

ONE HUNDRED SIXTH LEGISLATURE - FIRST SESSION - 2019
COMMITTEE STATEMENT
LB532

Hearing Date: Friday February 22, 2019
Committee On: Judiciary
Introducer: Cavanaugh
One Liner: Change provisions relating to harassment protection orders, sexual assault protection orders, and domestic abuse protection orders

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye: 8 Senators Brandt, Chambers, DeBoer, Lathrop, Morfeld, Pansing Brooks, Slama, Wayne
Nay:
Absent:
Present Not Voting:

Oral Testimony:

Proponents:

Senator Machaela Cavanaugh
Robert Sanford
Lauren Ward
Eileen Reilly
Mark Bestul
Danielle Savington
Alexis Steele
Angie Lauritsen
Christon MacTaggart

Representing:

Introducer
Nebraska Coalition to End Sexual & Domestic Violence
Omaha/Douglas County Victim Assistance Unit
Women's Center for Advancement
Legal Aid of Nebraska
Nebraskans Against Gun Violence
Immigrant Legal Center
Survivors Rising
Women's Fund of Omaha

Opponents:

Tim Hruza
Gregory Lauby

Representing:

Nebraska State Bar Association
self

Neutral:

Representing:

Summary of purpose and/or changes:

Current Nebraska law authorizes three different types of protection orders: harassment protection orders, sexual assault protection orders, and domestic abuse protection orders. LB532 would make procedural changes to each type of protection order.

Section 1 would amend several provisions related to harassment protection orders in Sec. 28-311.09. Subsection (1) would be amended to require the order to specifically name the petitioner to whom relief is granted. Subsection (2) would be amended to allow the petitioner to provide approximate dates of alleged harassment and would require the petition to include the most recent and most severe acts of harassment. Subsection (4) would state explicitly that a petitioner cannot be charged with violating a protection order. Subsection (6) would be amended to add to the clerk of the district court's existing responsibility to provide standard affidavit forms by enumerating specific information to be

requested.

Section 1 would amend subsection (7) to change the procedure following the court's decision on whether or not to issue an ex parte protection order. The bill would require a court to set the petition for hearing if an ex parte order is not issued and would prohibit the court from dismissing a petition without a hearing. This subsection would also be amended to require the court to admit the petition and affidavit into evidence unless the respondent properly objects. Subsection (8) would be amended to add a new subsection to provide that a temporary ex parte harassment order would become a final order if the respondent fails to request or appear for a hearing. This section would also add a new subsection (11) to Sec. 28-311.09 that would require courts to make confidential victim information available to criminal justice agencies engaged in protection order enforcement efforts.

Section 2 of LB532 would amend Sec. 28-311.11 to make many of the same changes in Section 1 to the procedures for sexual assault protection orders. In addition, this section would amend subsection (4) to clarify that violating a sexual assault protection order is a Class I misdemeanor and any subsequent violation is a Class IV felony. This subsection would also create a new subsection (8) that would allow a court to treat a petition for a sexual assault protection order as a petition for a harassment or domestic abuse protection order if the facts show a different type of protection order would be more appropriate.

Section 2 would also amend the subsection related to the renewal of a sexual assault protection order. Current law requires the petition for renewal to be filed at least 45 days before the current order expires. This subsection would be amended such that a petition for renewal could not be filed until the current order is within 45 days of expiration. This subsection would also be amended to allow the petition for renewal to assert that there has been no material change in relevant circumstances.

Sections 3, 4, 5, and 6 would make many of the same changes in Sections 1 and 2 to the process for domestic abuse protection orders. Section 3 would amend Sec. 42-924 to include the requirements for petitions and orders and the process for renewing a protection order.

Section 4 would amend Sec. 42-924.02 to include the requirements for affidavit forms.

Section 5 would amend Sec. 42-925 to include the provisions related to temporary ex parte orders becoming final and treating a petition for a domestic abuse protection order as a petition for a harassment or sexual assault protection order if the facts show such order would be more appropriate.

Section 6 would amend Sec. 42-926 to include the provisions related to courts sharing victim information with criminal justice agencies for enforcement purposes.

Section 7 would provide an operative date for LB532 of January 1, 2020.

Explanation of amendments:

AM674 replaces the original bill. The most significant change is that the requirement for a hearing on harassment protection orders is removed.

The amendment clarifies that petitions that are dismissed without hearing are to be dismissed without prejudice and that petitions and affidavits are admitted into evidence at show-cause hearings.

Steve Lathrop, Chairperson