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2003 HOUSE JUDICIARY

HB 1057

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1057

House Judiciary Committee

Conference Committee

Hearing Date 1-15-03

Tape Number	Side A	Side B	Meter #
1		xx	2.3-40 (tape broken)
Committee Clerk Signature <i>Al Penrose</i>			

Minutes: All members were present.

Chairman DeKrey: We will hear testimony on HB 1057.

Rep. Frank Wald: In favor of bill 1057 (see testimony). I would like to have Bryan Personne speak further on this bill.

Bryan Personne, JD, Director of Government Affairs, Southwest Area Human Resource

Association: In favor of HB 1057 (see testimony).

Rep. Delmore: Are there ND statistics that show need of this bill.

Mr. Personne: No specific stats are available - but it is still necessary.

Rep. Delmore: You said 9 states have adopted this type of bill.

Mr. Personne: Yes, this will act as a deterrent.

Rep. Eckre: What about free speech? What other interest do you have in this matter.

Mr. Personne: I have no other interest. We talked about it in our group.

Rep. Klein: The bill would apply to not just employee but for the company.

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House Judiciary Committee
Bill/Resolution Number HB 1057
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Mr. Personne: Yes.

Rep. Grande: What are the definitions of annoying? A single threat, employer held responsible if do not see the need.

Mr. Personne: The bill provides immunity for the employer, whether he decides to get a TRO or not.

Rep. Delmore: Should the language that is adopted, conform more to the domestic abuse language, would it read that way. Where did this language come from?

Mr. Personne: The language is from Arizona statute.

Rep. Delmore: Wouldn't this tie up a great deal of court time, we need to keep consistency.

Rep. Klemm: I would like to ask a question on sections on disorderly conduct restraining order, it only applies to the person or parent of minors?

Mr. Personne: The employer doesn't meet the definition of person - has no standing.

Rep. Klemm: Does the employer have to let the employee know he is filing it.

Mr. Personne: As its currently defined, it does not meet the definition of person.

Rep. Boehning: Wouldn't you bring a restraining order against that person.

Mr. Personne: If the person was terminated, the employer would have reasonable recourse.

Rep. Boehning: If fired, can he sue the employer.

Mr. Personne: Since in North Dakota, an employer can fire an employee for no cause, he would have no recourse to sue the employer for a restraining order.

Rep. Bernstein: This is expanding what we have now.

Mr. Personne: It would expand who has standing to bring restraining order on behalf of his employee.

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House Judiciary Committee
Bill/Resolution Number HB 1057
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Rep. Bernstein: Can't get now.

Mr. Personne: No.

Rep. Bernstein: He is forbidden to get a restraining order.

Rep. Maragos: Would have remedy - fire employee and get restraining order then.

Chairman DeKrey: Anyone else in favor or opposition to HB 1057.

Bonnie Palacheck, NDCAWS: I am opposed to the bill. Our issue is a concern about the third party getting a restraining order on behalf of someone else, need to develop work safety issues, don't have resources to do that, from being fired. Nationally, libraries are having problem with harassment of employees, the person is restrained, should a third party be able to get involved?

Chairman DeKrey: Thank you for appearing before our committee. We will now close the hearing.

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1057

House Judiciary Committee

Conference Committee

Hearing Date 1-20-03

Tape Number	Side A	Side B	Meter #
1		xx	3-6
Committee Clerk Signature <i>D. Penrose</i>			

Minutes: 12 members present, 1 absent (Rep. Maragos)

Chairman DeKrey: We'll look at HB 1057.

Rep. Grande: I move a Do Not Pass.

Rep. Delmore: Seconded.

Chairman DeKrey: Any discussion from the committee.

Rep. Delmore: I think there is a problem with the language. I just think it is a bad bill.

Chairman DeKrey: My concern is that when a situation requires a restraining order, it is already bad enough, but if you are scared of somebody, that you don't get the restraining order for yourself, how would you like to have your boss do it to you. That's what could happen.

Rep. Eckre: There are some serious free speech issues here. Is it really needed, liability?

Rep. Klemin: I think there are laws already in existence covering almost everything in this bill, except for the one instance of a boss getting a restraining order for an employee.

Rep. Bernstein: I don't really feel it expands much of anything.

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Hearing Date 1-20-03

Chairman DeKrey: Any further discussion? The clerk will call the vote.

11 YES 1 NO 1 ABSENT DO NOT PASS

CARRIER: Rep. Eckre

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