

2015 HOUSE JUDICIARY

HB 1399

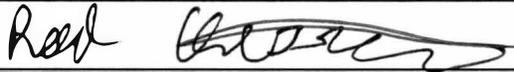
2015 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

HB 1399
2/9/2015
23503

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the termination of spousal support; and to provide for application.

Minutes:

Testimony #1

Chairman K. Koppelman: Opened the hearing with testimony in support.

Rep. Alex Looyen: Introduced the bill: (See testimony #1).

Rep. Maragos: How do you envision the start and ending of cohabitation? How will it be presented?

Rep. Looyen: If they are using the same telephone number and mailing address, then that would be a good start? It would probably have to be worked out in the courts.

Chairman K. Koppelman: The bill does require clear and convincing evidence which is a higher standard than preponderance.

Rep. L. Klemin: The five years or more on line 17 is that consecutive or cumulative?

Rep. Looyen: That is left up to legislature. If you want to draft an amendment, that is fine with me.

Rep. G. Paur: That five years and it is proved they are cohabitating and the support is stopped, and then after 7 years they break up and go on their way. I suppose it would be difficult for that person to get support from the person they lived with? Would the original spouse have to restart support payments?

Rep. Looyen: I am hesitant to say this, but I think it would be treated as if they would have married someone.

Rep. K. Wallman: Spousal support is often paid because the husband stays home while the wife goes to work. She would be paying him after the divorce & for lost wages during

the marriage. I don't know if North Dakota has a common law marriage. That might be a worthwhile amendment.

Rep. Looyesen: I have done some internet work on spousal support. The judge determines this. Common law suggestion; I would have to think what that would affect. I can draft some amendments for that if the committee wishes.

Rep. Mary Johnson: I find the notice requirement intriguing in this bill. Is it the notice requirement that is the meat of this? Unfair support payments go on & on?

Rep. Looyesen: The notice requirement would probably fix the unfair spousal requirements. The main issue in the bill is that there is no action for cohabitating at the moment and then they are getting a supporting payment on top of that.

Rep. Lois Delmore: Have you talked to anyone within the court system about what really goes on? If you have clear and convincing proof you could probably go to court and they would decide what to do. What if the spouses separate; even though I was getting a spousal payment; I wasn't able to earn anything along the way. So I could lose my support even though I wasn't really having a relationship?

Rep. Looyesen: I have not contacted the courts. Even if the judges are granting cohabitation termination of payments, it is not clearly written in law. This would spell out you do need to have clear and convincing evidence of cohabitation and then you could seek legal action to terminate those payments.

Rep. Mary Johnson: You have 8 witnesses (children) there and that contributes to the clear and convincing evidence. The courts deal with this and we are talking about requiring the notice.

Rep. Looyesen: This bill tries to address those that are cohabiting. Not those who have a roommate.

Rep. L. Klemin: We have this same sex marriage issue that will probably come before the US Supreme Court. If same-sex marriage were legal, would subsection 3 also apply to same-sex marriage?

Rep. Looyesen: If the Supreme Court strikes down our law, I would assume it to apply similarly.

Rep. Maragos: Would the language in section 3 force the courts to wait for 5 years before they could make a determination of spousal support termination?

Rep. Looyesen: The way this is written yes. The reason the five years was given is a lot of times divorce cases are messy. I still want to protect the supported spouse, hence the 5 year period. I would agreeable to amending it.

Chairman K. Koppelman: You talked earlier about not wanting to encourage people not to get married, and having them cohabitating in order to get out of the stoppage of support. Is this an encouragement that if we put the five years in there?

Rep. Looyen: I would be agreeable to making it a shorter period of time.

Chairman K. Koppelman: Under the standard of clear and convincing evidence means that the judge or jury must have a firm belief that the allegations are true. Whether time is the magic window I am not so sure of.

Rep. Looyen: That's a great point, it is a pretty rigorous bar to meet and maybe the 5 years are not needed.

Chairman K. Koppelman: On the notice issue in Subsection 2 where it talks about, Is there a disjointed notice process?

Rep. Looyen: I think that was the intent.

Rep. Mary Johnson: To terminate spousal support you do have to go back to court. It could be reworded to say "here also".

Chairman K. Koppelman: Under cohabitation there is no notice requirement. If a spouse paying support were to attempt to get an order from the court relieving them of paying any more, is the burden of proof on that spouse?

Rep. Looyen: In presenting this I assumed a lot of them do cohabit to circumvent the law. I am really not trying to put any more regulations on the supported spouse unless there is evidence otherwise.

Opposition: None

Neutral: none

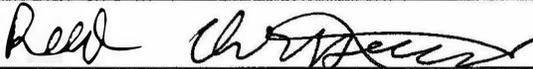
Chairman K. Koppelman: Closed the hearing on HB 1399.

2015 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

HB 1399
2/16/2015
23935

- Subcommittee
 Conference Committee

Committee Clerk Signature 

Explanation or reason for introduction of bill/resolution:

Relating to the termination of spousal support; and to provide for application.

Minutes:

Amendment #1

Chairman K. Koppelman: Opened discussion on HB 1399

Rep. L. Klemin: I had this amendment prepare. Subsection 2 provides that it is not terminated immediately. We really don't need to have an application section.

Chairman K. Koppelman: Do you move the amendment?

Rep. Klemin: Makes a motion.

Rep. Maragos: Seconds the motion.

Rep. D. Larson: I think there was a mistake, after line 11 there is a capital T at the beginning of line 12. Am I reading that wrong?

Rep. L. Klemin: I think you're right.

Chairman K. Koppelman: Would you like to withdraw your motion?

Rep. L. Klemin: Yes.

Chairman K. Koppelman: Rep. Klemin redraws the motion, Rep Maragos redraws the second, Motion is withdrawn.

Rep. L. Klemin: I don't understand it either.

Rep. G. Paur: In the original bill starting on line 10, spousal support is terminated upon remarriage. And in the amendment the court may order termination.

Chairman K. Koppelman: I assume the court does that now.

Rep. D. Larson: I think if we look at Rep. Klemin's amendments and just remove the reference to lines 11 & 12 and move the rest of the amendments.

Chairman K. Koppelman: The other question is on removing lines 14-22 of the bill, the testimony there was that if you don't have a similar standard.

Rep. L. Klemin: I think this whole Section 3 about cohabitation & evidence, is not workable at all.

Rep. Mary Johnson: If we eliminate the portion of cohabitating, we may as well kill the bill.

Rep. L. Klemin: The important part to me was providing notice of remarriage, the rest of it is just left in there to be consistent.

Rep. D. Larson: One note I made was on line 17 when it talks about 5 years, is that consecutive or cumulative?

Chairman K. Koppelman: And the other thing I wrote was "notice".

Rep. P. Anderson: I can tell you that in Section 3 the lawyers will have a hay day. It is going to be totally unworkable and the attorneys are going to get paid lots of money.

Rep. Mary Johnson: I disagree in my experience in Family Law the savvy lawyers are already doing this.

Rep. Klemin: I move the amendment again with the aforementioned changes. (amendment #1)

Rep. D. Larson: seconds the motion

Chairman K. Koppelman: The only thing the bill would do is say that you have to get notice if you marry again. We can approve the amendment and recommend passage of the bill, or we can defeat the proposed on the amendment and move the bill forward with Do or Don't Pass. My difficulty in the amendment if you create a different standard for marriage versus cohabitation it does discourages marriage.

Rep. G. Paur: On both sides of this notice, does it have value?

Voice Vote: The Aye's have it.

Amendment is carried.

Rep. Brabandt moves a Do Pass as Amended.

Rep. Larson: Seconds the motion.

Roll Call Vote: 10 Yes, 3 No, 0 Absent.

House Judiciary Committee

HB 1399

2/16/2015

Page 3

Do Pass as Amended passes

Rep. Klemin: Carries the bill.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1399

Page 1, line 2, remove "; and to provide for application"

Page 1, line 10, after the underscored comma insert "the court may order termination of"

Page 1, line 10, remove "is terminated"

Page 1, line 11, remove the underscored comma

Page 1, line 12, replace the first "the" with "The"

Page 1, remove lines 14 through 22

Renumber accordingly

February 16, 2015

Handwritten signature and date: 2/16/15

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1399

Page 1, line 2, remove "; and to provide for application"

Page 1, line 10, after the underscored comma insert "the court may order termination of"

Page 1, line 10, remove "is terminated"

Page 1, remove lines 14 through 22

Renumber accordingly

Date: 2-16-18
 Roll Call Vote #: 1

**2015 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES 1399
 BILL/RESOLUTION NO.**

House JUDICIARY Committee

Subcommittee Conference Committee

Amendment LC# or Description: 15. 0250. 02001

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

Motion Made By Klemin Seconded By Larson

Representative	Yes	No	Representative	Yes	No
Chairman K. Koppelman			Rep. Pamela Anderson		
Vice Chairman Karls			Rep. Delmore		
Rep. Brabandt			Rep. K. Wallman		
Rep. Hawken					
Rep. Mary Johnson					
Rep. Klemin					
Rep. Kretschmar					
Rep. D. Larson					
Rep. Maragos					
Rep. Paur					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Date: 2/16/15
 Roll Call Vote #: 2

**2015 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1399**

House JUDICIARY Committee

Subcommittee Conference Committee

Amendment LC# or Description: 15.0250.02002

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

Motion Made By Rep. Brabandt Seconded By Rep. Larson

Representative	Yes	No	Representative	Yes	No
Chairman K. Koppelman	✓		Rep. Pamela Anderson		✓
Vice Chairman Karls	✓		Rep. Delmore	✓	
Rep. Brabandt	✓		Rep. K. Wallman	✓	
Rep. Hawken	✓				
Rep. Mary Johnson		✓			
Rep. Klemin	✓				
Rep. Kretschmar	✓				
Rep. D. Larson	✓				
Rep. Maragos	✓				
Rep. Paur		✓			

Total (Yes) 10 No 3

Absent 0

Floor Assignment Klemin

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

REPORT OF STANDING COMMITTEE

HB 1399: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1399 was placed on the Sixth order on the calendar.

Page 1, line 2, remove "; and to provide for application"

Page 1, line 10, after the underscored comma insert "the court may order termination of"

Page 1, line 10, remove "is terminated"

Page 1, remove lines 14 through 22

Renumber accordingly

2015 SENATE JUDICIARY

HB 1399

2015 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

HB 1399
3/23/2015
25249

- Subcommittee
 Conference Committee

Committee Clerk Signature



Minutes:

1

Ch. Hogue: We will open the hearing on HB 1399.

Rep. Alex Looyesen: Sponsor, support. It deals with divorce law and code. The bill was changed dramatically since I introduced it in the House. That is why I printed up the version 15.0250.02002. Those are the changes that the House made. On the back is my testimony that I gave to the House. The reason I supplied that is because I am basically asking you to repeal the amendments that they proposed. If we were to pass this law, basically all it says is that in I'm divorced and I am receiving spousal support I have to notify the court and/or the person I divorced and was paying the spousal for, I have to notify them after I get remarried (see attached 1).

Ch. Hogue: You like your bill.

Rep. Alex Looyesen: Yes I do.

Ch. Hogue: You don't like what the House did to the bill.

Rep. Alex Looyesen: I don't necessarily not "like it"; I just don't know if we would need another law on the books. Generally, it just says that they have to tell them. You are supposed to tell the Court already. According to the House Judiciary, there really isn't anything directly tells them that they have to, so that's why they passed it in this version.

Sen. Armstrong: You're trying to get at the divorced spouse who maintains an efficiency apartment but is truly living with his/her girlfriend and won't get married and is maintaining a private residence solely for the purpose of keeping their spousal support going.

Rep. Alex Looyesen: Yes. That is in general what we are trying to address because I think there are some issues with fairness. Like the example was given you have someone who is basically married but they are not going to get married so that they can continue to get spousal support. You really could look at this as a deterrent to get remarried after the divorce.

Sen. Luick: How would you determine then if they are actually cohabitating or if they are just living together as roommates?

Rep. Alex Looyesen: That was probably one of the issues that was brought up in the House committee; basically when we crafted this and looked at it, first of all I would say that it is, as I mentioned earlier, it is on the person paying it, so really you're not changing a lot for the supported spouse. Just off the top of my head, and I'm not a lawyer or judge, I would think that if you have the same mailing address, and you've been living together, that would probably be some evidence. I would think that the courts would be able to determine what clear and convincing evidence would constitute an order for this to happen.

Sen. Armstrong: It would be a finding of fact from the divorcing judge, wouldn't it?

Rep. Alex Looyesen: I think so.

Ch. Hogue: In the original bill you had five years. Where did you come up with that?

Rep. Alex Looyesen: That was also a sticking point, because now you are thinking, well, okay, at least I get five years, and then I'll get married. I would be friendly to any amendment that would take that off. The only issue is, and the reason we put five years into it, was just an arbitrary number but we don't want someone to live with someone for six months, lose their spousal support and figure out it didn't work out and they are out of their spousal support as well. We tried to take both sides into account. Whether it's 1, 3 5 years, I don't know. We did put 5 years in to protect the supported spouse.

Ch. Hogue: Thank you. Further testimony in support. Testimony in opposition. Neutral testimony. We will close the hearing.

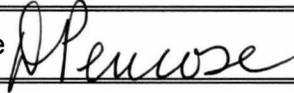
2015 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

HB 1399
3/30/2015
25627

- Subcommittee
 Conference Committee

Committee Clerk Signature



Minutes:

Ch. Hogue: We will take a look at HB 1399. This bill deals with spousal support termination. As I looked through the bill, the 3000 version, on lines 10 and 11 really don't say anything at all "unless otherwise agreed to by the parties in writing, the court may order termination of spousal support upon the remarriage of the spouse receiving support." That's the law today. The court can order termination of spousal support in the discretion of the court. I wasn't sure what we would accomplish with lines 10 and 11. That took me to lines 12-13 which is "immediately upon remarriage, the spouse receiving support shall provide notice of the remarriage to the payer spouse at the last known address of the payer spouse".

Sen. Casper: When you talk about lines 10 and 11, are those found in some other place in the code.

Ch. Hogue: Any party may petition to revisit a spousal support order or a child support order if that spouse thinks that there has been a material change in circumstances. The motion would be, "your honor, my spouse has remarried and I shouldn't have to provide support because of the spouse has remarried." In that case, the court may or may not terminate that spousal support.

Sen. Nelson: We're not taking away child support. This deals with just spousal support.

Ch. Hogue: In response to Sen. Casper's question you could have an order entered in one year and the next year there could be some material change in circumstances where you would want to raise or lower either child support or spousal support.

Sen. Casper: They are allowed to terminate.

Ch. Hogue: Yes. Now, typically parties are going to have an agreement that says here are the terms of the spousal support; it will be "x" number of months or years, the amount, conditions under which it can be terminated, 1) would be for remarriage, 2) when you complete your education. It depends on the circumstances for which spousal support is requested. The same would be true of child support. If there is a material change in circumstances, either party can petition. The only new law that this bill creates is to require the spouse that is getting remarried to provide notice to the former spouse. It's up to the committee to determine what to do with the bill.

Sen. Grabinger: From what I'm reading in the testimony of the sponsor, the bill actually as it is now, goes away from the intent. The intent was if the spouse was cohabitating for a period of time, and if they could prove that, that could justify termination of spousal support as well. I don't see that in this version. I think it's really gone away from what the intent of the sponsor was in the beginning. I don't know that it's even necessary.

Ch. Hogue: Of course, you don't want an iron-clad rule that spousal support terminates upon cohabitation because sometimes the court, in a lot of situations, ordering spousal support is rare. It's not the general rule, it's the exception. If the spouse shows that he/she was disadvantaged by the marriage, and one way that would typically show it is "I deferred my college education while you got your education, I raised the children, etc. and we relied on your income. Now that we're getting divorced, I need to start my own career and I need funds to get me through 2 to 4 years of college education. So the spousal support is based on the fact that the spouse receiving the support needs to go to college or needs to get work training, or have money to acquire new skills. That has nothing to do with whether they live with someone else or not. Spousal support is not there to defray living expenses. It's to help pay for an education. In other cases, it would be relevant. I don't know, I guess I could go either way on this notice provision. The spouse that is paying the spousal support is going to figure out pretty quickly if the other spouse is cohabitating.

Sen. Armstrong: I won't vote for the bill in its current form. I liked the original bill, I think what you're trying to get away from is the situation of large money divorces where there is a large order of spousal support and the whole reason for the other side receiving this spousal support not to get married, they essentially become a common law marriage or very close to it, and the only

reason they don't get married is so that they can continue to receive spousal support. A typical example would be a doctor divorces wife, wife hasn't worked for 15-20 years, wife doesn't remarry, keeps a studio apartment that she doesn't go into, essentially for all intents and purposes is living with her new boyfriend and refuses to marry simply because of her spousal support being terminated. That was the original intent of the bill. I don't know if it works out that way, it's a good case. Those situations do occur but not very often. Spousal support of that magnitude isn't actually ordered very often, lifetime child support is even rarer than regular spousal support in ND. When they do, there are a lot of dollar amounts involved and so that is what the bill was trying to accomplish.

Sen. Grabinger: But even in that case, doesn't the payee have the opportunity to take it back to court if they think there are some mitigating issues.

Sen. Armstrong: Usually if the case is litigated, the judge will put in the Order when spousal support terminates. If the case is settled and negotiated, the parties put in the Order as to how spousal support terminates. A material change in circumstances you can go in and ask, but if there are no material changes in circumstances, you are pretty bound by the court order or the stipulated judgment. I don't know if you would get that cohabitation language from a judge; I haven't seen it. You could possibly get it into a settlement agreement if you can get both sides to agree to it.

Sen. Grabinger: I was just wondering if the judge can take up that information and say that he can see that she has been living with this guy for five years, we will reconsider this judgment.

Sen. Armstrong: I think the answer is found in the negotiated settlement or the Order. Typically with a material change in circumstances, they are talking about income.

Ch. Hogue: The bill deals with where the spousal support is court-imposed. In other words, the parties don't come to terms; one thinks that there shouldn't be spousal support at all and resists it or maybe a spouse thinks or is willing to pay spousal support but doesn't agree to the amount or the duration of the support order. To address your concern, Sen. Armstrong, we could put in the bill that for court-imposed spousal support, either party may petition the court after 2 or 3 years to reevaluate the spousal support. I suppose we could do that. But that option exists today.

Sen. Nelson: I wasn't here during the hearing. It seems that the testimony goes with version 2; I understand from the testimony what he's trying to say. But this version 3 doesn't fit the testimony that he supposedly gave which was version 2.

Sen. Armstrong: The sponsor of the bill came in and they wanted it put back into the original form. They weren't testifying to the new bill.

Ch. Hogue: I am thinking about this bill a little more, and maybe I need to revisit the original version. Let's table this bill.

Sen. Luick: I am looking at this, is this in any way going to limit or damper the decisions by the judge to, in the different cases we were talking about here, instances where if that spouse moves in with their parents or another boyfriend or anyone else and they do have that debt (spousal support), not having that education over their heads, is this going to limit the judge to decide that payments are necessary and needed in those cases.

Ch. Hogue: No, this isn't telling the judge anything about what he/she would have to do. Basically it says that the paying former spouse is entitled to notice of the remarriage and that he/she can petition to review spousal support, which under current law he can do at any time for a good reason, such as finding a good job, completed their education, he/she remarried, there are lots of different life events that would affect the obligation.

Sen. Luick: Is that in law today. Do we already have those options, where they can petition the court for revisiting that already?

Ch. Hogue: If there isn't an agreement between the parties, and typically there is an agreement, but if no agreement is reached and the judge's order doesn't say, spousal support terminates upon remarriage. The paying spouse could file a motion with the court to reopen the case and tell him that the spouse has remarried and has substantial income and that the former spouse doesn't need to rely on my spousal support anymore because she/he has a means of support. They could do that. Most often, I've seen it revisited when the spouse receiving the spousal support gets a significant increase because they got a new job or the paying spouse wants it lowered or eliminated because they argue they are disabled or lost their former good paying job.

Sen. Luick: Do you see this as being a big problem in the state.

Ch. Hogue: That's why I wanted to think about it a little more. Sen. Armstrong brings up a good point about the high income earners, because you see it happen a lot with the professionals, the doctors, etc. where they get married in school (college) and they become successful and their income is quite high, and now want to get rid of the first wife (after she raised the kids, didn't go to college or pursue a career). In a long term marriage the court will see whether it's appropriate for that spouse to have that lifestyle maintained. They will also look to see whether that spouse wants to retrain. In a case like that, spousal support can be \$8-10,000/mo which isn't unheard of. In the smaller cases, especially where the earning capacities of both divorcing spouses are about the same, you typically don't see spousal support in short-term marriages. We will table this bill.

2015 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

HB 1399
3/31/2015
25629

- Subcommittee
- Conference Committee

Committee Clerk Signature *D Penrose*

Minutes:

1

Ch. Hogue: Let's take a look at HB 1399. We are one of 10 states that don't give court guidance in this area (explained his amendment, #1). I am proposing a study regarding spousal support. Spousal support can be offered for 1) temporary assistance; 2) rehabilitative; and 3) long term marriage where there is a lifestyle that the spouse has grown accustomed to.

Sen. Nelson: We don't need the heading of Section 2.

Sen. Armstrong: I think the bill isn't broad enough; I like the study.

Sen. Grabinger: I move the Hogue amendments.

Sen. Nelson: Second the motion.

Ch. Hogue: Voice vote, motion carried. We now have the bill before us as amended.

Sen. Grabinger: I move a Do Pass as Amended.

Sen. Armstrong: Second the motion.

6 YES 0 NO 0 ABSENT

DO PASS AS AMENDED

CARRIER: Ch. Hogue

March 31, 2015

3/31/15
Jone

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1399

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative management study of spousal support."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - SPOUSAL SUPPORT.

During the 2015-16 interim, the legislative management shall study the types of spousal support ordered by the district courts and the desirability of providing statutory guidance for awards of spousal support. The legislative management shall report its findings and recommendations, together with any proposed legislation required to implement the recommendations, to the sixty-fifth legislative assembly."

Renumber accordingly

Date: 3/30/15
Voice Vote # 1

2015 SENATE STANDING COMMITTEE
VOICE VOTE
BILL/RESOLUTION NO. 1399

Senate Judiciary Committee

Subcommittee

Amendment LC# or Description: Hogue Amendment 15.0250.03001
04000

Recommendation: Adopt Amendment

Do Pass Do Not Pass Without Committee Recommendation

As Amended Rerefer to Appropriations

Place on Consent Calendar

Other Actions: Reconsider _____

Seconded By

Motion Made By Sen. Grabinger Sen. Nelson

Senators	Yes	No	Senators	Yes	No
Ch. Hogue			Sen. Grabinger		
Sen. Armstrong			Sen. C. Nelson		
Sen. Casper					
Sen. Luick					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice Vote: Carried

Date: 3/31/15
Vote # 2

2015 SENATE STANDING COMMITTEE

Roll Call VOTE
BILL/RESOLUTION NO. 1399

Senate Judiciary Committee

Subcommittee

Amendment LC# or Description: 15-0250.03001 04000

- 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 Sen. Grabinger Seconded By Sen. Armstrong

Senators	Yes	No	Senators	Yes	No
Ch. Hogue	✓		Sen. Grabinger	✓	
Sen. Armstrong	✓		Sen. C. Nelson	✓	
Sen. Casper	✓				
Sen. Luick	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Hogue

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

REPORT OF STANDING COMMITTEE

HB 1399, as engrossed: Judiciary Committee (Sen. Hogue, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1399 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative management study of spousal support.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - SPOUSAL SUPPORT. During the 2015-16 interim, the legislative management shall study the types of spousal support ordered by the district courts and the desirability of providing statutory guidance for awards of spousal support. The legislative management shall report its findings and recommendations, together with any proposed legislation required to implement the recommendations, to the sixty-fifth legislative assembly."

Renumber accordingly

2015 CONFERENCE COMMITTEE

HB 1399

2015 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

HB 1399
4/21/2015
26307

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the termination of spousal support.

Minutes:

Proposed amendment #1

Rep. Maragos, Chair: Opened the conference committee meeting on HB 1399. All members were present.

Senator Hogue: It was my amendment that turned this into a mandatory study. One of the things was it was dipping its toe into regulating spousal support for the situation where a spouse is remarried or cohabitating with another in a relationship that is not formally a marriage ordained by the state. It called for the discontinuation of spousal support it really didn't address that in some situations that spousal support may have been ordered for reasons related to rehabilitation. Rather than just address this one specific area; cohabitation, we thought it would be important for the legislature to take a review of this and decide if what if any statutory guidance should be given to the courts. I did some research on this and we are one of only ten states that provide not guidance to the courts other than this statute that we have which doesn't really say anything other than the courts can do what they want. That was the reason behind the study. Rep. Becker brought this amendment that we handed out (See handout #1). I looked through it and started doing a little more research. What he has here is in the middle of what other states do that I have checked. Maybe we can do both; pass this statute and do a study? We need to figure that out. Some states would terminate spousal support immediately upon an establishment of a cohabitation arrangement. The bill originally called for five years and I see he has reduced it to three years. He also requires clear and convincing evidence and I didn't see that in any other state that required that elevated standard approved. That is why the Senate did what it did.

Rep. Maragos: I appreciate your comments and appreciate hearing we might I would like now to have all comments.

Rep. Mary Johnson: I voted against this bill coming out of committee because it eliminated the cohabitation portion of it and I thought that was the depth of the bill. I don't

know if this should be a mandatory study? We just need to look at practice. Putting this back in here adds more teeth so that parties comply with that agreement or a judge's order. They have to report when the cohabitation. With marriage you can go live in the county you are in. with cohabitation you are required to report it; and believe it or not people have a tendency to tell the truth. I think all we need to do is look at practice. I don't know if a study is necessary. I think it is imperative that is not applied to rehabilitative.

Rep. Brabandt: Only rehabilitative support; as in job training?

Senator Casper: I think a study is what we need to do. It should be something we should consider doing considering the state of the code right now.

Senator Nelson: While we were studying this that we were only one of ten states that don't have this law.

Senator Hogue: I think that is correct. Usually the spousal support is becoming increasingly rare. The most frequent spousal support is to provide for a spouse who the court feels has been disadvantaged by the marriage and has either postponed or not pursue a career altogether to be the family spouse and to support the other spouse so the concept of rehabilitation is that this spouse would be given support for a period of time sufficient to allow them to go out and get an education or some new skill that will increase their earning capacity. When we turned this into a study so if they say a spouse is cohabitating with another individual but the purpose of the support was to allow that spouse to go to college. If you look at other states this confirms the need for a study. The fault by some states is considered in awarding spousal support. That is sort of a major policy so I thought the study would bear out whether we want to consider fault or not.

Rep. Maragos: if somebody would like to move the on accepting the amendment and adding the mandatory study I certainly would entertain a motion.

Senator Hogue: I did look at Rep. Becker's bill and I actually have an additional amendment. As I read through it I didn't see you couldn't do both. Pass this amendment and put restriction on spousal and cohabitation and remarriage and do the study.

Rep. Maragos: We have this amendment and we will recess the hearing.

Rep. Brabandt: You are bringing forth more amendment?

Senator Hogue: When Rep. Becker brought this amendment it said 5 and put 3. It occurred to me that period of time could be shorter. Some states say if you are cohabitating the spousal support is determined. That doesn't mean if that relationship doesn't work out and that spouse, the receding spouse couldn't go back and say hey that was a short term relationship that never worked out so that remedy is still available. The clear and convincing; no one seems to be requiring that. On the Christmas tree version in section 2 and 3 I think we should try to fit that into that section 2. We need to work with legislative counsel. I would like to look at a few more states to see.

Rep. Maragos: I like that idea. Maybe you could use this as the basic document which is the 2000 version and incorporate it and then add the study language to it; would that be possible.

Rep. Mary Johnson: I agree with Senator Hogue that clear and convincing evidence is a high standard. I do believe the original five years because rehabilitative and spousal support is typically four to five years.

Adjourned.

Adjourned.

2015 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

HB 1399
4/22/2015
Job #26345

Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to termination of spousal support.

Minutes:

Proposed amendment #1

Rep. Maragos, Chair: Opened the conference committee meeting on HB 1399. All members were present. I believe someone has an amendment to offer.

Senator Hogue: I know you wanted to work off the 2000 version but legislative counsel could not do that. So we ended up doing what was described as a hog house. (See proposed amendment #1) Went over the proposed changes. We kept the legislative management study in. We kept looking at other states and some states authorize the court to require the paying spouse to pledge security for spousal support. I mentioned fault yesterday. Some states you can consider fault in awarding spousal support and some say you can't. Duration is all over the place. Some states require a specific finding that the spouse to receive spousal support and income withholding so there are a lot of things to study so that is why I think the study is an important part of this bill. We still have to keep section 3 to make clear nobody can back in after this law becomes effective and start changing spousal support orders.

Senator Casper moved that the Senate recede from Senate amendments and amend as follows. Seconded by Senator Nelson

Roll Call Vote: 6 Yes 0 No 0 Absent

Adjourned.

April 21, 2015

4/22/15
1/2

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1399

That the Senate recede from its amendments as printed on page 1298 of the House Journal and page 1073 of the Senate Journal and that Engrossed House Bill No. 1399 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 14-05-24.1 of the North Dakota Century Code, relating to termination of spousal support; to provide for a legislative management study; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-05-24.1 of the North Dakota Century Code is amended and reenacted as follows:

14-05-24.1. Spousal support.

1. Taking into consideration the circumstances of the parties, the court may require one party to pay spousal support to the other party for any limited period of time in accordance with this section. The court may modify its spousal support orders.
2. Unless otherwise agreed to by the parties in writing, spousal support is terminated upon the remarriage of the spouse receiving support. Immediately upon remarriage, the spouse receiving support shall provide notice of the remarriage to the payor spouse at the last known address of the payor spouse.
3. Unless otherwise agreed to by the parties in writing, upon an order of the court based upon a preponderance of the evidence that the spouse receiving support has been habitually cohabiting with another individual in a relationship analogous to a marriage for one year or more, the court shall terminate spousal support.
4. Subsections 2 and 3 do not apply to rehabilitative spousal support.

SECTION 2. LEGISLATIVE MANAGEMENT STUDY - SPOUSAL SUPPORT.

During the 2015-16 interim, the legislative management shall consider studying the types of spousal support ordered by the district courts and the desirability of providing statutory guidance for awards of spousal support. The legislative management shall report its findings and recommendations, together with any proposed legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 3. APPLICATION. Subsection 2 of section 1 of this Act applies to any spousal support order, regardless of date of issuance, but applies only to spousal support payments accruing after the effective date of this Act. Subsection 3 of section 1 of this Act applies to any spousal support order, regardless of the date of issuance, but

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applies only to spousal support payments accruing after a court order for termination of spousal support."

Renumber accordingly

**2015 HOUSE CONFERENCE COMMITTEE
 ROLL CALL VOTES**

BILL HB 1399 as (re) engrossed

House Judiciary 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: Sen. Casper Seconded by: Sen. Nelson

Representatives	4-21	4/22	Yes	No	Senators	4-21	4/22	Yes	No
Rep. Maragos (Chair)	X	✓	✓		Senator Hogue	X	✓	✓	
Rep. R. Brabandt	X	✓	✓		Senator Casper	X	✓	✓	
Rep. M. Johnson	X	✓	✓		Senator C. Nelson	X	✓	✓	
Total Rep. Vote					Total Senate Vote				

Vote Count Yes: 6 No: 0 Absent: 0

House Carrier No Carrier Senate Carrier No Carrier

LC Number 15.0250.03002 . _____ of amendment

LC Number _____ . 05000 of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

REPORT OF CONFERENCE COMMITTEE

HB 1399, as engrossed: Your conference committee (Sens. Hogue, Casper, Nelson and Reps. Maragos, Brabandt, M. Johnson) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ page 1298, adopt amendments as follows, and place HB 1399 on the Seventh order:

That the Senate recede from its amendments as printed on page 1298 of the House Journal and page 1073 of the Senate Journal and that Engrossed House Bill No. 1399 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 14-05-24.1 of the North Dakota Century Code, relating to termination of spousal support; to provide for a legislative management study; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-05-24.1 of the North Dakota Century Code is amended and reenacted as follows:

14-05-24.1. Spousal support.

1. Taking into consideration the circumstances of the parties, the court may require one party to pay spousal support to the other party for ~~any~~ limited period of time in accordance with this section. The court may modify its spousal support orders.
2. Unless otherwise agreed to by the parties in writing, spousal support is terminated upon the remarriage of the spouse receiving support. Immediately upon remarriage, the spouse receiving support shall provide notice of the remarriage to the payor spouse at the last known address of the payor spouse.
3. Unless otherwise agreed to by the parties in writing, upon an order of the court based upon a preponderance of the evidence that the spouse receiving support has been habitually cohabiting with another individual in a relationship analogous to a marriage for one year or more, the court shall terminate spousal support.
4. Subsections 2 and 3 do not apply to rehabilitative spousal support.

SECTION 2. LEGISLATIVE MANAGEMENT STUDY - SPOUSAL SUPPORT. During the 2015-16 interim, the legislative management shall consider studying the types of spousal support ordered by the district courts and the desirability of providing statutory guidance for awards of spousal support. The legislative management shall report its findings and recommendations, together with any proposed legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 3. APPLICATION. Subsection 2 of section 1 of this Act applies to any spousal support order, regardless of date of issuance, but applies only to spousal support payments accruing after the effective date of this Act. Subsection 3 of section 1 of this Act applies to any spousal support order, regardless of the date of issuance, but applies only to spousal support payments accruing after a court order for termination of spousal support."

Re-number accordingly

Engrossed HB 1399 was placed on the Seventh order of business on the calendar.

2015 TESTIMONY

HB 1399

#1
HB1399
2-9-15

HB 1399 Supporting Testimony - Rep. Alex Looyzen, D12

Good morning Mr. Chairman and members of the Judiciary committee. For the record my name is Alex Looyzen, representative of district 12 in Jamestown. HB1399 addresses a loophole in current divorce law. The concern was brought to me by a colleague who is aware of several individuals affected by this loophole. Presently, spousal support may be awarded for a number of years or for life. Frequently, it is to terminate upon the remarriage of the supported spouse. In my opinion, this is a significant disincentive to remarry. Although the supported spouse may have once again found love and someone to share the remainder of his or her life with, some choose to create a sham marriage in order to continue to receive the monthly support check. It is not uncommon for such a couple to wear the rings, present themselves as husband and wife, and to live in a single, shared residence. By doing this, they circumvent, and even mock the judge's intent. This loophole defrauds the court, incentivizes cohabitation rather than marriage, and is unjust for the supporting spouse.

Section I:

- **Subsection 1** is essentially unchanged.
- **Subsection 2** states that remarriage constitutes grounds for termination of support, and leaves in place any contractual arrangements by the parties, so this act will not supersede that contract. It also obligates the supported spouse to notify the court of remarriage.
- **Subsection 3** states that a supported spouse who is habitually cohabiting and in a relationship analogous to marriage for greater than five years is considered to have fulfilled the remarriage clause for the purpose of spousal support payments.

The burden of proof is on the supporting spouse to show "clear and convincing evidence".

The phrase "analogous to marriage" was chosen in order to avoid penalizing a supported spouse who is living with a friend or relative. The aim of the bill is to address the bad actors, not spouses who rely on support payments.

The definition of "analogous" is "corresponding in some particular", which makes it an appropriate word for this purpose. Other words could be "similar"-"having characteristics in common", "akin"-"having the same properties", or "resembling"-"to be like".

Section II is the application. This addresses any spousal support order, whether before or after this act, but only applies to payments made after the act. This is to prevent supporting spouses from trying to reclaim payments already made. As an example, a supported spouse may have been on support for 10 years, and has been remarried for 8 years. At this time the supporting spouse can request termination of further support payments, but cannot ask for the eight years worth of payments back. Likewise, if the supported spouse has been on support for 10 years, and entered into a cohabiting relationship analogous to marriage for the last 8 years, the supporting spouse can request termination of further support payments (assuming the burden of proof has been fulfilled), but cannot ask for the last three years worth of support payments back (the amount remaining after the established five years of cohabiting).

Mr. Chairman and members of the committee, HB1399 is a simple bill that harms no one, it closes a loophole for defrauding the courts, addresses an inequity in current divorce law, and still protects people who legitimately rely on support payments. I ask you to give a Do Pass recommendation. I would stand for any questions.

15.0250.02001
Title.

HB 1344
2-16-15
#1

Prepared by the Legislative Council staff for
Representative Klemin
February 16, 2015

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1399

Page 1, line 2, remove "; and to provide for application"

Page 1, line 10, after the underscored comma insert "the court may order termination of"

Page 1, line 10, remove "is terminated"

Page 1, line 11, remove the underscored comma

Page 1, line 12, replace the first "the" with ".The"

Page 1, remove lines 14 through 22

Renumber accordingly

1-1
3/23/19

15.0250.02002

Sixty-fourth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1399

Introduced by

Representatives Looyesen, Beadle, Brabandt, Dockter, Kading, Klemin, Maragos, Ruby,
Steiner

Senators Casper, Larsen

1 A BILL for an Act to amend and reenact section 14-05-24.1 of the North Dakota Century Code,
2 relating to the termination of spousal support ~~and to provide for application.~~

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 14-05-24.1 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **14-05-24.1. Spousal support - Termination.**

7 1. Taking into consideration the circumstances of the parties, the court may require one
8 party to pay spousal support to the other party for any period of time in accordance
9 with this section. The court may modify its spousal support orders.

10 2. Unless otherwise agreed to by the parties in writing, the court may order termination of
11 spousal support ~~is terminated~~ upon the remarriage of the spouse receiving support.
12 Immediately upon remarriage, the spouse receiving support shall provide notice of the
13 remarriage to the payor spouse at the last known address of the payor spouse.

14 ~~3. Unless otherwise agreed to by the parties in writing, upon an order of the court~~
15 ~~based upon clear and convincing evidence that the spouse receiving support has~~
16 ~~been habitually cohabiting with another individual in a relationship analogous to a~~
17 ~~marriage for five years or more, the court shall terminate spousal support.~~

18 ~~**SECTION 2. APPLICATION.** Subsection 2 of section 1 of this Act applies to any spousal~~
19 ~~support order, regardless of date of issuance, but applies only to spousal support payments~~
20 ~~accruing after the effective date of this Act. Subsection 3 of section 1 of this Act applies to any~~
21 ~~spousal support order, regardless of the date of issuance, but applies only to spousal support~~
22 ~~payments accruing after a court order for termination of spousal support.~~

#1-2
3/23/15

HB 1399 Supporting Testimony - Rep. Alex Looyen, D12

Good morning Mr. Chairman and members of the Judiciary committee. For the record my name is Alex Looyen, representative of district 12 in Jamestown, **HB1399** addresses a loophole in current divorce law. The concern was brought to me by a colleague who is aware of several individuals affected by this loophole. Presently, spousal support may be awarded for a number of years or for life. Frequently, it is to terminate upon the remarriage of the supported spouse. In my opinion, this is a significant disincentive to remarry. Although the supported spouse may have once again found love and someone to share the remainder of his or her life with, some choose to create a sham marriage in order to continue to receive the monthly support check. It is not uncommon for such a couple to wear the rings, present themselves as husband and wife, and to live in a single, shared residence. By doing this, they circumvent, and even mock the judge's intent. This loophole defrauds the court, incentivizes cohabitation rather than marriage, and is unjust for the supporting spouse.

Section I:

- **Subsection 1** is essentially unchanged.
- **Subsection 2** states that remarriage constitutes grounds for termination of support, and leaves in place any contractual arrangements by the parties, so this act will not supersede that contract. It also obligates the supported spouse to notify the court of remarriage.
- **Subsection 3** states that a supported spouse who is habitually cohabiting and in a relationship analogous to marriage for greater than five years is considered to have fulfilled the remarriage clause for the purpose of spousal support payments.

1-3
3/23/15
HB 1399

The burden of proof is on the supporting spouse to show "clear and convincing evidence".

The phrase "analogous to marriage" was chosen in order to avoid penalizing a supported spouse who is living with a friend or relative. The aim of the bill is to address the bad actors, not spouses who rely on support payments.

The definition of "analogous" is "corresponding in some particular", which makes it an appropriate word for this purpose. Other words could be "similar"- "having characteristics in common", "akin"- "having the same properties", or "resembling"- "to be like".

Section II is the application. This addresses any spousal support order, whether before or after this act, but only applies to payments made after the act. This is to prevent supporting spouses from trying to reclaim payments already made. As an example, a supported spouse may have been on support for 10 years, and has been remarried for 8 years. At this time the supporting spouse can request termination of further support payments, but cannot ask for the eight years worth of payments back. Likewise, if the supported spouse has been on support for 10 years, and entered into a cohabiting relationship analogous to marriage for the last 8 years, the supporting spouse can request termination of further support payments (assuming the burden of proof has been fulfilled), but cannot ask for the last three years worth of support payments back (the amount remaining after the established five years of cohabiting). Mr. Chairman and members of the committee, HB1399 is a simple bill that harms no one, it closes a loophole for defrauding the courts, addresses an inequity in current divorce law, and still protects people who legitimately rely on support payments. I ask you to give a Do Pass recommendation. I would stand for any questions.

1-1
3/31/15

PROPOSED AMENDMENTS TO HB 1399

(Sen. Hogue)

1 A BILL for an Act to amend and reenact section 14-05-24.1 of the North Dakota Century
2 Code, relating to the termination of spousal support to provide for a legislative
3 management study of spousal support.

4 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

5 ~~SECTION 1. AMENDMENT.~~ Section 14-05-24.1 of the North Dakota Century
6 Code is amended and reenacted as follows:

7 ~~14-05-24.1. Spousal support - Termination.~~

8 ~~1. Taking into consideration the circumstances of the parties, the court may~~
9 ~~require one party to pay spousal support to the other party for any period~~
10 ~~of time in accordance with this section. The court may modify its spousal~~
11 ~~support orders.~~

12 ~~2. Unless otherwise agreed to by the parties in writing, the court may order~~
13 ~~termination of spousal support upon the remarriage of the spouse~~
14 ~~receiving support. Immediately upon remarriage, the spouse receiving~~
15 ~~support shall provide notice of the remarriage to the payor spouse at the~~
16 ~~last known address of the payor spouse.~~

17 ~~SECTION 2. LEGISLATIVE MANAGEMENT STUDY - SPOUSAL SUPPORT.~~

18 During the 2015-16 interim, the legislative management shall study the types of
19 spousal support ordered by the district courts and the desirability of providing statutory
20 guidance for awards of spousal support. The legislative management shall report its
21 findings and recommendations, together with any legislation required to implement the
22 recommendations, to the sixty-fifth legislative assembly.

#1
HB 1399
4-21-15

15.0250.02000

Sixty-fourth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1399

Introduced by

Representatives Looyesen, Beadle, Brabandt, Dockter, Kading, Klemin, Maragos, Ruby,
Steiner

Senators Casper, Larsen

1 A BILL for an Act to amend and reenact section 14-05-24.1 of the North Dakota Century Code,
2 relating to the termination of spousal support; and to provide for application.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 14-05-24.1 of the North Dakota Century Code is
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6 **14-05-24.1. Spousal support - Termination.**

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8 party to pay spousal support to the other party for any period of time in accordance
9 with this section. The court may modify its spousal support orders.

10 2. Unless otherwise agreed to by the parties in writing, spousal support is terminated
11 upon the remarriage of the spouse receiving support. Immediately upon remarriage,
12 the spouse receiving support shall provide notice of the remarriage to the payor
13 spouse at the last known address of the payor spouse.

14 3. Unless otherwise agreed to by the parties in writing, upon an order of the court based
15 upon clear and convincing evidence that the spouse receiving support has been
16 habitually cohabiting with another individual in a relationship analogous to a marriage
17 for ^{three} five years or more, the court shall terminate spousal support.

18 **SECTION 2. APPLICATION.** Subsection 2 of section 1 of this Act applies to any spousal
19 support order, regardless of date of issuance, but applies only to spousal support payments
20 accruing after the effective date of this Act. Subsection 3 of section 1 of this Act applies to any
21 spousal support order, regardless of the date of issuance, but applies only to spousal support
22 payments accruing after a court order for termination of spousal support.

4. Subsection 2 and 3 of this section do not apply to spousal support
deemed rehabilitative support.

April 21, 2015

HFJ
HB 1399
4-22-15

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1399

That the Senate recede from its amendments as printed on page 1298 of the House Journal and page 1073 of the Senate Journal and that Engrossed House Bill No. 1399 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 14-05-24.1 of the North Dakota Century Code, relating to termination of spousal support; to provide for a legislative management study; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-05-24.1 of the North Dakota Century Code is amended and reenacted as follows:

14-05-24.1. Spousal support.

1. Taking into consideration the circumstances of the parties, the court may require one party to pay spousal support to the other party for any limited period of time in accordance with this section. The court may modify its spousal support orders.
2. Unless otherwise agreed to by the parties in writing, spousal support is terminated upon the remarriage of the spouse receiving support. Immediately upon remarriage, the spouse receiving support shall provide notice of the remarriage to the payor spouse at the last known address of the payor spouse.
3. Unless otherwise agreed to by the parties in writing, upon an order of the court based upon a preponderance of the evidence that the spouse receiving support has been habitually cohabiting with another individual in a relationship analogous to a marriage for one year or more, the court shall terminate spousal support.
4. Subsections 2 and 3 do not apply to rehabilitative spousal support.

SECTION 2. LEGISLATIVE MANAGEMENT STUDY - SPOUSAL SUPPORT.

During the 2015-16 interim, the legislative management shall consider studying the types of spousal support ordered by the district courts and the desirability of providing statutory guidance for awards of spousal support. The legislative management shall report its findings and recommendations, together with any proposed legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 3. APPLICATION. Subsection 2 of section 1 of this Act applies to any spousal support order, regardless of date of issuance, but applies only to spousal support payments accruing after the effective date of this Act. Subsection 3 of section 1 of this Act applies to any spousal support order, regardless of the date of issuance, but

applies only to spousal support payments accruing after a court order for termination of spousal support."

Renumber accordingly