

**2013 SENATE JUDICIARY**

**SB 2181**

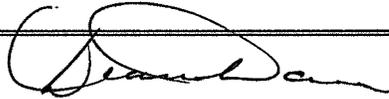
# 2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee  
Fort Lincoln Room, State Capitol

SB 2181  
1/22/2013  
Job #17503

Conference Committee

Committee Clerk Signature



**Minutes:**

*Attached testimony*

## Relating to supervision of defendants' for domestic violence offenses

### Senator David Hogue - Chairman

**Senator Armstrong** - Introduces the bill and explains its intent. He says this bill eliminates the one place in the Century Code where you cannot put someone on supervised probation for a Class B misdemeanor. He explains that he deals with many of these cases and did not know the section existed. He says there is a carved out exception in 12.1 1701 relating to second and subsequent offenses of domestic violence.

**Senator Sitte** - Gives a definition of a simple assault and wonders if it is okay the way it is.

**Senator Armstrong** - Explains simple assault and Class B misdemeanor.

**Senator Berry** - Asks if this is an unnecessary exception.

**Senator Armstrong** - Replies this is the only place in the Century Code that supervised probation is not an option. He said it can be gotten around if need be. By removing this you make domestic violence A misdemeanor's the same as every other A misdemeanor in the Century Code.

**Jackson Lofgren** - Morton County States Attorney - In support. He said this is a quirk in the law. He explains the genesis of the bill.

**Senator Berry** - Asks if the goal should be to have a stiffer penalty.

**Senator Armstrong** - Says there are other areas in the Century Code where repeat offences qualify you to move up to a different level of classification. He goes on to say this is an option for supervised probation they don't all go on supervised probation and very rarely spend a day in jail.

**Terry Traynor** - Association of Counties - In support, urge do pass

Janelle Moos - Executive Director of the CAWS ND - See written testimony.

**Barney Tomanek** - Probation and Parole Dept. - Says he doesn't understand why these were excluded and encourages a do pass.

Opposition - none

Neutral - none

Close the hearing

# 2013 SENATE STANDING COMMITTEE MINUTES

**Senate Judiciary Committee**  
Fort Lincoln Room, State Capitol

SB 2181  
1/22/2013  
Job #17540

Conference Committee

Committee Clerk Signature

**Minutes:**

Vote

**Senator David Hogue - Chairman**

## **Committee work**

Senator Grabinger motions a do pass  
Senator Berry seconded

### Discussion

Senator Sitte is concerned when situations get into the court system they can be escalated and with domestic violence or anything she understands it should be if it is a second offense.

Vote - 7 yes, 0 no

Senator Armstrong will carry

Date: 1/22/13  
 Roll Call Vote #: 1

**2013 SENATE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2181**

Senate JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By S. Grabinger Seconded By S. Berry

Senators	Yes	No	Senator	Yes	No
Chairman David Hogue	X		Senator Carolyn Nelson	X	
Vice Chairman Margaret Sitte	X		Senator John Grabinger	X	
Senator Stanley Lyson	X				
Senator Spencer Berry	X				
Senator Kelly Armstrong	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment S. Armstrong

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

**REPORT OF STANDING COMMITTEE**

**SB 2181: Judiciary Committee (Sen. Hogue, Chairman) recommends DO PASS**  
**(7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2181 was placed on the**  
**Eleventh order on the calendar.**

**2013 HOUSE JUDICIARY**

**SB 2181**

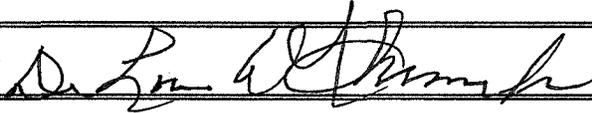
# 2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee  
Prairie Room, State Capitol

SB 2181  
March 25, 2013  
Job # 20405

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to supervision of defendants for domestic violence offenses.

## Minutes:

Testimony #1 - in the file

**Chairman K. Koppelman:** Opened the hearing on SB 2181.

**Senator J. Lee:** Introduced the bill. This bill was brought to you by the request of the Association of Counties. The department of corrections also supports this bill.

**Aaron Burst, Association of Counties:** We are here today to support SB 2181. It strikes out some old language that did not allow courts to put domestic violence offenders on supervised probation. Domestic violence offenders are some of our most difficult and potentially dangerous offenders. Why was this in here to begin with? This is an old statue that some state attorneys were fighting about years ago and the committee ultimately said domestic violence would not allow them to be on unsupervised probation so they stay in the city jurisdiction. That is not a problem anymore so we ask that this gets passed. The supervised probation for a misdemeanor is discretionary and it is not mandatory so this would just give the court the option to do so. My understanding is the Department of Corrections was not opposed to this.

**Rep. Delmore:** Do you know any numbers what this might add. I think the idea has merit. There are a lot of issues hopefully we can fix before the situation escalates and we end up with volatile situations that we don't want. Do you have any estimates?

**Aaron Burst:** We have asked the State Attorneys to try and give us some number. This could probably impact in the larger offices 20 to 30 cases a year. That is maybe statewide because this would be A misdemeanor. It is not the B misdemeanor domestic violence. When I asked that question it was not how many A misdemeanors domestic violence. It was how many do you think A misdemeanors' offenders you would want to put on supervised probation?

**Rep. Kretschmar:** Was there a fiscal note on this?

**Aaron Burst:** I thought originally they were coming in with a fiscal note, but I did not remember seeing it at the last hearing and there is not one with it. They could be saddled with some extra, but frankly the domestic violence offender would probably need a special type of supervised probation officer so there may be some extra costs. There will not be a fiscal note.

**Rep. Karls:** Could you give us an example of how this would work and who would get this.

**Aaron Burst:** Typically you would have a multi offender who continues to thumb their nose at the judicial system so as opposed to a straight time sentence on the A misdemeanor we would ask for supervised probation to keep of them better. It generally would not be for the first time offender. The benefit of supervised probation is because most unsupervised probation is on your honor and no one is following up to see if they are in treatment; or paying fines. This would have somebody calling and making sure they are going to their classes etc.

**Rep. Larson:** Do you think with this supervised probation they would be able to have people participate in the 24/7 or do some searches for drugs because I know with domestic violence that is a big issue.

**Aaron Burst:** Absolutely. When they are placed on supervised probation with the Department of Corrections the court goes through all their probation condition which is basically a standard Appendix A that DOCR provides. That would list everything that they have to do. Initially they would follow up with their probation officer to make sure on whatever time period they are continuing to follow those conditions.

**Chairman K. Koppelman:** How does this work now? If there is not supervised probation does that mean they don't get probation?

**Aaron Burst:** It would be unsupervised probation. It is just on domestic violence. All felonies provide probation. All misdemeanor s are discretionary probation and B Misdemeanors are unsupervised.

**Rep. Koppelman:** What was the turf issue before? Was it that the local folks did not want to do supervision and they want it to be a local issue, is that what I understand?

**Aaron Burst:** The two states attorneys that were in pursuit was a Cass County and Ward County state's attorney and there were questions before it was a misdemeanor domestic violence, but there was question about putting somebody one when that bill came through who would bear the cost? Whether the city would pay Department of Corrections so it was a screwy deal and it just passed that way.

**Jackson Loftgren, Assistant Morton County States Attorney:** It says if you are a habitual spouse beater it says we can't supervise you; but we can supervise everybody else. This fixes that. I think it is a benefit not only to the state to be able to monitor these people; it is also a benefit for the defendant. It gives the court another tool in the toolbox to say we can keep this person out of jail by having them monitored. I would urge a do pass.

**Rep. Koppelman:** Are first offenses B and is it the repeat offenses that get up to A or are there some offenses that are misdemeanors out of the box?

**Jackson Loftgren:** No first offense simple assault and domestic violence would just be a misdemeanor.

**Rep. Koppelman:** So this would be repeat offenders.

Opposition: None

Neutral: None

Hearing closed.

**Do Pass Moved by Rep. Delmore; Seconded by Rep. Larson**

Discussion: None

**Vote: 13 Yes 0 No 1 Absent Carrier: Rep. Larson**

Closed.

Date: 3-25-13  
 Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. SB 2181**

House Judiciary Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Delmore Seconded By Rep. Larson

Representatives	Yes	No	Representatives	Yes	No
Chairman Kim Koppelman	✓		Rep. Lois Delmore	✓	
Vice Chairman Lawrence Klemin	✓		Rep. Ben Hanson	✓	
Rep. Randy Boehning	✓		Rep. Kathy Hogan	✓	
Rep. Roger Brabandt	✓				
Rep. Karen Karls	✓				
Rep. William Kretschmar	✓				
Rep. Diane Larson	✓				
Rep. Andrew Maragos	✓				
Rep. Gary Paur	✓				
Rep. Vicky Steiner					
Rep. Nathan Toman	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Larson

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

**REPORT OF STANDING COMMITTEE**

**SB 2181: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends DO PASS**  
**(13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2181 was placed on the**  
**Fourteenth order on the calendar.**

**2013 TESTIMONY**

**SB 2181**

Testimony on SB 2081  
Senate Judiciary  
January 22, 2013

Chair Hogue and Members of the Committee,

My name is Janelle Moos and I am the Executive Director of the CAWS North Dakota. Our Coalition is a membership based organization that consists of 21 domestic violence and rape crisis centers that provide services to victims of domestic violence, sexual assault, and stalking in all 53 counties and the reservations in North Dakota. I'm speaking this morning on their behalf in support of SB 2181.

Last year over 4,800 victims received services from one of our centers. Ninety four (94) percent of the victims were female and seventy five (75) percent of those victims reported being physically abused.

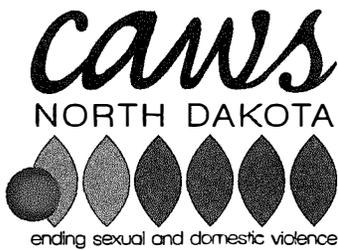
In domestic violence cases, risk of re-offense, violence and lethality are usually very high. Two separate studies conducted in 1991 by the American Probation and Parole Association noted that about 2/3 of state prisoners who were serving time for domestic violence had a prior conviction and in another study conducted in 1995 nearly 4 out of 5 inmates surveyed in local jails for domestic violence had previous criminal justice system involvement.

The primary goal of supervision in domestic violence cases is victim safety. The specific work of community based corrections or probation officers is to hold offenders accountable for the violence they have committed and intervening to change their behavior and thinking patterns. In order to achieve this it may require creative supervision strategies and swift response to violations of supervisory conditions.

If SB 2181 becomes law it will be essential that the Department of Corrections and probation officers: 1) ensure appropriate interaction with victims of domestic violence, more so than with other types of cases (theft or assault by strangers) in which involvement of victims may be minimal. Probation officers have to know who victims are and contact them regularly, including new partners if the probationer has moved on to a new relationship. 2) The probation officers must have an interest in domestic violence, pursued/received specialized training and developed expertise in supervising these offenders.

Domestic violence probationers can be intimidating, using tactics such as physical intimidation and threats to sue everyone. Specialized training and expertise in dealing with victims and offenders of domestic violence will ensure victims are kept safe and offenders are held accountable, therefore, I urge a do pass of SB ~~2056~~ 2181 and would stand for any questions the committee may have.

Thank you.



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Testimony on SB 2181  
House Judiciary  
March 25, 2013

Chair Koppleman and Members of the Committee,

My name is Janelle Moos and I am the Executive Director of the CAWS North Dakota. Our Coalition is a membership based organization that consists of 21 domestic violence and rape crisis centers that provide services to victims of domestic violence, sexual assault, and stalking in all 53 counties and the reservations in North Dakota. I'm speaking this morning on their behalf in support of SB 2181.

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Thank you.