Minnesota Coalition for Battered Women

2012 Legislative Session Summary

MCBW’s Legislative Priorities

MCBW’s Legislative Priorities for the State Legislative Session were:
1. Make changes to the Domestic Abuse No Contact Order statute to reduce confusion and problems while waiting for the MN appellate courts to rule on the constitutionality of the statute.
2. Make changes to the Harassment Restraining Order statute to assist with HRO prosecution efforts.
3. Oppose the presumption of Joint Physical Custody

H.F. 2491/S.F. 2134 Domestic Abuse No Contact Order
- The proposed bill was to clarify that a domestic abuse no contact order (DANCO) is a criminal order (to distinguish it from similar civil orders). It also removed language that required a DANCO be issued in a “proceeding separate from a pretrial release or sentencing proceeding”.
- Despite no opposition to the bill, it did not make it through the legislative process. In the House: the bill passed out of committee but was never heard on the House Floor. In the Senate: no action was taken. Bill did not pass.

H.F. 738/S.F. 1000 Harassment Restraining Orders
- The amendment allows a person who commits HRO violations in two or more counties to be prosecuted on all violations in any county where one of the acts occurred. A violation of an HRO based on electronic communications (e.g. text messages) can be prosecuted where the actor or victim resides, or in the jurisdiction of the victim’s designated address in the “Safe at Home” program. Previously it would need to be determined from where the electronic communication was sent or where it was received. (This is the same language in the Stalking bill that was passed in 2010.)
- The bill passed both the House & Senate and Governor Dayton signed the bill into law.
- Effective date: August 1, 2012.

H.F. 322/S.F. 1402 Presumption of Joint Physical Custody
- There was a lot of discussion in and out of committee hearings on the presumption of joint physical custody bills. The House initially passed a presumption of joint physical custody bill that made parents’ right of access to the children the primary consideration in custody and parenting time cases. The bill made it very difficult to overcome the presumption and essentially replaced the best interest of children standard with a standard of equal parent access. Through the Senate committee process the bill was dramatically altered. The bill that ultimately passed both the House and the Senate changed the 25% minimum parenting time to 35% parenting time.
  o MCBW, along with many other organizations, opposed all of the custody bills as each represented a move away from the best interest of the children.
  o Governor Dayton did a “pocket veto” of the bill. A pocket veto happens when a bill awaits the Governor’s signature after the session has ended. If the Governor does nothing, it is a “pocket veto”. Governor Dayton did not sign or veto the bill, rather he
let the time to sign/veto expire and it was then an automatic veto. Governor Dayton did issue a letter explaining why he was not signing the bill.

- No bill passed. No changes to the custody standards.

**Additional Legislation of Interest**

**Bills that Passed:**

**H.F. 469/S.F. 574 Harassment Restraining Order**
- An application for a harassment restraining order may be filed in the county of residence of either party or in the county where the alleged harassment occurred. There are no residency requirements for filing a petition. The statute does not currently specify where a petition may be filed. The language in statute is vague on where a petitioner may file and this language provides clarity.
- The bill also expands the filing fee waiver for certain restraining order petitions. Current law provides that the filing fee is waived if the petition alleges acts that would constitute criminal sexual conduct or a gross misdemeanor or felony level stalking crime. This section expands the list to include petitions alleging second or subsequent stalking violations or conduct constituting a pattern of stalking. (The civil filing fee is $310.)
- The bill passed both the House & Senate. Governor Mark Dayton signed the bill into law. MN Coalition Against Sexual Assault was promoting this legislation.
- The law change goes into effect on August 1, 2012.

**H.F. 1899/S.F. 2297 Jacob’s Law**
- Requires one parent to notify the other parent when a child is a crime victim (unless the other parent is the perpetrator of the crime.) The bill addresses situations when there are protective orders in place between the parties or other reasons why a parent may not be able to communicate directly with the other parent. The requirement will be part of divorce decrees and custody orders issued in family court.
- The bill passed both the House and Senate without opposition and was signed into law. The Governor received quite a bit of media attention when he signed it into law. This bill was proposed by an individual. MCBW & MNCASA worked on the bill language.
- The law change goes into effect on July 1, 2012.

**H.F. 2149/SF 1657 Qualified Domestic Violence Related Offense**
- Modified the definition of a domestic violence-related offense to include female genital mutilation committed against a family member.
- The bill passed both the House & Senate and Governor Dayton signed it into law.
- The bill change goes into effect on August 1, 2012.

**H.R. 1829/S.F. 1648 Prosecutors and Guns**
- County attorneys and assistant county attorneys authorized to carry firearms while on duty and under the terms of a permit to carry.
- The bills were in response to the Cook County courthouse shooting.
- The bill passed both the House & Senate and the Governor signed it into law.
- Effective date: August 1, 2012.
H.F. 1752/S.F. 1463 Bonding Bill
- The 2012 Capital Investment bonding bill includes money for housing, a new facility for Tubman Center in Maplewood, construction work on college campuses, flood mitigation, renovating the State Capitol and economic development projects.
- The bonding bill was signed by Governor Dayton.

H.F. 1967/S.F. 1675 Health and Human Services Bill
- The Health and Human services bill modified children and family services provisions. The bill modified several provisions of MFIP.
- The bill restored 25 child care absent days for parents under 21 and attending high school. Anyone convicted of a drug felony in the past 10 years will be subject to mandatory random drug testing and will have benefits paid directly to the landlord or utility company. DHS will receive information on all MN drug convictions, canceled drivers licenses, and immunity changes to cross-check with MFIP caseloads.
- The bill passed both the House & Senate and was signed by Governor Dayton into law.

H.F. 2738/S.F. 1577 Voter I.D.
- A constitutional amendment that would require every voter to present a government-issued photographic identification (photo ID) passed the House and Senate and this proposed constitutional amendment will be on the November 2012 ballot.
- The MN Council of Nonprofits was organizing in opposition to the Voter ID bill. The MCBW Board voted to sin onto the MN Council of Nonprofits campaign opposing this bill.
- Governor Dayton vetoed the bill as a symbolic gesture but the bill will be on the November 2012 Election Ballot.

Constitutional Amendment on Marriage
- Last legislative session the House and Senate passed a constitutional amendment bill that would define a marriage as being between a man and a woman, essentially prohibiting gay men and lesbians to marry. Gay men and lesbians are not allowed to get married in Minnesota; this amendment would write that prohibition into the State Constitution.
- MCBW Board passed a resolution in 2006 to oppose any amendment to the Minnesota Constitution that prohibits marriage, civil unions and/or legal protections for same-sex couples.
- This marriage amendment will be on the November 2012 Election Ballot.

Proposed Legislation of Interest that Did NOT Pass

H.F. 358/S.F. 2433 Immigration Law Noncooperation Ordinances Prohibited
- The bill would have prohibited ordinances which restrict employees from reporting the immigration status of any person in Minnesota to federal officials. Meaning that state and city employees would be required to report immigration status of a person suspected of being an undocumented immigrant. In addition, the bill would have authorized private suits to compel any government entity to comply with reporting or enforcement laws or regulations.
- No action taken in the Senate. The House passed the bill out of committee to the House floor but no further action occurred.

H.F. 1953/S.F. 2285 Bullying Prohibited in School
- Bullying prohibited in public schools.
- No action taken in either the House or Senate.
H.F. 765/ S.F. 494 School Board Anti-bullying
- Harassment, bullying, intimidation, and violence policies provided.
- No action taken.

H.F. 1665/S.F. 2057 Crimes of Violence
- Fifth degree assault and domestic assault provisions added to crime of violence.
- No action taken in either body of the Legislature.

H.F. 2962/S.F. 1966 Two-Year Waiting Period for Contested Dissolutions Involving Minor Children
- The bill would require a two-year waiting period before a court may grant a divorce. This waiting period would apply if the dissolution is contested and there is a minor child in the household. The court would only be able to waive the two-year waiting period if it found that adultery occurred, domestic violence was present, failure by one of the parties to comply with chemical dependency treatment, or desertion by one of the parties for two or more years.
- No action taken.

H.F. 2531/S.F. 2244 Parenting Plan Mediation Requirement
- The bill would require parties in a divorce with child custody issues to attend two hours of mediation to develop a parenting plan. The legislation exempts those who cannot pay for mediation, instances where a court finds that a parent has committed domestic abuse, or parents have already agreed upon a parenting plan. In addition, the bill would require parties to participate in mediation before participating in early neutral evaluation.
- Hearings were held in the House but no action was taken.

H.F. 1135/ S.F. 1161 Parent Education Classes or Marriage on the Brink
- The proposed bill required that anyone starting a family court matter involving children (divorce, custody but not OFPs) would have to complete a parent education class before being allowed to file paperwork with the court. The parent education class must provide information on “constructive parenting in the dissolution process,” information on alternative resolution processes like mediation, and information on reconciliation. The proposed legislation also allowed for on-line parent education classes that meet certain criteria. The only on-line curriculum currently meeting the standards is the “Children in the Middle” (now called “Children in Between”) curriculum that is a general parenting skills, communication curriculum that was developed in Ohio. The curriculum does not address risk and safety issues.
- The bill received a hearing in the Senate. MCBW testified in opposition to the bill and met with the bill authors and proponents to work on the bill language. The bill did not pass out of any committee and did not become law.

H.F. 2262 Background Checks on Hotel, Motel, & Battered Women’s Shelter Workers
- The proposed bill requires a background checks for employees and volunteers of shelters serving battered women and the homeless. This legislation is in response to constituent concerns and a news report concerning a motel owner who assaulted a family that was living in the motel and then was later found to have a record as a sex offender.
- MCBW participated in initial meetings on the bill. There were multiple concerns and issues from many different organizations that needed to be addressed before the bill could move forward. There were no hearings and ultimately no action was taken.
H.F. 1844/S.F. 1490 OFP Retaliation Bill
- Would make it a misdemeanor crime for a victim/petitioner protected by a DANCO or OFP to invite the abuser to her place of residence “with the intent of harassing or retaliating against the abusing party.” The mere act of making an invitation is enough to trigger the penalty, regardless of whether the petitioner/defendant actually ends up visiting the home and violating the order. It would punish women who invite an abuser to their home at the same level (misdemeanor) as abusers are punished for first violations of DANCOs and OFPs. It does not define “harassing or retaliating.”
- MCBW testified in opposition to this proposed bill. The bill was laid over which meant that no further action was taken. This proposal did not become law.

H.F. 1467/S.F. 1357 “Shoot First” Bill
- The proposed bill expands the circumstances in which a person would be justified in killing another person to include when feeling threatened, even if the fear is not reasonable or is alcohol-influenced, and even when the person could safely walk or drive away. Minnesota already allows homeowners to shoot intruders in their homes without having to retreat. The proposed changes would have included the right to shoot if some was in your car, boat, etc. The "Shoot First" bill goes further than Minnesota gun laws by: 1) Forcing Minnesota to recognize all out-of-state permits to carry guns -- no matter how weak or poorly executed the other states' permit laws; and, 2) Making Minnesota background checks/permits for gun purchases good for five years instead of one.
- The bill passed the House and Senate. Governor Dayton vetoed the bill.

H.F. 1879/S.F. 1783 Assault of Prosecutor
- The proposed bill would add enhanced penalties for causing the death or of assaulting a prosecutor while that person is engaged in their official duties. The bill adds “prosecuting attorney” to a list of protected occupations under the first-degree murder or assault and fourth-degree assault statutes.
- The bill passed the House and was referred to the Judiciary and Public Safety Committee on March 1, 2012. No further action.