, 7, 2, then you've got the word 'or', and then after the word or, you go down to line 15, a court order, protection order, restraining order. Just so you would have A,B C under number 2. There would be no 1, 2, 3, 4, just be A&B&C.

Senator Judy Lee Another couple of episode of Law and Order and you will have your law degree.

Chairman Burckhard Do you see what we are doing there?

Chairman Burckhard It was moved and 2nd to amend HB 1217. Any other discussion?

Senator Dotzenrod I think I will visit with Femi afterwards, but, I don't think that it would hurt for us to say ex parte in that court order, protection order, restraining order, ex parte order or any other record. I think that that is inclusive and it is probably okay to say that.

Chairman Burckhard We are going to vote on this amendment.

Roll call vote

6-0-0

Chairman Burckhard Amendment passes

Chairman Burckhard

Senator Anderson I will move do pass as amended on Engrossed HB 1217

2nd Senator Judy Lee

Roll Call vote

6-0-0

Senator Dotzenrod I mean I think we did the right thing here. But it would have been nice to have Janelle Moos here, because the thing I was thinking about is, it seems to me that by doing this and having those three choices there, that this still. I don't think we've taken anything away, because the person who feels threatened would still act in their own best interests and the best interests of the kids to get out of that environment as soon as they can. If they feel threatened they need to leave. Then going through a shelter or going to some friends' house or doing something they could start this process in a few days or get some advice and get that ex parte and I think the lease then would be under the terms of this language that we put in here. I think they would be out of a lease. But, did you follow what the changes we were contemplating here? Well what we're thinking of is. **Janelle Moos** I missed that part.

Senator Anderson If you look at the second to the last paragraph there on the bottom, it says.

Chairman Burckhard Senator Dotzenrod are you volunteering to carry this bill?

Senator Grabinger I think that I can explain that amendment to Janelle Moos better than she can read it.

Senator Dotzenrod We passed it and I think that my vote stands and I supported the amendments. But I want to make sure that the parties to this, as there was some disagreement when they were in the room here. It does seem to me that we provided an avenue of safety for the person being threatened, and also allowed a 3rd party or neutral party but I think the process it seems to me would work here. The first people who feel threatened would be and have this way to get out of that lease and they provide for the safety of their family.

Chairman Burckhard, Senator Judy Lee I can carry if he doesn't want too. **Senator Dotzenrod** Well this is, I guess I would prefer to have somebody else do it. **Chairman Burckhard** Senator Lee is that a yes. **Senator Judy Lee** That is fine.

Carrier: Senator Judy Lee

April 2, 2015

4/2/15
JWE

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1217

Page 2, line 12, remove the overstrike over "a"

Page 2, line 13, remove the overstrike over "~~protection order~~"

Page 2, line 13, remove the overstrike over "~~under section 14-07.1-02~~"

Page 2, line 14, remove the underscored colon

Page 2, line 15, replace "(1) A" with an underscored comma

Page 2, line 15, after the first underscored comma insert "ex parte temporary"

Page 2, line 15, after the second underscored comma insert "order prohibiting contact."

Page 2, remove lines 17 through 26

Renumber accordingly

Date: 4.2.15
Roll Call Vote: 2

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1217

Senate Political Subdivisions Committee

Subcommittee

Amendment LC# or Description: 15.0607.02001

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Senator Anderson Seconded By Sen. Judy Lee

Senators	Yes	No	Senators	Yes	No
Chairman Burckhard	X				
Senator Anderson	X		Senator Dotzenrod	X	
Senator Bekkedahl	X		Senator Grabinger	X	
Senator Judy Lee	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Judy Lee

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

REPORT OF STANDING COMMITTEE

HB 1217, as engrossed: Political Subdivisions Committee (Sen. Burckhard, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1217 was placed on the Sixth order on the calendar.

Page 2, line 12, remove the overstrike over "a"

Page 2, line 13, remove the overstrike over "~~protection-order~~"

Page 2, line 13, remove the overstrike over "~~under section 14-07.1-02~~"

Page 2, line 14, remove the underscored colon

Page 2, line 15, replace "(1) A" with an underscored comma

Page 2, line 15, after the first underscored comma insert "ex parte temporary"

Page 2, line 15, after the second underscored comma insert "order prohibiting contact."

Page 2, remove lines 17 through 26

Renumber accordingly

2015 CONFERENCE COMMITTEE

HB 1217

2015 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Prairie Room, State Capitol

HB 1217
4/10/2015
26023

- Subcommittee
 Conference Committee

Ammonda Muschia

Explanation or reason for introduction of bill/resolution:

Relating to the rental of a dwelling to a victim of domestic violence.

Minutes:

Chairman Hatlestad: Opened conference committee on HB 1217.

Senator Lee: We were looking at (using the Christmas tree version 1002 page 2) our concerns in general which were on removing some of the other providers who were otherwise enable to provide the statement that they needed this kind of protection and on the original bill there was a social worker, clergy, peer support group... etc. We had a concern that these contacts could have all been gotten quickly and we had concerns about these other non-court related entities being able to provide a valif reason for someone. It isn't that hard to get that order and we had concerns about ti because even though they may be involved with counseling or social work or members of the clergy they aren't necessarily experts in the law and also they aren't a disinterested aptry. This really needs to be something that is brought to a disinterested party (not uninterested) that has the legal knowledge to recognize what meat fulfills the requirements of the definitions. We support making it possible for a person who is a victim of domestic violence to be able to rent without a delay. That is the thrust of what we were doing.

Senator Grabinger: For instance the attorney could possibly be a part to the ones asking for the order. They may be paying the attorney and they could issue an order and that is the discussion we had. We have to be discretionary in what we do in the disinterested party. The talk about the ex-party order, the temporary order, and the quickness that they can get that- we discussed that and the length of time for something to happen to get them out of this situation. We found out that it can be accomplished quickly.

Chairman Hatlestad: Did they come up with a time frame in which this happens?

Senator Lee: I can't remember exactly but it was around a day and that is something we really talked about.

Representative Becker: I was wondering if we needed a more specified or no definition for a license councilor. 2001 page 2 line 21

Senator Grabinger: I think that is why we needed that out of there, because we couldn't define those things. If they were aware of how to do this they could get a temporary order and that would suffice for all of it and any of them if they are aware of how to do this would lead them down the path to get to that order.

Representative Oversen: The original bill removed the requirement for any type of official documentation. It only required notice from the party to the landlord and there was contention with that so the language we inserted here (the 1-4 options) is out of the unemployment insurance code. Currently for a victim of domestic violence who leaves their job because of the violence, this is the documentation they are allowed to provide to be eligible for unemployment benefits. The language isn't new. We got it out of an existing code. We opened it up beyond official courts and law enforcement relegated orders because not all victims of domestic violence seek those orders because it tends to lead to increased aggression from their abuser if they access the court or law enforcement. Allowing them to go to a counselor or clergy makes it a little more private and they don't have to name that party in an official document. It wasn't the length of time to get these documents we were concerned about as much it was the safety of the victim and not having to go to the police.

Senator Lee: I appreciate that. I don't see unemployment insurance claim being the same. Abuses happen and it is unfortunate. Recognizing the challenges of having been to tighten things up because people abuse them. The service animal and other therapy statutes have been abused. We want true services animals. Some of the others have a lot of grey area and even with the idea that we want to make sure the victim doesn't suffer anymore, constitutionally they have a right to see who is accusing them and who the accuser is. There is a difference among the different types of counselors. Social workers by nature an empathetic group who will not necessarily be disinterested counselors same thing. There are many different counselors and same with the clergy. I doubt any of them are going to sort out the facts the way they should. That is where it came from-that someone has to listen carefully and make sure the victim's rights are protected along with the accusers. That is a grey area and I wish we didn't need a law like this.

Representative Oversen: I understand the need to have a disinterested party and understand the need for a person to have their rights but we are trying to avoid bringing that person into a court of law because sometimes the victim doesn't want that. By going to the police they are going to a court. When a person is accused of a crime they have the right to know. If they are trying to get out of their lease because they are concerned about their safety that's different. I don't think it is a fair person to compare a person who uses a service animal to someone trying to get out of their lease. If we allow and embrace this type of document for someone to receive a financial benefit from the state I don't think this is any less credible for them to get out of a lease.

Senator Burckhard: A landlord emailed me this "a lease is a binding contract... abuse victims can get a protection order to release them from the rental lease..." and then they asked that we should protect the landlord. We tried to simplify it. Can you talk to us about what is inadequate? What don't you like about this?

Representative Oversen: This isn't the language we dealt with. Who oversees the ex-party temporary protection order? I assume that is someone who goes to the court in some fashion.

Senator Burckhard: Yes

Representative Oversen: The reasoning behind eliminating and expanding those options was so that they didn't only have the option to go to the courts or go to law enforcement because that is the involvement of law enforcement or the judicial system that tends to lead increased violence from the aggressor. I have happy to look up more information. This came from individuals at the law clinic at UND who often work with victims of domestic violence and housing situations.

Senator Lee: I think people who work with victims of domestic violence are sympathetic to them. I am not sure if they would be neutral either. One person talked about there being 50 requests in the Fargo area in the last two years. I disagree with the fact that they could be able to avoid the courts and change apartments. If they are really being threatened they should get a restraining order or move forward with this and be encouraged by these folks if it is really this serious then something has to be done other than moving to another apartment. All a person has to do is follow the person home from work to figure out where they are living again. There has to be some way to move the system forward a bit and getting that court order to step in doesn't always solve the problem. It seems to me that there is a benefit of being involved in the court level even if it is in a modest way so that there is prohibiting contact restraining order or other record filed with the court. The people who are helping the individual, somebody must have been helping them because they wouldn't think on their own that they can go somewhere and get some consent or support form to declare to their landlords. Somewhere someone told them they could do that. Whoever is providing that information should also make sure that they know what the other services are that are available and be supportive and move forward. We all know that there is a recycling occurrence. How do we help them not repeat the cycle? Maybe there is a way to help them move forward.

Chairman Hatlestad: We were looking at expanded options. If I look at law enforcement records that should be a pretty disinterested party I would think which another thing we need to consider is. I am not sure if we had that at the top of our list but it is something we need to consider. We need to balance the rights of the victim and the landlord and we need to be considerate of the everyone. There is a lot to consider and we should bring this back next week. Closed the conference committee.

2015 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee

Prairie Room, State Capitol

HB 1217

4/13/2015

26071

Subcommittee

Conference Committee

Annemela Muscha

Explanation or reason for introduction of bill/resolution:

Relating to the rental of a dwelling to a victim of domestic violence.

Minutes:

Testimony 1

Chairman Hatlestad: Opened conference committee on HB 1217. On Friday we talked about the importance of making the rights even, the abuse of the system, safety priority being an issue, and how quickly a court order could be achieved. The key item was the disinterested party and what could be done with that. We talked about the code of ethics and may need to rethink that. We agreed that we need a better definition of the people involved and hoped to expand the options. Senator Lee said we need to consider more than the move from the apartment. We also agreed that we need to discuss the disinterested party.

Senator Burckhard: It was suggested by me that it is a legally binding contract and the time element is misunderstood. The victim needs to take care of the situation but I don't think the lease needs to be terminated for them to do that. We have to consider that it is a contract and it is not easy for the landlord either.

Senator Lee: I agree with the senator Burckhard and an example was cited that the same criteria were used as a flyer for unemployment insurance but that is not breaking a contract. If the landlord was going to break the lease they have to go through a legal procedure to do that and it is not mentioned in here that way. That court order part is important to me.

Chairman Hatlestad: So that is a major issue that needs to be resolved. We have an amendment that may help (attachment 1).

Representative Oversen: We were looking to ease the concerns that there is not a neutral party providing that evidence. We looked at other options that were eliminated which included a law enforcement record and a medical record and we didn't think there was a concern that a law enforcement or a medical record was going to be biased- those records indicate whatever was in front of them if they were called. With a written affidavit from the listed individuals (councilors, social worker, clergy etc..) we inserted some language that requires that the affidavit does have objective supporting evidence so that it can't just be a

blanket statement saying this individual is a victim of domestic violence. It does have to have supporting evidence.

Senator Lee: What version??? I think we should have this made off the newest version.

Representative Oversen: We will have to work with whatever version it is but it goes after affidavit so it will read 'written affidavit containing objective supporting evidence provided by the individual who is assisted the tenant in dealing with domestic violence' and then it lists which individuals are allowed to provide that affidavit. We also discussed the fact that all these individuals, the attorneys and social workers, are all bound by a code of ethics and I don't know where someone would falsify an affidavit. We thought inserting that might help but are open to suggestions.

Senator Lee: I think it is important we work off of 2001 because that is the most recent. I have reservations off of that- I am not suggesting and never meant to that any of these professionals would falsify something- I think the nature of their profession is that they are empathetic to the one they are counseling. I think it needs to be a court order in order to do that. Who decides whether a medical order is reputable?

Chairman Hatlestad: So you still refuse this?

Senator Burckhard: Can we have a recess for a couple minutes?

Chairman Hatlestad: We will recess the meeting for a few minutes.

Senator Burckhard: So a court order with ex-parte on how that reads (line 15) 'a court order, ex-parte temporary protection order, order prohibiting contact, restraining order, or other record filed with a court' and then we could also agree to a police or law enforcement record.

Senator Grabinger: With the police and law enforcement record we may want to include some language showing what the record of a police and law enforcement record is. That way we are encouraging the victim to get help and not just break the lease. We want that person to get rid of the violence.

Representative Becker: Along those lines are you indicating that the other 4 or 5 mentioned are off the record and the only one you are comfortable with is the police or law enforcement with record defined?

Senator Lee: and the court order.

Senator Burckhard: We are also interested in item 1 which is court order, ex-parte temporary protection order, etc... and then also item 2, line 24 a police or law enforcement record indicating that there is something about domestic violence.

Senator Lee: Maybe we could use the phrase Representative Oversen had suggested that talks about the police or law enforcement record "containing objective supporting evidence". I also talked with Ms.Moose on the way out and it is 72 hours for an ex-party order and 14 days for a permanent order.

Senator Grabinger: With the language that we are suggesting with the police or law enforcement record and using or your words "containing supportive evidence" that clearly allows them if they go to the police they can get the supportive evidence they need to go ahead.

Chairman Hatlestad: I am thinking we will need another meeting. Conference committee is now recessed once again.

2015 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Prairie Room, State Capitol

HB 1217
4/14/2015
26094

- Subcommittee
 Conference Committee

Amanda Muschler

Explanation or reason for introduction of bill/resolution:

Relating to the rental of a dwelling to a victim of domestic violence.

Minutes:

Testimony 1

Chairman Hatlestad: Opened conference committee number three on HB 1217. We have another set of amendments for you to look at (attachment 1).

Senator Burckhard: I am concerned about the medical records portion still. A medical record may list abuse was done throughout the exam but it won't contain the information about the suspect to justify why they can break a lease. The medical people doing the exam won't do an investigation where as you do a police report it will include the suspects name and show cause.

Senator Grabinger: What are we working off of?

Chairman Hatlestad: 2001

Senator Grabinger: Does anyone else share that concern? That is my only issue.

Senator Burckhard: If I was a female victim would I want to use my medical record? SI that something you want to share with someone?

Representative Oversen: Having not been in the situation I would certainly believe it to be uncomfortable but it may also be uncomfortable to enter in a protection order or a law enforcement record disclosing your personal problems to your landlord. There are protections in here that protect the confidentiality of that. The landlord isn't allowed to show anyone unless it is for court proceedings. There was the question about how do we know the individual viewing that record will be able to assess whether or not it is domestic violence indicated in that medical record. My experience in reviewing medical records, which is very limited, there are atleast detailed enough that the person preparing the record is going to indicate what the injury was and if the patient indicated what caused it. If that is not on the record you won't have anything that indicates domestic violence. If they attribute it to something else then that record doesn't indicate domestic violence. In giving them this

option allows them the opportunity to avoid going to the court. I know there is concern that we want to ensure that victims do access the courts and I agree we want to encourage that but we don't want to take their ability to have that decision. Allowing them to control how it plays out gives them the power to decide what they want. That is my reason for expanding the options.

Representative Burckhard: I had a friend lose 38 apartments in the flood. If he had a situation like this where he had an apartment that was usable still does the tenant pay rent in that time until they find another renter? Do they continue paying rent until a renter is found? Does it sit vacant?

Chairman Hatlestad: They pay the current and following month's rent. Potentially I suppose the apartment could sit empty.

Senator Lee: I can't support the medical record one. I can imagine that the individual in this situation would be uncomfortable sharing medical record with anybody but I can't imagine anyone would be more comfortable sharing it with a landlord or a property manager than with a member of the court and so that won't work. In visiting with some other folks about the police or law enforcement record, I am losing my support for that as well. Police records are not always very specific. There may be several in a weekend that come in for a property manager of a lot of different apartments so they are not always to the level that they need to be. There is a differentiation in a matter of value judgement on whether or not it was at a level that really met the criteria. We don't have any firm criteria about how they could get out of the lease. This is a legal binding contract. Let's pretend it's a real-estate contract. Let's pretend the victim wanted to buy a house and now the perpetrator has found out where the house is. The victim doesn't get to get out of the purchase of the house when he/she has a legal contract. At the very least they would lose their earnest money and could be sued for a specific performance but he/she doesn't get to say I am a victim of domestic violence and my partner has found out where I want to live and so I don't want to buy it anymore. That isn't how it works. This is a legal contract. If someone enters into anything other than a month to month rental situation, which most of them are leases, are required of abiding by the lease. If the landlord has provided safe, sound, and sanitary environment in which that individual can live then the 72 hours that it takes to get an ex-parte order or 14 days it takes to get a permanent order, they can move out right now and get the order right away. They don't have to wait to move out to get the court order. It will take a while to get these other records acceptable to it. If I were the landlord or the property manager I would find it awkward to have to be the one who decides how much evidence is good supporting evidence. What level does this have to rise to or not to in order for this to be an acceptable level to say you have been abused badly enough. Did he use something soft or hard to hit her? It won't show. The point is that you are talking to people, whose expertise is property management, not evaluating the course of injury here. The court order is where I am.

Senator Grabinger: I believe the police or law enforcement order containing objective supporting evidence is sufficient because if there is a call with a question of domestic violence or sexual assault there is going to be an investigation done that will be included in the support. I can support that but I have concerns about the medical record. I think if we left it and include the police and law enforcement record, I think we are ok with that.

Representative Becker: I know in many cases that the vast majority of apartment leases have if people run out on a lease that the minimum is the current month's rent and the following month so that they have paid in advance. If someone had a not good reason to leave, the landlord is up to two months in rent.

Senator Burckhard: Can we have a recess?

Representative Hatlestad: We will recess for a few minutes.

Senator Lee: I wanted to clarify what Representative Becker said- he talked about having this additional deposit. The security deposit is not the last month's rent unless the lease has said that it is the last month's rent. The landlord isn't necessarily going to have that extra month's rent. They have to go after it unless the lease specifies that if they break the lease they can take money. A security deposit is for damage. It isn't always going to be an even deal for the property manager.

Representative Becker: I am just saying that in many leases it is in the lease that there is an addition to a security deposit.

Senator Burckhard: I move that we recede the senate's amendments and further amend the bill to accept item 1 subsection 1 and 2 and strike everything after 'evidence'.

Chairman Hatlestad: So we are looking at the court order and the police or law enforcement records.

Senator Grabinger: Second

Representative Oversen: I think it should also include 'indicating domestic violence or sexual assault' in the second option.

Senator Lee: We already mentioned that.

A Roll Call Vote Was Taken: Yes 4, No 2, Absent 0

Motion carries

Representative Hatlestad will carry the bill to the House

Senator Grabinger will carry the bill to the Senate

2015 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee
Prairie Room, State Capitol

HB 1217
4/20/2015
26283

Subcommittee
 Conference Committee

Armonda Muscha

Explanation or reason for introduction of bill/resolution:

Relating to the rental of a dwelling to a victim of domestic violence.

Minutes:

Chairman Hatlestad: Opened the conference committee on 1217. We were thinking about balancing the rights of the people involved. We had a proposed amendment that didn't succeed. Let's see what we can do from here.

Senator Burckhard: We did that and I would propose the following changes... Line 15 that we would say 'court order, protection order under section 14-07.1-02, ex-parte temporary protection, order prohibiting contact, restraining order, or other record filed with a court.' Remove the word "or" and eliminate lines 18 and 19. We only learned after the last meeting that the ex-parte temporary protection order does not require a court appearance and we also believe that a police report should never be used alone to invalidate a legally binding contract. We think all we need is line 15-17 and to renumber line 15. I think we feel strong about those changes and I move to recede from the previous amendments and add the new amendments.

Senator Lee: Second. If item two would to be deleted or to remain in, it would die in the senate and I hate to lose any part that would be important for this to work. Our attorneys in the Senate who were ready to speak on the floor will take this on. I think we could settle on the part they find acceptable and appealing.

A Roll Call Vote Was Taken: Yes 5, No 1, Absent 0

Motion Carries

Chairman Hatlestad: Closed the conference committee on HB 1217.

April 14, 2015

SK
4/14/15

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1217

That the Senate recede from its amendments as printed on page 1416 of the House Journal and pages 1153 and 1154 of the Senate Journal and that Engrossed House Bill No. 1217 be amended as follows:

Page 2, line 12, overstrike "a"

Page 2, line 13, overstrike "protection order"

Page 2, line 13, overstrike "under section 14-07.1-02"

Page 2, line 15, after the first comma insert "protection order under section 14-07.1-02, ex parte temporary"

Page 2, line 15, after the second underscored comma insert "order prohibiting contact."

Page 2, line 16, after the underscored semicolon insert "or"

Page 2, line 17, remove the underscored semicolon

Page 2, remove lines 18 through 25

Page 2, replace line 26 with "containing objective supporting evidence indicating domestic violence or sexual assault; and"

Renumber accordingly

April 20, 2015

8/6
4/20/15

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1217

That the Senate recede from its amendments as printed on page 1416 of the House Journal and pages 1153 and 1154 of the Senate Journal and that Engrossed House Bill No. 1217 be amended as follows:

Page 2, line 14, remove the underscored colon

Page 2, line 15, replace "(1) A" with "a"

Page 2, line 15, after the first underscored comma insert "protection order under section 14-07.1-02, ex parte temporary"

Page 2, line 15, after the second underscored comma insert "order prohibiting contact."

Page 2, remove lines 17 through 26

Renumber accordingly

**2015 HOUSE CONFERENCE COMMITTEE
 ROLL CALL VOTES**

BILL/RESOLUTION NO. HB 1217 as (re) engrossed

House Political Subdivisions Committee

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

Motion Made by: Senator Burckhard Seconded by: Senator Grabinger

Representatives				Yes	No	Senators				Yes	No
Representative Hatlestad				X		Senator Burckhard				X	
Representative Becker				X		Senator Lee					X
Representative Oversen					X	Senator Grabinger				X	
Total Rep. Vote				2	1	Total Senate Vote				2	1

Vote Count Yes: 4 No: 2 Absent: 0

House Carrier Rep Hatlestad Senate Carrier Senator Grabinger

LC Number 15.0607 . 02002 of amendment

LC Number _____ . 04000 of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

**2015 HOUSE CONFERENCE COMMITTEE
 ROLL CALL VOTES**

BILL/RESOLUTION NO. HB 1217 as (re) engrossed

House Political Subdivisions Committee

- Action Taken HOUSE accede to Senate Amendments
 HOUSE accede to Senate Amendments and further amend
 SENATE recede from Senate amendments
 SENATE recede from Senate amendments and amend as follows

 Unable to agree, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Burchhard Seconded by: Lee

Representatives				Yes	No	Senators				Yes	No
<u>Chairman Hattestad</u>				<u>X</u>		<u>Senator Burchhard</u>				<u>X</u>	
<u>Rep Oversen</u>					<u>X</u>	<u>Senator Grabinger</u>				<u>X</u>	
<u>Rep Becker</u>				<u>X</u>		<u>Senator Lee</u>				<u>X</u>	
Total Rep. Vote				<u>2</u>	<u>1</u>	Total Senate Vote				<u>3</u>	<u>0</u>

Vote Count Yes: 5 No: 1 Absent: 0

House Carrier no carrier Senate Carrier no carrier

LC Number 15.0607 . 02004 of amendment

LC Number 05000 . _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

REPORT OF CONFERENCE COMMITTEE

HB 1217, as engrossed: Your conference committee (Sens. Burckhard, J. Lee, Grabinger and Reps. Hatlestad, Rich S. Becker, Oversen) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ page 1416, adopt amendments as follows, and place HB 1217 on the Seventh order:

That the Senate recede from its amendments as printed on page 1416 of the House Journal and pages 1153 and 1154 of the Senate Journal and that Engrossed House Bill No. 1217 be amended as follows:

Page 2, line 12, overstrike "a"

Page 2, line 13, overstrike "protection order"

Page 2, line 13, overstrike "under section 14-07.1-02"

Page 2, line 15, after the first comma insert "protection order under section 14-07.1-02, ex parte temporary"

Page 2, line 15, after the second underscored comma insert "order prohibiting contact."

Page 2, line 16, after the underscored semicolon insert "or"

Page 2, line 17, remove the underscored semicolon

Page 2, remove lines 18 through 25

Page 2, replace line 26 with "containing objective supporting evidence indicating domestic violence or sexual assault; and"

Renumber accordingly

Engrossed HB 1217 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

HB 1217, as reengrossed: Your conference committee (Sens. Burckhard, Grabinger, J. Lee and Reps. Hatlestad, Rich S. Becker, Oversen) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ page 1416, adopt amendments as follows, and place HB 1217 on the Seventh order:

That the Senate recede from its amendments as printed on page 1416 of the House Journal and pages 1153 and 1154 of the Senate Journal and that Engrossed House Bill No. 1217 be amended as follows:

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Page 2, line 15, after the second underscored comma insert "order prohibiting contact."

Page 2, remove lines 17 through 26

Renumber accordingly

Reengrossed HB 1217 was placed on the Seventh order of business on the calendar.

2015 TESTIMONY

HB 1217

15.0607.01001
Title.

Prepared by the Legislative Council staff for
Representative Delmore
January 23, 2015

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1217

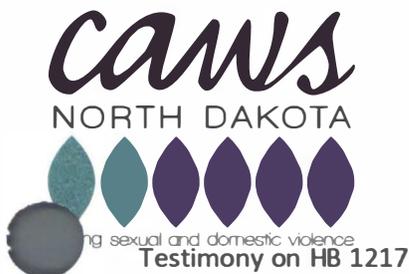
Page 1, line 1, replace the first "section" with "sections"

Page 1, line 1, remove ", subsection 2 of section 14-07.1-01,"

Page 1, line 2, remove "section"

Page 2, remove lines 3 through 9

Renumber accordingly



HB 1217 1/23/2015 2.1

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Testimony on HB 1217

House Political Subdivisions

January 23, 2015

Chair Klemin and Members of the Committee,

My name is Janelle Moos and I am the Executive Director of the CAWS North Dakota. Our Coalition is a membership based organization that consists of 20 domestic violence and rape crisis centers that provide services to victims of domestic violence, sexual assault, and stalking in all 53 counties and the reservations in North Dakota. I'm speaking this morning on their behalf in support of HB 1217.

If enacted, HB 1217 is a step towards increasing protections for and providing victims with meaningful safeguards especially in emergency and potentially lethal situations involving domestic violence. Many other states have included additional protections like those outlined in HB 1217 in order to address obstacles that survivors face in maintaining housing, such as being evicted for calling the police or because the batterer caused a disturbance at the dwelling.

Examples of state and local domestic violence housing protections include laws that: (1) prohibit housing discrimination based on an applicant or tenant's status as a survivor of domestic violence; (2) provide an eviction defense where the landlord tries to evict the victim because the abuser committed a crime or lease violation at the rental unit; (3) bar landlords from limiting a tenant's right to call for police or emergency assistance; (4) require landlords to change locks where tenants have provided documentation of domestic violence; and (5) permit early lease termination without further obligation to pay the rent where tenants provide landlords with documentation of domestic violence.

In Section 1, Subsection 3 is an important new provision that bans discrimination against victims in state housing programs only. Many victims have difficulty finding safe, affordable housing in North Dakota and if enacted this new law would remove a potential barrier a victim may encounter. We are aware of several instances where victims have encountered this type of situation and haven't been able to secure housing.

Section 2 subsection 2 cleans up the language regarding documentation is necessary in order to terminate your lease, and finally, Section 3 Subsection 11 would allow victims of domestic violence to seek lock changes when their abuser has access to their private rental residence. This bill was drafted using several examples from the 14 other states that have similar provisions. This applies only to the door of their leased property and would not apply to the lock of a security building that all tenants use.

I urge a DO PASS on HB 1217.

Thank you.

North Dakota Apartment Association's Testimony
On House Bill 1217
House Political Subdivisions
Prairie Room
January 23, 2015

Chairman Klemin and members of the House Political Subdivisions Committee. My name is Krista Andrews, and I appear today on behalf of the North Dakota Apartment Association (NDAA) in opposition to House Bill 1217.

Under the current law, a tenant may be released from their contractual obligations with their landlord upon obtaining a protection order from a court. The NDAA is supportive of the current law, and landlords are diligent in ensuring compliance with the law when a protection order is issued. In these instances, a court reviews allegations of domestic violence and determines whether there is a statutory basis for issuing a protection order. Once that decision has been made by the courts, landlords will release a tenant/victim of domestic violence from their lease obligations upon request of the tenant.

The proposed amendments to paragraph 2 of section 47-16-17.1 remove the requirement that a tenant obtain a protection order from the court in order to be relieved of their obligations under the lease. In its place, tenants would only have to provide "notice" that they fear imminent domestic violence from another individual. In effect, the proposed amendment would completely negate a tenant's obligations under their lease agreement, and make leases of no effect.

As an example: a tenant signs a one-year lease to rent an apartment unit for \$750 per month. After two months, the tenant decides either the rent is more than they can afford, or maybe they want to move to another city,

and need to get out of their lease. By simply providing their landlord with a notice that they fear imminent domestic violence from another individual (with no other proof required), the landlord would need to let the tenant out of their lease. The contractual agreement that the landlord entered into with the tenant would provide no protections for the landlord, resulting in substantial financial loss to the landlord.

The NDAA also opposes the proposed amendments to paragraph 11 of section 47-16-17.1. The amendments unfairly place the financial burden on a landlord to pay for the costs of changing the locks to the unit of a victim of domestic violence. Although the NDAA supports requiring landlords to cooperate with victims of domestic violence when they request a lock change, the financial burden must rest with the tenant and not the landlord.

Thank you for your consideration. I would be happy to address any questions.

January 23, 2015

Jeremy Petron
Lobbyist # 172
North Dakota Apartment Association

Re: House Bill 1217

We (North Dakota Apartment Association), are in opposition to HB 1217, as written. There are parts of this bill that we feel are over-reaching and will cause undue burdens to property owners and property managers.

Our first area of concern is in Section 1, Lines 18 and 19 with the language stated as '...or evicted from...'. This seems like a worthy approach to protect victims of domestic violence, however, there are some potential unintended consequences. A domestic violence victim could use this law as a means to cause other lease violations without worry or regard to being evicted, especially if there are multiple actions that are disturbing the quiet enjoyment rights of surrounding neighbors.

A property owner or manager needs to have the right to evict a resident or non-renew a lease when a resident's lease violations become a hindrance in the ability to properly manage the property for all residents to enjoy. Under the language in this bill, a victim of domestic violence could essentially be protected from any eviction action simply by citing that they are a victim of domestic violence, even if there are other lease violations such as non-payment of rent, damage to the apartment or building, or loud parties, etc.

In my company of employment, we have had situations where neighboring residents have moved out or requested to move out because they don't feel safe living next to a domestic violence situation. We are willing to work with victims who want to stay on the property if they are actively trying to get out of a bad relationship and the disturbance situations cease to continue. Where we are forced to exercise an eviction or lease non-renewal action is when the domestic disturbances continue and as a result are disturbing the neighbors and/or causing additional property damage.

Our second area of concern is in Section 3 and the intent of this bill to strike Lines 19, 20, 23, and 24, in the current law that requires a protection order to be furnished to the landlord if a victim of domestic abuse wants or needs to terminate their lease without penalty or additional rent owed beyond a one (1) month notice.

We feel the current law is a fair provision for the landlord to have the option to require a protection order be submitted by the victim as a means to validate the legitimacy of the circumstances that allows that person to be released from their lease contract. If a protection order were not required, this opens the door to many abuses of the system by allowing anyone who potentially wants to get out of their lease for any unwarranted reason, to simply state they are a victim, even if this is a false claim.

Our third area of concern is in Section 3, Page 3, Lines 28 and 29, that would require a landlord to replace the door locks at the expense of the landlord, if the victim makes the request. This action becomes a cost to the landlord through no fault of their own.

It is typically standard practice for a lock to be changed at the property owner's expense before new residents move into an apartment. Also, most property owners and managers, if not all, will oblige any resident in changing a lock at any time, with an option to have the cost incurred by the resident.

Another concern regarding this amendment is that it could potentially put the landlord in a tough situation where they are asked to lock out someone who has rights to that apartment under the lease, simply because the other person is claiming domestic violence, and no protection order is furnished.

Proposed Amendments to HB 1217

Page 2, line 19, after "stating" insert ":

Page 2, line 18, after "stating:" insert a new subdivision "a."

Page 2, line 18, overstrike "that"

Page 2, line 18, capitalize the "t" in the third "the"

Page 2, line 20, remove "the notice"

Page 2, line 20, after the overstricken language insert "

- (1) A court order, protection order, restraining order, or other record filed with a court;
- (2) A police or law enforcement record;
- (3) A medical record indicating domestic violence or sexual assault; or
- (4) A written affidavit provided by an individual who has assisted the tenant in dealing with domestic violence or sexual assault and who is a:
 - (a) Licensed counselor;
 - (b) Licensed social worker;
 - (c) Member of the clergy;
 - (d) Director or domestic violence advocate at a domestic violence sexual assault organization as defined in section 14-07.1-01; or
 - (e) A licensed attorney;

Page 2, line 20, after the comma insert a new subdivision "b."

Page 2, line 20, capitalize the "t" in the second "the"

Page 2, line 21, overstrike "and"

Page 2, line 21, after the comma insert a new subdivision "c."

Page 2, line 21, capitalize the "t" in the second "the"

Page 2, line 21, after the period insert a new subdivision "d."

Page 3, remove lines 28 through 29

SECTION 3. AMENDMENT. Section 47-16-17.1 of the North Dakota Century Code is amended and reenacted as follows:

47-16-17.1. Termination due to domestic abuse.

1. A tenant to a residential lease who is a victim of domestic violence as defined in section 14-07.1-01 or fears imminent domestic violence against the tenant or the tenant's minor children if the tenant or the tenant's minor children remain in the lease premises may terminate a lease agreement, as provided in this section, without penalty or liability.
2. The tenant must provide advance written notice to the landlord stating:
 - a. ~~The~~ tenant fears imminent domestic violence from a person named in
 - (1) A court order, protection order, restraining order, or other record filed with a court;
 - (2) A police or law enforcement record;
 - (3) A medical record indicating domestic violence or sexual assault; or
 - (4) A written affidavit provided by an individual who has assisted the tenant in dealing with domestic violence or sexual assault and who is a:
 - (a) Licensed counselor;
 - (b) Licensed social worker;
 - (c) Member of the clergy;
 - (d) Director or domestic violence advocate at a domestic violence sexual assault organization as defined in section 14-07.1-01; or
 - (e) A licensed attorney;
 - b. ~~The~~ tenant needs to terminate the tenancy, and
 - c. ~~The~~ specific date the tenancy will terminate.
 - d. ~~The~~ notice must be delivered by mail, facsimile communication, or in person before the termination of the tenancy.
3. A landlord may not disclose...

HB 1217
4.2.15
#1

Mr. Chairman and members of the Senate Political Subs Committee-

For the record, I am Lois Delmore, and I represent District 43, which is the southwest quadrant of the city of Grand Forks.

I am here today to urge your favorable consideration for House Bill 1217 which relates to the rental of a dwelling to victims of domestic violence. The bill increases the protections and provides victims of domestic violence important safeguards in emergency or potentially dangerous situations. Sometimes these victims have a hard time finding housing because of the need to call police for protection or because the batterer has caused a disturbance.

Subsection 3 of Section 1 of the bill bans discrimination against victims in state housing programs only.

The amended section 2 subsection 2 expands the acceptable forms of documentation beyond a protection order or order prohibiting contact that a victim may use when requesting termination of their lease.

There are others here to testify and who can better describe provisions of the bill and the need for its passage. I urge your favorable consideration of House Bill 1217 and would be happy to answer any questions.

Thank you, Chairman Burckhard and committee members.



HB 1217
4.2.15
#2

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Testimony on HB 1217
Senate Political Subdivisions
April 2, 2015

Chair Burckhard and Members of the Committee,

My name is Janelle Moos and I am the Executive Director of the CAWS North Dakota. Our Coalition is a membership based organization that consists of 20 domestic violence and rape crisis centers that provide services to victims of domestic violence, sexual assault, and stalking in all 53 counties and the reservations in North Dakota. I'm speaking this morning on their behalf in support of HB 1217.

If enacted, HB 1217 is a step towards increasing protections for and providing victims with meaningful safeguards especially in emergency and potentially lethal situations involving domestic violence. Many other states have included additional protections like those outlined in HB 1217 in order to address obstacles that survivors face in maintaining housing, such as being evicted for calling the police or because the batterer caused a disturbance at the dwelling.

Examples of state and local domestic violence housing protections include laws that: (1) prohibit housing discrimination based on an applicant or tenant's status as a survivor of domestic violence; (2) provide an eviction defense where the landlord tries to evict the victim because the abuser committed a crime or lease violation at the rental unit; (3) bar landlords from limiting a tenant's right to call for police or emergency assistance; (4) require landlords to change locks where tenants have provided documentation of domestic violence; and (5) permit early lease termination without further obligation to pay the rent where tenants provide landlords with documentation of domestic violence.

In Section 1, Subsection 3 is an important new provision that bans discrimination against victims in state housing programs only. Many victims have difficulty finding safe, affordable housing in North Dakota and if enacted this new law would remove a potential barrier a victim may encounter. We are aware of several instances where victims have encountered this type of situation and haven't been able to secure housing.

The amended version of Section 2 subsection 2 was drafted by a member of the House Political Subdivisions Committee and expands the acceptable forms of documentation beyond a

protection order or order prohibiting contact that a victim may use when requesting termination of their lease and is the same documentation that is widely accepted by Job Service when a victim applies for unemployment compensation due to domestic violence, sexual assault or stalking under Subdivision j of subsection 1 of section 52-06-02 of the North Dakota Century Code.

I urge a DO PASS on HB 1217.

Thank you.

H.B. 1217
4.2.15
#3

Testimony on
HB 1217

Chairman Burckhard and members of the Committee. For the record my name is Rocky Gordon a lobbyist for the North Dakota Apartment Association. Thank you for the opportunity to come before you today. We oppose HB 1217.

This is a little bit of a tough. I've seen firsthand the effects of domestic violence. Let's be clear we are not opposed to a true victim of domestic violence being able to terminate the lease and relocate if necessary. We are not opposed to the concept.

What we do oppose is setting up yet another well intentioned law being misused by people who simply want to terminate a lease. We believe that this bill does that.

The current statute came out of a compromise several sessions ago. We recognized that there situations where leases do need to be terminated and current law provides for an impartial review before the lease can be terminated. We continue to support that approach.

Section 2 of this bill was amended by your colleagues in the House and frankly I'm left scratching my bald head. Do we recognize a residential lease as a legally binding document? If not let's stop and say everybody leases on a month to month basis and there are not rent protections beyond 30 days for the tenant. I assure you month to month rates are and will be much higher. I truly hope we recognize residential leases as legally binding documents. If so should a resident be allowed to terminate with review by a licensed counselor, social worker, clergy, advocate or attorney? If so why not a car lease or a mortgage contract?

Now we understand the argument that victims may not want to come forward and appear before a judge. Our industry doesn't like appearing before judges either. If we need to terminate a lease for a substantial lease violation can we have clergy or attorney complete an affidavit and

the lease is terminated? My guess is Not! There has to be impartial oversight before a legally binding document can be set aside. Please don't set up another well intentioned law (like the companion animal law) that is easily abused.

Please vote No on this bill and leave the current law in place. Passage of this legislation could have huge unintended consequences.

Please don't help destroy the lease for term concept in the state of North Dakota.

Thank you for listening and I would welcome as questions.

N.B. 1217
4.2.15
#4

April 2, 2015

Jeremy Petron
Lobbyist # 172
North Dakota Apartment Association

Re: Engrossed House Bill 1217

We (North Dakota Apartment Association), are in opposition to HB 1217, specifically page 2, lines 15 – 26. Our concern is that this law could have unintended consequences to be misused for situations where a resident is looking for an excuse to non-legitimately be released from a term lease agreement. If a resident only needs to have a written affidavit from a counselor, social worker, clergy, or attorney, then this introduces bias in the decision process.

The current law requires a victim to obtain a protection order if they want and need to be released from their lease agreement due to a domestic abuse situation. This allows for a legal process as a neutral 3rd party to make the judgment call for a warranted situation.

We are not against protections for victims of domestic abuse, but in these situations, the property owner is put in a tough position over the lease contract that was freely entered into by the lessor and lessee. Requiring a protection order is a non-biased and neutral due process in order to void a term lease in these scenarios.

We urge a do not pass on HB 1217.

Greg Thompson

4.B

Chairman Burckhard and Members of the Senate Political Subdivisions Committee:

The North Dakota Apartment Association opposes this bill, and in particular the amendments to N.D.C.C. § 47-16-17.1. Under the existing legislation, a housing provider is required to allow a person who fears imminent domestic violence to terminate a residential lease prior to the end of the term if the resident has obtained a protection order following a court hearing. As a rule, housing providers have no issue with a lease termination in that situation because a judge will be involved in determining whether there are in fact realistic fears of imminent domestic violence.

This amendment to N.D.C.C. § 47-16-17.1 would expand the situations in which evidence could be furnished of the imminent domestic violence. With the exception of a court order, protection order, restraining order, or other record filed with a court, all of the other situations listed in subsections 2(a)(2) through 2(a)(4) of this amendment are problematic in terms of the proof of imminent domestic violence. The records or affidavits referenced in those subsections simply will not be detailed enough to reflect whether the tenant fears imminent domestic violence. For instance, if a person wants to terminate their lease, they can provide a police record from 6 months ago where there was a domestic dispute, and that would be sufficient under the amendment to terminate the lease.

The North Dakota Apartment Association especially has issues with subsection 2(a)(4), which provides that proof of imminent domestic violence can be derived from a written affidavit provided by an individual who has assisted the tenant in dealing with domestic violence or sexual assault. In the first instance, the amendment does not indicate when those individuals had assisted the tenant.

Second, it has been the experience of housing providers that licensed counselors, social workers, clergy members, attorneys and domestic violence advocates will gladly pen an affidavit in these situations because there will always be an effort to please the client, and also out of fear of liability in the event the affidavit is not signed and an incident should occur.

The North Dakota Apartment Association believes that these amendments are fraught with potential abuse. It allows a person to easily terminate a lease for illegitimate reasons. It will simply be too easy for a tenant in that situation to go to his or her pastor, for instance, and have the pastor write a note without any verification from the tenant as to whether in fact there is any fear of imminent domestic violence.

A lease is a binding contract, and it is taken seriously by the housing providers and should be taken seriously by the tenants as well. If it becomes this easy to break a lease, housing providers likely will resort to one month leases, which will not be helpful to tenants.

The North Dakota Apartment Association would agree to compromise by deleting subsections 2(a)(2) through 2(a)(4) but amending subsection 2(a) to delete the words "after a hearing". That would allow the person who actually fears imminent domestic violence to terminate a lease by obtaining an ex parte protection order or no-contact order.

We urge a do not pass on House Bill 1217, or at least an amendment as indicated.

HB 1217
4/13/2015

1.1

Proposed amendment to HB 1217; 1002 version

Page 2, line 26, after "affidavit" insert ", containing objective supporting evidence,"

HB 1217
4.14.15
1.1

- a. The tenant fears imminent domestic violence from a person named in:
- (1) A court order, protection order under section 14-07.1-02, ex parte temporary protection order, order prohibiting contact, restraining order, or other record filed with a court;
 - (2) A police or law enforcement record containing objective supporting evidence; or
 - (3) A medical record, containing objective supporting evidence indicating domestic violence or sexual assault.