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2003 HOUSE JUDICIARY

HB 1072

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1072

House Judiciary Committee

Conference Committee

Hearing Date 1-15-03

Tape Number	Side A	Side B	Meter #
1		xx	40-end (tape broken)
2	xx		0-19
Committee Clerk Signature			

Minutes: 13 members present.

Chairman DeKrey: We will now hear testimony on HB 1072.

Judge Gail Hagerty: (see attached testimony) In support of the bill.

Rep. Delmore: Does it strengthen the orders?

Judge Hagerty: It is definitely strengthen the order by enforcing foreign orders.

Chairman DeKrey: Thank you for your testimony. Any other testimony in support of HB 1072.

John Olson, Peace Officers Association: In support of HB 1072.

James Vukelic, Chief Prosecutor - Standing Rock Sioux Tribe: In support of HB 1072 (see attached testimony).

Rep. Delmore: You say in your testimony about the due process, the procedures that Standing Rock follow, would all ND reservations be in the same place on this law.

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House Judiciary Committee
Bill/Resolution Number HB 1072
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Mr. Yukelic: I am only familiar with the two tribe court systems that I deal with, Standing Rock and Three Affiliated Tribes. I am familiar with the procedures they have to protection orders and they closely parallel state law. In terms of due process, you are entitled to a hearing and both of those courts do provide that to anybody who would be called the respondent at a protection order hearing. A respondent in a state court is entitled to a hearing before the court will issue a permanent order, meaning up to 1 or 2 years. That same provision is applicable in the two tribal courts with which I am familiar. I can't speak for Spirit Lake or the Turtle Mountain Tribe.

Rep. Klemin: To further respond to Rep. Delmore, the term state is defined in this act to include an Indian Tribe that has jurisdiction to issue protection orders, and to my knowledge, all of the tribes in ND are considered sovereign nations and have jurisdiction.

Mr. Yukelic: I agree with you.

Chairman DeKrey: Thank you for appearing before us. Anyone wishing to testify in support of HB 1072? Anyone wish to testify in opposition to HB 1072?

Bonnie Palachek, ND Council on Abused Women's Services: Opposed to HB 1072 (see attached testimony).

Rep. Klemin: Who has to be trained.

Ms. Palachek: The people working at the front lines, such as law enforcement officers.

Rep. Klemin: We heard that Mr. Olson, on behalf of the ND Peace Officers, support this, do you have something from the peace officers that say they don't because they would have to have training and they don't know where the money is going to come from, have you talked to them about that.

Ms. Palachek: No, I didn't anticipate that would be an issue.

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Rep. Kretschmar: Judge Hagerty stated that the Uniform Act that we are considering here, has been approved and introduced in South Dakota. You state that SD has a bill pending, is that the same bill or a different bill?

Ms. Palachek: I would imagine it is the same bill, I know the state has been working for a long time. Every state needs some kind of legislation that is consistent on some level. So I would assume, that even though I haven't seen the bill draft, that I recently talked with the SD Coalition and they didn't send me a copy of the bill, but I have gone through it step-by-step with them.

Chairman DeKrey: Thank you for appearing before our committee. Anyone else wishing to testify in opposition to HB 1072. Judge Hagerty, do you have any further comments that you would like to make on this bill.

Judge Hagerty: I would like to make some written responses. I will get that to you.

Chairman DeKrey: Thank you. We are adjourned.

Yalosta Rickford
Operator's Signature

10/2/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1072

House Judiciary Committee

Conference Committee

Hearing Date 2-17-03

Tape Number	Side A	Side B	Meter #
1	xx		43.7-end
1		XX	0-10
Committee Clerk Signature <i>M. Penrose</i>			

Minutes: 13 members present.

Chairman DeKrey: We will reopen the hearing on HB 1072.

Judge Gall Hagerty: The current ND law is not better than the proposed changes in HB 1072.

ND law is good, but could be better, need uniform laws. This will give the courts better direction in how to handle mutual protection orders, etc. There are a couple of amendments that need to be made that I submitted in January. I think there should be a provision that says "If a foreign order is registered, the clerk of district court shall transmit a copy of the order to the appropriate local law enforcement agency" and the penalty provision needs to be amended so that the violation would be a class C felony. The peace officers support this legislation, the Bar Association supports the legislation. It is an area where we need uniform law.

Rep. Delmore: How many states have adopted this?

Judge Hagerty: It's been introduced in several states, I think 2 or 3 have adopted it, I think it is under consideration. It has been going through a lengthy process. The process involves drafting,

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having it read at two annual meetings of the Uniform Law Commission. Then it was submitted to the ABA and last week the ABA endorsed it. It is something where we might be one of the earlier states to adopt it, but I think it will have widespread adoption.

Rep. Delmore: We don't really know how effectively this has been used then.

Judge Hagerty: Right, but we do know that it answers a lot of questions that our current law doesn't. We do know that there are various areas where a judge wouldn't have any direction. This was drafted with the Justice Institute and with the Justice Department, they have been involved in the drafting process as it has been going on.

Rep. Delmore: Why is the definition in here better than the suggested amendment.

Judge Hagerty: Since it was just handed to me, I don't know. The definition has been worked on and debated over a period of years, and I believe that the definition in the proposed legislation is inclusive, and work has been done on this particularly, we can't include criminal orders. I just think if you are going to adopt the Uniform law and not adopt the uniform definition, you don't have uniform laws.

Rep. Delmore: We also talked about when this first came about our reservations. What does this bill really do to help us do a better job on the reservations in North Dakota.

Judge Hagerty: I think you got some information that current law didn't deal with those orders, and that wasn't correct. Current law does allow enforcement, but there is definitely a real lack of training and knowledge about that. If we have this, there will be training. Law enforcement officers will be trained, I'm told. This will include training in regard to tribal orders and I think that the fact that the law will continue to do training. This will give another opportunity for training on that issue.

