

2013 SENATE JUDICIARY

SB 2257

2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

SB2257
1/28/2013
Job #17809

Conference Committee

Committee Clerk Signature



Minutes:

Attached testimony

Relating to post commitment procedures in cases of civil commitment of sexually dangerous individuals

Senator David Hogue - Chairman

Senator Dwight Cook - District 34 - Introduces the bill.

Brian Grosinger - Assistant Morton County State's Attorney - See written testimony

Senator Hogue - Asks him if this allows for release time to which Mr. Grosinger replies that it does.

Grosinger - Explains that it takes about 5 years to get through this program and it is rare for someone to show improvement in one year.

Senator Armstrong - Says his concern comes with year 5 through 8. He goes on to say that no one is probably initiating this on their own in year one because it is coming up anyway.

Grosinger - Adds, no one is kept in the program when it's appropriate for them to leave.

Senator Grabinger - Thinks if they have to wait 3 years for a hearing they may desire to participate in the treatment program because they are not getting a hearing for 3 years.

Grosinger - Replies that is logical but when dealing with these individuals logic rarely applies. The point he is trying to make is if we extend the period it is more likely they will work the program.

Alex Schweitzer - Superintendent of the State Hospital - He gives stats for people involved in treatment. He says they can petition whenever.

Senator Hogue - Asks him if he is comfortable with the 3 year.

Schweitzer - Replies that he is. He said this program takes a great deal of resources. He explains how the program works. There is discussion on how a petition is heard and by whom.

Jonathan Byers - Attorney General's Office - In support of the bill. He gives an example of a hearing he just attended. He talks of the overlap of cases and believes the folks are focused on battling their annual review instead of treatment.

Senator Hogue - Asks if these are high risk offenders.

Byers - Replies they are super high risk offenders.

Discussion continues on the burden this is on the counties budgets and that due process is still served.

Opposition - none

Neutral - none

Close the hearing

2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

SB2257
1/28/2013
Job #17849

Conference Committee

Committee Clerk Signature



Minutes:

Vote

Senator David Hogue - Chairman

Committee work

Senator Grabinger motions for a do pass
Senator Lyson seconded

Committee discussion

Senator Armstrong explains the problems he has had with these clients, and says they better have the state hospital on board because the prosecutor has every right to say no. He goes on to say that the practical aspect of this is that if you are within the 3 years you have to get both to agree. Senator Lyson believes the 3 years is good. Senator Grabinger said we have to remember this is high risk offenders and believes the treatment facility will want them out of there when the time is right. Senator Armstrong said ND's better than the national average. Senator Sitte said she had a little different take on it. She would like to see a compromise on maybe the first 3 years they can't petition but after the first 3 years they could petition every year. Senator Lyson comments they can already do that. Senator Armstrong relates that a year is too short because litigation is getting longer and longer.

Vote

7 yes, 0 no

Motion passes

Senator Lyson will carry

FISCAL NOTE
Requested by Legislative Council
01/21/2013

Bill/Resolution No.: SB 2257

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties	\$0	\$0	\$0
Cities	\$0	\$0	\$0
School Districts	\$0	\$0	\$0
Townships	\$0	\$0	\$0

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB 2257 permits mental evaluations for committed sex offenders to be done every 3 years instead of annually.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

SB 2257 does not have a fiscal impact because the language is permissive. The language in the bill does not prevent the evaluations from still being done more frequently than every three years. The courts could still direct the evaluations to be done annually or the committed individual could still request an evaluation more frequently than every three years.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*



Name: Paul R. Kramer

Agency: Department of Human Services

Telephone: 701-328-4608

Date Prepared: 01/25/2013



Date: 1/28/13
 Roll Call Vote #: 1

**2013 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2257**

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. Lyson

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 _____

Floor Assignment S. Lyson

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

REPORT OF STANDING COMMITTEE

SB 2257: Judiciary Committee (Sen. Hogue, Chairman) recommends DO PASS
(7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2257 was placed on the
Eleventh order on the calendar.

2013 HOUSE JUDICIARY

SB 2257

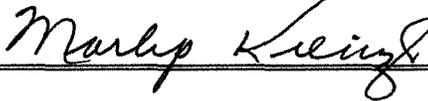
2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

SB 2257
March 20, 2013
Job # 20250

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to post commitment procedures in cases of civil commitment of sexually dangerous individuals.

Minutes:

Testimony 1,2,3

Chairman Kim Koppelman:

Brian Grosinger, States Attorney of Morton County: **Testimony #1**, see attached. (:53 to 6:30)

I would like to explain the purpose of the bill. There are three major steps in the commitment process of sexual dangerous individuals.

1. Original Commitment
2. Interim, which is the discharge procedure
3. Periodic review after the original commitment

This bill does nothing more than change this Periodic review from 1 year period to 3 year period.

My concerns are that we tend to find with the annual review process a situation of perpetual litigation. This year I have had several appeal on the previous year's review had not become final, when the new year's review process was being initiated. Because of the length of process the three years is a better process.

Another concern is for the budget of the State Hospital and budgets for my personal county. Each year there is an average of 42 hearings a year and an expert has to be hired for the defense on each of those.

I would like to address the performance of the State Hospital program. This program in North Dakota is much different from the State Hospital Program.

There are 21 individuals have been discharged from the program at the State Hospital, which was developed over 15 years ago. Of those offenders, 18 have not committed another crime. Two have committed another crime but the crimes where not of predatorily or sex related of nature. One was returned to the program.

Rep. Lois Delmore: I have a concern that you are taking a right away from being released, by making it period be 3 years.

Brian Grosinger: The concern is that they do not cooperate when they only have one year. The point is to get them through the treatment not give them rights that have little benefit.

Rep. Lois Delmore: They can't be released until this is done. So if they were able to complete in a year or 1 1/2 year I feel it should be done. Painting everyone with the same brush is very hard for me.

Brian Grosinger: I disagree with your interpretation, because there is the treatment staff and then there is the evaluation staff. These periodic reviews that are now annual reviews are conducted by an evaluation staff. The reason for that is the evaluation staff is objective and the treatment staff is subjective.

Vice Chairman Larry Klemin: At least once every three years, to me that means three years is the maximum and could be more frequently.

Brian Grosinger: I would agree.

Jim Sorneson, Attorney General's office: time on tape (12:13 to 13:18) We support the amendments to the statute for the same reasons that Brian Grosinger related to the committee.

Rep. Lois Delmore: What do surrounding states do? Do they do it every three years?

Jim Sorneson: I am sorry I don't have the answer but I can get that information for the committee.

Rep. Kathy Hogan: Do you think going from 1 to 2 rather than 1 to 3 would be more reasonable?

Jim Sorneson: We agree with the three years because the language says at least.

Alex Schwitzer Superintendent of the State of North Dakota State Hospital (14:21 to 16:30) **Statistic handout# 2** Schwitzer is neutral. Addressing Rep Delmore's concerns, I am here to talk about the treatment side and not necessarily the legal side. The treatment side, anytime anyone a person is progressing in the program, the Executive Director or the Designee or myself can ask the court for a full examination and a hearing to determine if the person is no longer sexually dangerous and discharged from the program.

Rep. Kathy Hogan: Could you get us some statistics on this program as to how many people you have served.

Birch Burdick, States Attorney of Cass County: I am in support of the bill for the same reasons articulated by previous testimony.

Rep. Kathy Hogan: Do you know in Cass County how many of these cases you deal with on annual bases?

Birch Burdick: I don't have those statistics but would be glad to provide them for you.

Chairman Koppelman: Testimony in Opposition or Neutral

Rep. Randy Boehning: I would like a little clarification on the fact that there are 66 individuals committed and there is an average of 42 hearing per year. What happened to the 14 others who were committed?

Brian Grosinger: They can request the review voluntary. The shortage is the ones who are not requesting a review.

Leslie Johnson Aldrich: **Testimony #3**, see attached. (22:50 to 26:34). I am here in opposition of SB 2257.

Vice Chairman Larry Klemin: Are you saying that these persons at this hearing do not have benefit of council?

Leslie Johnson Aldrich: Yes. Do get the benefit of council you must first petition. Unless you have a private attorney there is no one to bring you your petition. They do not have legal books or petitions there.

Vice Chairman Larry Klemin: I am looking at the language in Section 1, Sub section 4, Lines 4 and 5.

Leslie Johnson Aldrich: Yes that section is correct. Once you have filed the petition and it has been accepted by the court, then the court will try to find you a Public Defender. But you need to get that petition in, no one assist you in getting that petition in.

Vice Chairman Larry Klemin: The benefit of the protections afforded at the commitment proceeding, that it include the right to council.

Leslie Johnson Aldrich: There is a right to council at the hearing and after you have filed your petition.

Continue the hearing to after the floor session.

2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

SB # 2257
3/20/2013
Job # 20269

Conference Committee

Committee Clerk Signature

Marley Kinsgle

Explanation or reason for introduction of bill/resolution:

Relating to post commitment procedures in cases of civil commitment of sexually dangerous individuals.

Minutes:

"Attached testimony." 1-2,3,4,5

Chairman Kim Koppelman: Reopened the hearing and hear oppositions to SB 2257.

Dr. Stacey Benson Licensed Psychologist: (:29-3:20) Testimony #1 and 2

Jared Gietzen: Law Student in Grand Forks: (3:46 to 9:22) Handout #3 I am in opposition of the bill. There are three reasons this bills should go through: Cost to the state, burden on the state and over lapping of litigation. Civil Commitment is nothing short of locking someone up and throwing away the key, because it is difficult to get out. In regards to the cost factor, what is the cost to give someone the access to justice? It was stated that it cost about \$5,000 because that it was it costs for a state independent evaluator. I do not that is an acceptable reason as the cost on the state of North Dakota is approximately \$90,000 a year to keep that individual. There are less restrictive alternatives.

The overlapping of litigation could be address through an amendment in this bill as an alternative. Instead of setting a time frame of three years, why not state that you are unable to petition until the review is settled.

As far as the State Hospital not taking a position on this bill is not accurate. I do feel they do and would want the individuals kept in their facility and that they know more than District Court Judges.

Rep. Gary Paur: You suggest that an individual could not begin a review unless the previous review was completed. What if that would take over 3 years? Nothing defines the time frame for the review.

Jared Gietzen: Until you have an answer from the appellate court why would you want to start a new annual review?

Rep. Lois Delmore: Were you reading from an article, because I would like a copy of that?

Jared Gietzen: I do and I will

Rep. Kathy Hogan: Are you aware of any less restrictive alternatives that are currently available in North Dakota?

Jared Gietzen: Electronic monitoring is one that other states have implemented successfully.

Chairman Kim Koppelman: On home monitoring I suppose you can require some treatment procedure during that time. How would you protect the public and prevent reoffending?

Jared Gietzen: The civil commitment itself is not to be used as a punitive measure.

Luella Meshheim: (17:41- 22:05) Mother of an inmate in the sexually perpetrators program at North Dakota State Hospital for 7 years as it exists. I see this as a smoke screen for the issues of this program. She gave examples of unqualified people. There seems to be no accountability. Legal Council has been denied.

Rep. Kathy Hogan: Under the current process has your son participated in the annual review? Your concerns are that this would go to three years, is that correct?

Luella Meshheim: Yes.

Rep. Roger Brabandt: How long was the sentence of your son?

Luella Meshheim: He is there for civil commit, no sentence and he has a misdemeanor.

Cleo Albers, CNA, Former employee of North Dakota State Hospital: (25:35 to 29:44) Went into detail as to why she did not believe it is a true treatment center.

Mark Meshheim: (30:48 to 34:54) Father of an inmate in the sexually perpetrators program in North Dakota State Hospital: I would like to reiterate the lack of fortitude that has been shown at that institution and lack of professionalism care that these individuals received at that institution.

Alex Schweitzer: Handout #4 this handout was discussed in previous minutes also. Handout on the information requested by Rep. Hogan this morning and explained it.

Chairman Kim Koppelman: Can you walk through how one is committed?

Alex Schweitzer: Most of the people who are in the program have completed their prison sentence. It is up to the State Attorney to make the petition to the District Court to have somebody brought to the State Hospital for evaluation. Based on the evaluation of our evaluation, the states evaluation and an independent evaluator, these people are committed to the State Hospital. District Court makes the decision if these people meet the criteria for sexually dangerous in the law. Then there is the annual hearing, there is the option of the executive director of the department to petition the court for the sexual program. The treatment program is the States program. We have two obligations: these individuals are cared for and Community safety.

The treatment processes for these patients are: an evaluator who reviews these patients, than they are evaluated by an outside expert that we contract with. The program has recreational activities, we have visitation (we have rules for visitation as it is a secure unit which is under law). There are stages in the program to follow.

Vice Chairman Larry Klemin: Looking at this bill on page 1 line 11, each committed individual's mental condition at least once a year which now is being requested to every three year. Could you explain what type of examination is done to the individual mental condition consists of?

Alex Schweitzer: Not his expertise but the evaluations of the individual's current status if they are still a sexually dangerous person.

Vice Chairman Larry Klemin: That is the focus of this bill? And the timing is strictly at the discretion of the institution is that correct?

Alex Schweitzer: Yes

Vice Chairman Larry Klemin: Is the independent evaluation paid for by the state? Does the patient get to select who the evaluator is?

Alex Schweitzer: Yes it is. Yes they do. Many times the individual does not want an annual hearing.

Vice Chairman Larry Klemin: We have heard about lack of legal counsel to talk to the committed individual and very little time for the counsel to meet with that individual to prepare for the hearing. Do you have any comments about that?

Alex Schweitzer: I have investigated these concerns and that is inaccurate. There are facility rules as to when you can come to the facility. We have a policy that is send to all attorneys as to when they can see clients. We do not decline access to client from their attorneys.

Rep. Kathy Hogan: Are there any National Treatment Standards programs for those who are providing services to the sexually dangerous individuals? Who sets these standards and do you have a review process?

Alex Schweitzer: That is why we have the outside experts. Our staff is trained under some national standards. The program is credited by the Joint Commission. They review this program and the Hospital program. They review this every three years.

Alex Schweitzer: I have a Bachelor's Degree in Social Works and a Master Degree in Administration. I'm still the Superintendent of the hospital.

Chairman Kim Koppelman: Read from the Article from the Jamestown Sun for Alex to respond to.

Alex Schweitzer: Explained how it came about.

Chairman Kim Koppelman: Asked about the accuracy of what was presented during this hearing.

Alex Schweitzer: I am unable to discuss any specific case. I do not commit them to the program. We relied on an outside evaluator. Judges make the determination. In terms of the program, I do have concerns and I get letter of concerns of the program, which I follow-up and investigate these concerns. I invite anyone to visits with me about the program. As far as Minnesota, they have no discharges from their program.

As far as the accusations about an employee, all of his work was reevaluated by an outside expert from Wisconsin. We stand behind the work that was done in or facility.

Hand out from Dr. Troy Ertelt came after meeting.

Chairman Kim Koppelman: Closed the hearing.

2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

SB 2257
JOB # 20739
Date April 1, 2013

Conference Committee

Markus Kriegl

Explanation or reason for introduction of bill/resolution:

Relating to post commitment procedures in cases of civil commitment of sexually dangerous individuals.

Minutes:

[Empty box for minutes]

Chairman Kim Koppelman: Opens SB 2257 for committee action. This pertains to Committed sex offenders having a review every three years versus annually.

Rep. Vicky Steiner: I do have an amendment for this bill basically saying we would Hog House the bill and says it is a study because there was such conflicting testimony that day.

Chairman Kim Koppelman: we will work on this tomorrow.

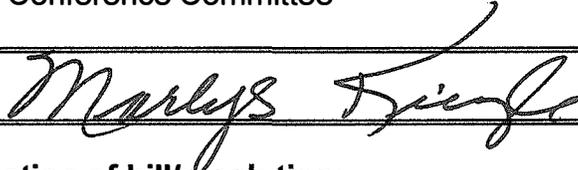
2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

SB # 2257
DATE: April 2, 2013
Job # 20761

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to post commitment procedures in cases of civil commitment of sexually dangerous individuals.

Minutes:

Hand out of purposed amendment

Chairman Kim Koppelman: Open SB 2257 for committee action.

Rep. Vicky Steiner: Handed out and explained a proposed amendment. Hog houses this bill. The bill was asking for the review to go from 1 year review to once every 3 years. The bill now is to have a study done. Vicky made a motion on the amendments.

Vice Chairman Larry Klemin: Second the motion.

Rep Paur and Rep. Randy Boehning: Both Representatives were disturbed by the public testimony.

Rep. Lois Delmore: I am not comfortable with 3 years and am in favor of the study.

Rep. Ben Hanson: I am concurring because the testimony was so troubling.

Rep. Kathy Hogan: One of things I found very interesting is that 21 of those that were discharged, seven of those were discharged based on the recommendations of the State Hospital and the other 14 were the court decision. So U am supporting this study.

Voice vote of the amendment Do Passed

Rep Lois Delmore: Made a motion of Do Pass as Amended.

Rep. Randy Boehning: Seconded the motion

Do Pass as amended Yes 14 No 0 absent 0 Carrier is Rep Steiner

FISCAL NOTE
Requested by Legislative Council
01/21/2013

Bill/Resolution No.: SB 2257

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

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Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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School Districts	\$0	\$0	\$0
Townships	\$0	\$0	\$0

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB 2257 permits mental evaluations for committed sex offenders to be done every 3 years instead of annually.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

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- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name: Paul R. Kramer

Agency: Department of Human Services

Telephone: 701-328-4608

Date Prepared: 01/25/2013

March 22, 2013

VK
4/2/13

PROPOSED AMENDMENTS TO SENATE BILL NO. 2257

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative management study of the state hospital's program for the evaluation and treatment of civilly committed sexually dangerous individuals."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - STATE HOSPITAL'S PROGRAM FOR CIVILLY COMMITTED SEXUALLY DANGEROUS INDIVIDUALS.

During the 2013-14 interim the legislative management shall consider studying the state hospital's program for the evaluation and treatment of civilly committed sexually dangerous individuals. The study must include a review of the program's history, progress, costs, policies and procedures, and the impact of the program on the families of individuals who are civilly committed to the program. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly."

Renumber accordingly

Date: 4-2-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2257

House Judiciary Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.0716.01001

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

Motion Made By Rep. Steiner Seconded By Rep. Klemin

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) _____ No _____

Absent _____

Floor Assignment _____

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

*Unice Vote Carried
to make a study*

Date: 4-2-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB2257

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 Delmore Seconded By Boehning

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) 14 No 0

Absent 0

Floor Assignment Rep. Steiner

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

REPORT OF STANDING COMMITTEE

SB 2257: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2257 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative management study of the state hospital's program for the evaluation and treatment of civilly committed sexually dangerous individuals.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - STATE HOSPITAL'S PROGRAM FOR CIVILLY COMMITTED SEXUALLY DANGEROUS INDIVIDUALS.

During the 2013-14 interim the legislative management shall consider studying the state hospital's program for the evaluation and treatment of civilly committed sexually dangerous individuals. The study must include a review of the program's history, progress, costs, policies and procedures, and the impact of the program on the families of individuals who are civilly committed to the program. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly."

Renumber accordingly

2013 CONFERENCE COMMITTEE

SB 2257

2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

SB2257
4/12/2013
Job #21140

Conference Committee

Committee Clerk Signature



Minutes:

Conference committee on SB2257

Senators - Sitte, Lyson, Nelson
Representatives - Steiner, Boehning, Hogan

Senator Sitte asks the House members to explain their changes to the bill. Rep. Steiner explains the change and believes by leaving it to one year it addresses their concern that they do not have enough information to make any changes. Rep. Hogan also believes this is a wonderful opportunity to look at this program. Senator Lyson states that it is his understanding that they are offered treatment as soon as they arrive and the treatment may take up to 18 months or more so he sees no purpose in doing it the first year. He goes on to say this does not stop the patient from requesting a hearing. Rep. Steiner says they would like to see this matter studied because they don't think the Senate had as much information as they had. Senator Lyson does not think it needs to be studied. Rep. Steiner says they had a lot of conflicting reports and have a responsibility to look at this for those people. The committee discusses more about studying the issue. Rep. Boehning says they heard a lot of testimony and they don't know what is true and not true, but feels they need to protect the patient's rights. Senator Lyson says no one is getting their rights taken from them since all they have to do is to request a hearing and they get one. The committee asks Mr. Alex Schweitzer, Director of the State Hospital up to answer a few questions. He states the patient does get a hearing upon request. Rep. Boehning asks him about the allegations.

Rep. Hogan moves the Senate accede to House amendments
Rep. Boehning seconded

Vote - 5 yes, 1 no
Motion passes

Conference committee adjourned

FISCAL NOTE
Requested by Legislative Council
01/21/2013

Bill/Resolution No.: SB 2257

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	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
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Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties	\$0	\$0	\$0
Cities	\$0	\$0	\$0
School Districts	\$0	\$0	\$0
Townships	\$0	\$0	\$0

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB 2257 permits mental evaluations for committed sex offenders to be done every 3 years instead of annually.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

SB 2257 does not have a fiscal impact because the language is permissive. The language in the bill does not prevent the evaluations from still being done more frequently than every three years. The courts could still direct the evaluations to be done annually or the committed individual could still request an evaluation more frequently than every three years.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name: Paul R. Kramer

Agency: Department of Human Services

Telephone: 701-328-4608

Date Prepared: 01/25/2013

Date 4-12-13

Roll Call Vote # 1

**2013 SENATE CONFERENCE COMMITTEE
ROLL CALL VOTES**

BILL/RESOLUTION NO. 2257 as (re) engrossed

Senate Judiciary Committee

- Action Taken
- SENATE accede to House Amendments
 - SENATE accede to House Amendments and further amend
 - HOUSE recede from House amendments
 - HOUSE recede from House amendments and amend as follows
 - Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Rep. Hogan Seconded by: Rep. Boehning

Senators	4/12		Yes	No	Representatives	4/12		Yes	No
<u>Sitte</u>	X		X		<u>Steiner</u>	X		X	
<u>Lyson</u>	X			X	<u>Boehning</u>	X		X	
<u>Nelson</u>	X		X		<u>Hogan</u>	X		X	
Total Senate Vote					Total Rep. Vote				

Vote Count Yes: 5 No: 1 Absent: 0

Senate Carrier Sitte House Carrier Steiner

LC Number _____ of amendment

LC Number _____ of engrossment

REPORT OF CONFERENCE COMMITTEE

SB 2257: Your conference committee (Sens. Sitte, Lyson, Nelson and Reps. Steiner, Boehning, Hogan) recommends that the **SENATE ACCEDE** to the House amendments as printed on SJ page 1096 and place SB 2257 on the Seventh order.

SB 2257 was placed on the Seventh order of business on the calendar.

2013 TESTIMONY

SB 2257

Senate Judiciary Committee
63rd Legislative Assembly
The Honorable Senator David Hogue, Chair

Testimony in Favor of Senate Bill 2257

I am Brian Grosinger. I have been a prosecutor in North Dakota since 1988 and have litigated Sexually Dangerous Individual (SDI) commitments since 1997. Senate Bill 2257 is intended solely to change the review period for individuals committed under NDCC Chapter 25-03.3 from one year to three years.

Under the current post commitment evaluation system, each committed person can opt for an annual review. This means a North Dakota State Hospital evaluator must compile an evaluation. The committed individual is entitled to court appointed counsel and an independent expert. An evidentiary hearing is held in District Court, followed by an appeal. At present I have observed cases where there is overlap, meaning the appeal is not final prior to the initiation of the new annual review.

Currently, there are 66 individuals committed under Chapter 25.03.3 at the NDSH. NDSH evaluators average 42 hearings per year. The fee allowed for independent evaluators is \$5000.00. NDSH has to prepare the evaluation and provide testimony for each hearing. Each prosecutor has to litigate the hearing at the District Court and follow up with the corresponding appeal. Individual County Sheriffs have to provide for the transport for the District Court hearings.

Senate Bill 2257 would reduce this burden by two-thirds.

My observation is this will not affect the rights of the previously committed individuals. Successful completion of the program can be expected to take five years for a cooperating participant. Yearly accomplishments seldom produce an argument that the individual is now safe to return to the community. My observation is that individuals not motivated to change or participate in the program, will exert limited effort while the matter is being litigated. Thus, perpetual litigation can hamper the treatment process.

Respectfully submitted,
Brian D. Grosinger - January 28, 2013

3-20-13 morning #1

House Judiciary Committee
North Dakota 63rd Legislative Assembly
The Honorable Representative Kim Koppelman, Chair

Testimony in Favor of Senate Bill 2257

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My observation is this will not affect the rights of the previously committed individuals. Successful completion of the program can be expected to take five years for a cooperating participant. My observation is that individuals not motivated to change or participate in the program, will exert limited effort while the matter is being litigated. Thus, perpetual litigation can hamper the treatment process.

Respectfully submitted,
Brian D. Grosinger - March 20, 2013

3-20-13 - A.M

Alex Schweitzer - #2

SB 2257

March 11, 2013

Statistics on Commitments of Sexually Dangerous Individuals
North Dakota State Hospital
1997 – 2013

# of SDI Evaluations Completed since 1997:	147
# of Sexually Dangerous Individuals committed since 1997:	85
#discharged after evaluation and not committed for treatment:	53
# currently residing at the North Dakota State Hospital:	66
# in current evaluation stage (included in the 66):	7
# in prison and attached to the Sexual Offender program:	6
# in county jail	1
# of Sexually Dangerous Individuals discharged since 1997:	21
# returned to prison (1-in state, 1-out of state):	2
# returned to NDSH	1
# reportedly doing okay in the community:	18
# recommended for discharge by State Hospital and released by court:	7
#released by the court:	14
#of individuals currently in outpatient treatment:	3

JOHNSON LAW OFFICE, P.C. #3



3/20/13 A.M

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(701) 234-0009
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ESLIE JOHNSON ALDRICH
Attorney at Law
Licensed in ND & MN

March 18, 2013

Legal Secretary: Bethany J. Menholt
Receptionist: Shelly R. Trefethren

RE: Sex Offender "Treatment" Program in the State of North Dakota

Dear Legislator's and Taxpayers of the State of North Dakota:

The sex offender treatment program at the North Dakota State Hospital ("NDSH") is a program with little-to-no regulation. The evaluation and treatment program for sexually dangerous individuals has operated at the NDSH since 1997. In the 15 years the program has been in existence, only 19 people have been released, most with the Court's intervention, most likely because some of them may not have fit the criteria to be committed, initially, but were civilly committed on premise.

The civil commitment of sex offenders has become a controversial matter. While communities need to be safe from predatory sex offenders, not all sex offenders are predators. Civil commitment should not be an across-the-board solution as to how to handle sex offenders when they have served their time and are released from incarceration. Community alternatives are present, but rarely used by the NDSH.

The NDSH is paid \$245 per day for each sex offender in their facility (\$89,253 annually). They currently house 60 patients in the sex offender program, for a total of \$5.3 million per year. Security is now the focus over treatment.

There is a catch-22 into which a sex offender is placed when he enters the North Dakota sex offender treatment program. To advance through the various "stages" of treatment, these individuals are expected to admit to certain behaviors - be it predatory behavior, kidnaping, etc. If the individual does not admit to said behaviors, they cannot advance in their treatment and may even be moved back to the beginning stages of treatment. If the individuals do admit to said behaviors, that admission is used against them by the State as an explanation of why they need to remain civilly committed for years and years.

If the sex offenders commit "violations," they are pushed back to the beginning stages of treatment, no matter how far they've advanced through the process. These "violations" include such transgressions as having two styrofoam cups in their room, having a piece of notebook paper in their room, or saving the apple from their lunch tray and having the audacity to eat that apple at 3:00 in the afternoon rather than at noon when it was provided to them. These "violations" are used against the sex offenders as "evidence" of their ineffectiveness at controlling their behavior.

The NDSH treats the sex offender residents worse than prison treats their inmates. After allegedly committing a "violation," one man was fed a bologna sandwich, three times each day, for 30 days, straight. On the Secure 1 Unit, residents have been deprived of food as a "treatment." The staff reads the resident's mail from their attorneys, based on an administrative decision, and make no bones about it, even though that act is in violation of attorney-client privilege. These civil injustices are done under the cloak of treatment, when in reality, many of the individuals who are civilly committed receive no treatment. Medical treatment is lacking, at best. The sex offender residents submit their requests to Security for determination as to whether or not they can see a doctor. One client of mine waited one year for a hip replacement after experiencing bone-on-bone problems. The parents of these individuals are treated shoddily and their complaints go unanswered.

Oftentimes the individuals on the sex offender unit of the NDSH will commit a crime so they can go to the penitentiary, as there is more certainty and more "freedoms" in the penitentiary. Some of the individuals who have been civilly committed have not even been criminally convicted of sex offenses, nor do they have psychological issues that are sexual in nature, yet they remain civilly committed for years.

The NDSH alleges "they" have released 19 people from the sex offender program due to successful completion of their treatment program. Documentation will indicate that this is not true. All but possibly one of the 19 individuals who have been released are either; A) someone who has died, or B) one of the 13 who have been released by the courts, against the State's opinion. For the most part, the sex offenders who are civilly committed have basically no chance of release, thereby making their civil commitment merely a mask of what becomes a life sentence for their previous criminal behavior. A United States District Court, District of Minnesota, has issued an order for an advisory task force to examine and provide legislative proposals on less restrictive alternatives to placement in secure treatment facilities for sex offenders for just this reason.

Although North Dakota's statutes allow for community placement, that allocation is not being used other than for a rare individual who has moved into the Community Transitional Center. It is believed only one of the 19 individuals who have been released from the North Dakota sex offender treatment program has been released by the State. It is this author's understanding that only once since the program's inception has the NDSH petitioned for release of a patient involved in the sex offender treatment program, and that petition involved an individual from Cass County, whose criminal record was quite lengthy. Some of the other individuals who remain in civil commitment have one (1) offense on their criminal record. It makes no sense.

A person does not even need to be convicted of a crime to be civilly committed to the North Dakota State Hospital. The State can petition to have any sex offender being released from the North Dakota State Penitentiary to be civilly committed to the NDSH. Once a person has been placed in the NDSH by civil commitment, they are committed there indefinitely, and possibly for the rest of their lives.

The psychologists hired by the State to evaluate sex offenders, and who determine whether or not these individuals should be/remain civilly committed, are not above reproach. Dr. Joseph Belanger, one of the psychologists on whose evaluation the State relied, was sentenced to seven (7) years in

federal prison after thousands of child pornography images were found on his computer. Another of the State's evaluators, who remains employed by the State as an evaluator of the civilly committed sex offenders, received a DUI while in a State vehicle on the way to testify at a sex offender's annual review hearing.

The State petitioned to civilly commit one man who had already been incarcerated in the North Dakota State Penitentiary for ten (10) years for a non-violent sexual crime. The individual had a low IQ and was considered a vulnerable adult with Special Ed Services. The State's psychologists (one of whom was Dr. Belanger) recommended the inmate be civilly committed and diagnosed him with Narcissistic Personality Disorder and impulsivity. The State failed to meet the criteria for civil commitment of this individual and he was released. Upon release, the individual underwent an evaluation by an independent psychologist and was diagnosed with Asperger's Syndrome! That case is one example of how fallible the diagnostic process can be and how civil commitment should not be the paramount answer to the question of how to handle sex offenders being released from prison.

The sex offender treatment program, from which no one is released unless there is court intervention, is a hideous violation of human rights. The actual amount of treatment or programming provided to the individuals is minimal. Some sex offenders receive as little as 3 ½ hours of treatment per week! There is no distinction made between sex offenders who committed crimes against children and sex offenders who committed crimes against adults. One program fits all. There is no distinction between sex offenders who act out sexually on a regular basis and those who have had no sexual acting out during their "treatment" at the NDSH.

One expert's recommendation is all that is needed for a person to be civilly committed. An individual is not entitled to a jury trial in regard to the State's petition to have them civilly committed. An individual is not even entitled to have the burden of proof established beyond a reasonable doubt. Even individuals who have been acquitted for their crimes have been committed civilly! And we, as taxpayers, foot the bill - over \$5,000,000 per year.

There is no fair play. For example, when preparing an individual's annual review, the evaluator for the State has access to all of the individual's records. The defense expert is often not allowed to review all of the person's records. The State expert is employed by the NDSH, so who better to determine whether or not an individual should remain civilly committed so that they may fund the very job which they hold? This is a prime example of the fox guarding the hen house.

At one time, two psychologists had to agree on an individual's diagnosis in order for that person to be or to remain civilly committed. Apparently, the State found two psychologists to be too costly, as now only one evaluator is used. One would think that after the NDSH's embarrassment with Dr. Belanger, two evaluators would be consulted at all times. Many of the sex offender residents are minorities. Law books and materials are not available to the residents and they can rarely afford to hire their own psychologists and/or attorneys. Court-appointed professionals are underpaid and overworked.

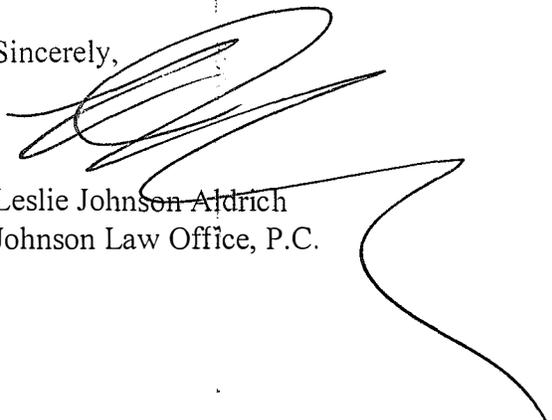
Recent headlines from the State of Texas indicated an individual who had been incarcerated for 30 years could have been up for parole if only he would have admitted to being a predator and had gone

through sexual predator treatment. That individual would not admit that he was a predator. It was later proven by DNA evidence that, in fact, that individual was not a predator.

Many of the sex offender treatment programs around the United States are bankrupting the States. Minnesota recently used its federal stimulus money to continue its civil commitment program of sexual predators. Some of the individuals who are civilly committed have, in fact, served all of their time in prison, but before they can be released, they are being civilly committed by the State. I cannot envision what it must cost the State to bring a civil commitment petition, to do the evaluation, and to provide a public defender for the sex offender, then to house that individual for years. The total cost must be staggering.

The civil commitment process continues to steam roll more individuals and to appropriate more money from the taxpayers. It is time you asked your legislators to question the North Dakota State Hospital about their sex offender "treatment" program.

Sincerely,



Leslie Johnson Aldrich
Johnson Law Office, P.C.

3-20-13

SB 2257

#1

①

Chairman Koppleman, & Ladies & Gentlemen of the
13rd Legislative Assembly.

My name is Dr. Stacy Benson. I have been a
licensed Clinical psychologist in the State of ND for
14 years. My area of clinical speciality has
been providing assessments of Sexual Offenders
to aid in the determination of their risk to
reoffend. I have been completing independent
evaluations on respondents Civilly Committed to
the NDSH Under Chapter 25-03.3 since 2004.

I had prepared a written statement. but in
the interest of time, & in response to earlier
testimony, I wish to limit my talk to a few
key points.

②

① many of the individuals come directly from prison, or a juvenile facility, where they may already have completed several years of treatment. In those cases, it does not seem unreasonable for a person to be ready for discharge with one additional year of treatment.

② Furthermore, the statute does not require them to complete the program, only that their risk be such that they can now safely be managed in the community. perhaps in outpatient treatment & this can be done before they complete the program

3

③ Testimony presented today informs us that 21 people have been released, & only one reappend.

Included in that 21 are individuals who have been let out, as a result of the very review process we are talking about today.

~~④ Bandoneon paragraph~~

With that we conclude my testimony - unless there are any questions

3-20-13 - P.M

2

House Judiciary Committee
63rd Legislative Assembly
Kim Koppleman, Chair

Testimony Against Senate Bill 2257

Ladies and Gentleman of the 63rd Legislative Assembly; my name is Dr. Stacey Benson. I have been a licensed clinical psychologist for 14 years, and have been completing independent examinations on respondents civilly committed at the North Dakota State Hospital under NDCC Chapter 25-03.3 since 2004.

Senate Bill 2257 would change the review period allowed to the individuals committed from once every year, to once every three years.

Testimony has been presented that successful completion of the program can be expected to take up to 5 years. It is important to note that some individuals are Civilly Committed directly from the NDSP, where they have already participated in, or in some cases, have completed the sex offender treatment program at the NDSP. In those cases, it does not seem unreasonable for a person to be ready to be discharged with one additional year of treatment.

The minutes also reflect that it has been stated that the NDSH has not had one person be let out by the courts following an annual review. That is not the case. I myself have been involved in cases where the respondent was let out following an annual review.

It has been stated that the process is burdensome, and certainly the process is expensive. However I would note that it costs an estimated \$86,344 per year for a resident to be placed at the state hospital in Secure Services. (This is based on 2010 information given by Alex Schweitzer and quoted in the Jamestown Sun, March 9th, 2010.) If an individual is released at an annual review hearing, it would seem it would save the state of North Dakota far more than it costs.

Finally, according to the 2012 annual survey done by the Sex Offender Civil Commitment Programs Network (SOCCPN) of the 16 states that have Civil Commitment laws, ND ranks 2nd highest for commitments per capita. I believe we can reduce the burden on the courts, and reduce the burden on the North Dakota tax payer, without compromising community safety or civil liberties if we instead look at passing legislation that makes changes to the current Civil Commitment law to ensure that only the most dangerous of offenders, with the highest likelihood to reoffend are committed. Otherwise, with keeping the criteria for these individual to get committed the same, but restricting the opportunities for these individuals to get out, I see the population of Civilly Committed individuals at the NDSH continuing to increase year after year, and the costs to house and treat them continuing to raise as well.

Respectfully submitted,

Dr. Stacey Benson-March 19th, 2013

Published March 09, 2010, 07:18 AM

Secure Services Unit released seven in 2009

Alex Schweitzer, superintendent of the North Dakota State Hospital, included an update on a program that treats sex offenders during in his regular report to the hospital governing board Monday. The State Hospital's Secure Services Unit, in existence since 1997, houses 65 individuals and has a capacity of 85 beds. Over the life of the program, 12 men have been released.

By: Keith Norman, The Jamestown Sun

Alex Schweitzer, superintendent of the North Dakota State Hospital, included an update on a program that treats sex offenders during in his regular report to the hospital governing board Monday.

The State Hospital's Secure Services Unit, in existence since 1997, houses 65 individuals and has a capacity of 85 beds. Over the life of the program, 12 men have been released.

"A lot of judges are looking at releasing these guys," Schweitzer said. "We try to get ahead of that."

Part of the process of preparing the sex offenders for eventual release involves transitional housing on the grounds of the State Hospital. Schweitzer said patients involved in the traditional housing program are allowed more freedom than when they were housed in the secure unit but their movements are monitored by GPS systems.

"We have a zero tolerance for any sort of infraction," Schweitzer said. "If they violate any of the rules about where they can be and what they can do, they're right back in the secure unit."

Of the 12 released from the State Hospital, seven were discharged in 2009. None of the patients released has been readmitted to the State Hospital but one committed a new offense and is currently incarcerated in California.

"Internally we always assumed there would be releases," said Kerry Wicks, executive director of the State Hospital's Chemical Dependency Services Unit. "Naturally, the treatment of sex offenders has changed over the years. We didn't release any during the first five years of the program."

Schweitzer said the costs of housing and treating a sex offender in the unit are \$86,344 per year. He said this was down from about \$130,000 per year early in the life of the program.

In other business, the board heard a list of suggested projects for the upcoming biannual budget. Schweitzer suggested replacing utilities in the employee's building, creating a centralized chapel and developing a plan for the 16 West building would all be considered when developing the next budget.

The board also reviewed plans for the upcoming 125th Anniversary Celebration for the State Hospital. The three-day event will begin on May 5 and include tours of the facility, social and musical events and an all-hospital picnic.

Sun reporter Keith Norman can be reached at (701) 952-8452 or by e-mail at knorman@jamestownsun.com

Tags: local news, north dakota, sex offenders, secure services, news, crime, jamestown

More from around the web

- What You May Not Know About Buffet Food (Lifescrpt.com)
- Drew Peterson Screams, Gets Prison In Wife's Death (National Memo)
- Review of the Best Kitchen Backsplash Photo Gallery (Interior Decor Experts)
- 10 Warning Signs of Alzheimer's Disease (Beliefnet.com)
- 25 Extremely Bizarre Laws That Don't Make Sense (ViewMixed)

Jared A. etzen

#3.

3-20-13

SB 2257

3/20/13 P M. #4

SB 2257

Statistics on Commitments of Sexually Dangerous Individuals
North Dakota State Hospital
1997 – 2013

# of SDI Evaluations Completed since 1997:	147
# of Sexually Dangerous Individuals committed since 1997:	88
#discharged after evaluation and not committed for treatment:	53
# currently residing at the North Dakota State Hospital:	66
# in current evaluation stage (included in the 66):	7
# in prison and attached to the Sexual Offender program:	6
# in county jail	1
# of Sexually Dangerous Individuals discharged since 1997:	21
# returned to prison (1–in state, 1–out of state):	2
# returned to NDSH	1
# reportedly doing okay in the community:	18
# recommended for discharge by State Hospital and released by court:	7
#released by the court:	14
#of individuals currently in outpatient treatment:	3

Notes:

147 - SDI evaluations

-53 – Discharged from evaluation status

-21 - Discharged after treatment phase

73 – Current population in program and definite leave status in jail

59 – currently committed

7 – In jail

21 – discharged

1 – returned to program

88 – committed since 1997

3-20-13

5

House Judiciary Committee
63rd Legislative Assembly
Kim Koppleman, Chair

RE: Senate Bill 2257

Position: Opposed

Ladies and Gentlemen of the 63rd Legislative Assembly, my name is Dr. Troy Ertelt, and I am a licensed psychologist in private practice in Grand Forks. Today, Senate Bill 2257, a bill that would extend the period of the civil commitment review for sexually dangerous individuals from one year to three years, is before you. I am strongly opposed to this legislation, and I urge you to consider the consequences of extending the period of civil commitment for these individuals given the lack of evidence that it would be useful to the civilly committed individuals, enhance public safety, or reduce expenditures.

I urge you to oppose this proposed legislation on the grounds that there is no scientific basis, not from psychology, medicine, or criminal justice, to support the assertion that treatment of these individuals requires five years, as previously stated when Senate Bill 2257 passed through the Senate. There has never been a single scientific study that has produced such a result. Every year, citizens of our state are released from the North Dakota State Hospital when, upon review of their civil commitment status, our district judges release them because they no longer meet criteria for civil commitment. As these individuals successfully progress through treatment, they fall below the threshold for civil commitment—a clear demonstration of treatment progress—and this has certainly been demonstrated to occur within the space of one year every time a psychologist or psychiatrist determines that that an individual no longer meets the civil commitment criteria and a judge agrees.

I urge you to oppose this legislation on the grounds that it is financially unsound. The price per patient per year for a civilly committed sexually dangerous individual at the North Dakota State Hospital is over \$86,000. The maximum allowable amount for an independent evaluation of an individual's treatment progress is \$5,000. This seems a small price to pay to ensure that the right people continue to receive treatment and that the right people are able to leave a mental health treatment setting in order to engage in the community as productive citizens while simultaneously saving the state \$86,000 per year.

I urge you to oppose this proposed legislation on the grounds that it is not consistent with the values of our state. Having worked in the mental health systems of other states, I am proud to say as a native of North Dakota and as a professional licensed for the practice of psychology in our state that our commitment to the mental health needs of our citizens is exceptionally strong. In an era in which health-care expenditures account for seventeen percent of our gross domestic product and we are frequently faced with concerns regarding how we will ration healthcare, we are in error to limit the review of those who are institutionalized in a mental health facility. In North Dakota, we value the rights of all of our citizens, from our youngest and most fragile to

those whose behavior has offended us and violated our laws, and support of this proposed legislation does not support the rights of these citizens.

I urge you, today, to consider these points when voting on Senate Bill 2257, and I urge you to oppose this legislation.

Respectfully Submitted,

Troy W. Ertelt, Ph.D.
Licensed Psychologist
Assessment and Therapy Associates of Grand Forks, PLLC
Co-Director, Behavioral Science Training
Altru Grand Forks Family Medicine Residency