

2015 HOUSE JUDICIARY

HB 1347

2015 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HB 1347
2/3/2015
23091

Subcommittee

Conference Committee

Committee Clerk Signature



.Explanation or reason for introduction of bill/resolution:

Relating to the inclusion of human trafficking in the definition of disorderly conduct and the definition of a deprived child.

Minutes:

Testimony 1,2,3

Chairman K. Koppelman: Opened the hearing with testimony in support.

Rep. Lisa Meier: (See testimony #1) (:24-1:42)

Jonathan Byers, Ass't Attorney General: Support (See testimony #2) I would answer the question that was asked in the previous testimony whether it seems like human trafficking would fit the definition of disorderly conduct. When I went to draft this bill we already have a structure in place for the issuance of protection orders for people who are engaged in a variety of conduct; stalking and other kinds of non-constitutional behavior and when I went through to already use the one in place I would have to add human trafficking or attempted human trafficking in a whole bunch of different places in the bill and it made more sense to add it to the definition of disorderly conduct so that we only place it in there once. That sets up the structure throughout the bill so we understand it includes human trafficking that may be going on. I want to make it clear this isn't disorderly conduct; that is a criminal offense so we are not equating human trafficking to disorderly conduct.

Rep. Brabandt: How does human trafficking and prostitution differ?

Jonathan Byers: I think they have some elements in each of them. There is a lot more corrosion involved. You are not seeing the behind the scenes business and that is what we think of as prostitution, but that maybe human trafficking.

Chairman K. Koppelman: There is other legislation pending this session on human trafficking that will deal with the criminal aspects of it?

Jonathan Byers: Yes there is both the Uniform Law and quite a few companion human trafficking bills that started in the Senate.

Chairman K. Koppelman: So this section of law is just about protection orders in general?

Jonathan Byers: It has two components: Making sure parents can get a protection order if they see this pimp or human trafficker starting to try soliciting their child. The second part is getting to the mentality of thinking of minor victims of human trafficking as not being criminal perpetrators, but minors that should be thinking of deprived children and under the protection of the juvenile code.

Rep. Mary Johnson: So this allows for the disorderly restraining order, but then violation of the disorderly violation is a Class A?

Jonathan Byers: I believe it is on the first offense and increases in penalty class for a second offense for a violation of that restraining order.

Rep. G. Paur: Initially you said this provides a structure for restraining protection orders? Where would you use the restraining?

Jonathan Byers: In different parts of the century code we actually use those different words. We call it a domestic violence protection order and in the disorderly conduct statute we use the word restraining order. They really mean the same thing.

Jack McDonald, President of the ND State Bar Association: The bar association does support this bill. It gets confusing about human trafficking because there are so many of them this session.

Christina Sambor, Coordinator, FUSE, ND Statewide Anti-trafficking Coalition: (See testimony #3) (11:00-14:00) the amendment in this bill would also make it available as a basis to determine parental rights. Here are a few stats I have gathered. Depending on the source research with commercial sex workers bears out that upwards of 98% involved in the commercial sex industry experience coercions that pushes them into the work. 60% of commercial sex workers report they are overly coerced by another person. 2% of the commercial sex workers are truly doing it because they want to. 75% of commercial sex workers have been raped. 80 or 90% say they want to get out of it if they had any other viable option. You have a seven year life span if you are working in this commercial sex. It is a violent enterprise and this gives parents and law enforcement and service provider's better tools to deal with human trafficking.

Rep. Lois Delmore: This would remove all minors from being in the prostitution statute?

Christina Sambor: There is another companion bill in the Senate side SB 2107 and also 12.1-29 but that amends that definition. Right now it says any individual and it would change it to any adult. The Safe Harbor provision of the uniform law which would repeal all the existing statutes and enact a whole separate human trafficking section of the code.

Rep. P. Anderson: Of the 98% in commercial sex industry how many are minors?

Christina Sanbor: Numbers are hard to quantify. It is estimated between 100,000 and 300,000 children are trafficked in the US every year. Kids are in need of services and intervention. They have had stings in Minot and Dickinson.

Rep. Lois Delmore: A minor is under age 18?

Chairman K. Koppelman: Where is a definition of victims of human trafficking?

Christina Sanbor: It is defined in current law. In the proposed uniform law SB2107 it is defined as someone that has been subjected either to labor trafficking or sexual servitude. Sexual servitude is further defined either as a minor who is participating in commercial sex under the facilitation of someone else or an adult who is being compelled or forced to participate in commercial sexual exploitation.

Rep. Mary Johnson: I am looking at 12.1-40 is the current human trafficking would repeal the entire chapter.

Christina Sanbor: That is why we want to move the uniform law moving forward because it defines within the sections that are very confusing now. The new proposed language would define the actions within that section so it cleans that up.

Rep. Mary Johnson: So this is labor and sex trafficking.

Chairman K. Koppelman: Now it seems like many of these people involved in this are victims; not criminals.

Christina Sanbor: Essentially currently the way our law is drafted there is no force, thought of cohesion requirement whether you are an adult or a minor. There are some states that have that standard. Basically you are prostituting someone even if they are a willing participant you can be classified as a human trafficking. Federal law when adults are identified as human trafficking victims requires the proof of force, fraud, or cohesion in obtaining their participation. It is uniform across federal or state laws that for minors we consider it rape. The uniform law would require force, fraud or cohesion for adults it narrow the definition of human trafficking for adult victims. We looked at companion legislation that to increase pimping penalties so if you can't prove someone a trafficker but they are pimping someone right now that is a misdemeanor offense so it would look at increasing the penalties for that to a felony level.

Chairman K. Koppelman: Is pimping involved in prostitution?

Christina Sanbor: Yes. Most people who engage in commercial sex are under pimp control.

Chairman K. Koppelman: If that force fraud or cohesion does then mean anyone engaged in prostitution by definition because that exists with pimps is a victim, not a criminal.

Christina Sanbor: It does not.

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Opposition: None

Neutral: None

Hearing closed

John Byers: Chapter 12.1-40 is repealed by the Uniform Law SB2106. The whole chapter and it is being replaced by 12.1-41.

Chairman K. Koppelman: So the reference to 12.1 would suffice.

Do Pass Motion Made by Rep. D. Larson: Rep. K. Hawken:

Roll Call Vote: 13 Yes 0 No 0 Absent Carrier: Rep. D. Larson:

**2015 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL NO. HB 1347**

House JUDICIARY Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations

Other Actions: Reconsider _____

Motion Made By Rep. D. Larson Seconded By Rep. K. Hawken

Representative	Yes	No	Representative	Yes	No
Chairman K. Koppelman	X		Rep. Pamela Anderson	X	
Vice Chairman Karls	X		Rep. Delmore	X	
Rep. Brabandt	X		Rep. K. Wallman	X	
Rep. Hawken	X				
Rep. Mary Johnson	X				
Rep. Klemin	X				
Rep. Kretschmar	X				
Rep. D. Larson	X				
Rep. Maragos	X				
Rep. Paur	X				

Total (Yes) 13 No 0

Absent 0

Floor Assignment: Rep. D. Larson:

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

REPORT OF STANDING COMMITTEE

HB 1347: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1347 was placed on the Eleventh order on the calendar.

2015 SENATE JUDICIARY

HB 1347

2015 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

HB 1347
3/18/2015
25056

- Subcommittee
 Conference Committee

Committee Clerk Signature

Openrose

Minutes:

1,2,3

Ch. Hogue: We will open the hearing on HB 1347.

Rep. Lisa Meier: Sponsor, support (attached #1).

Ch. Hogue: Thank you. Further testimony in support.

Ken Sorenson, Attorney General's Office: Support (read Jon Byers testimony, attached #2).

Sen. Nelson: We passed 2107; there is a section in here dealing with the same topic. Does this supersede it, replace it, is it one of these things that the last one passed is going to be the one it is.

Ken Sorenson: This is separate than the language that is in SB 2107. This is in addition to that bill.

Ch. Hogue: Thank you. Further testimony in support.

Janelle Moos, Exec. Dir., CAWS ND and FUSE: Support (see attached #3).

Ch. Hogue: Thank you. Further testimony in support. Testimony in opposition. Neutral testimony. We will close the hearing. What are the committee's wishes in regard to HB 1367?

Sen. Armstrong: I move a Do Pass.

Sen. Luick: Second the motion

6 YES 0 NO 0 ABSENT

DO PASS

CARRIER: Sen. Grabinger

Date: 3/18/15

Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTE

BILL/RESOLUTION NO. 1347

Senate JUDICIARY Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Sen. Armstrong Seconded By Sen. Luick

Senators	Yes	No	Senators	Yes	No
Chairman Hogue	✓		Sen. Grabinger	✓	
Sen. Armstrong	✓		Sen. C. Nelson	✓	
Sen. Casper	✓				
Sen. Luick	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Grabinger

REPORT OF STANDING COMMITTEE

HB 1347: Judiciary Committee (Sen. Hogue, Chairman) recommends DO PASS
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1347 was placed on the
Fourteenth order on the calendar.

2015 TESTIMONY

HB 1347

HB 1347

#1
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2-3-15
PJI

Thank you Mr. Chairman and members of the Judiciary committee.

For the record my name is Rep. Lisa Meier of District 32.

Human Trafficking has become a very serious situation in North Dakota and I appreciate being a part of this legislation.

This bill provides additional protections for minors, who have been coerced into human trafficking, by recognizing them as deprived children, entitled to the protections and resources of the juvenile court system.

In addition, the minor's status, as a deprived child, and trafficking victim, can be taken into consideration during a proceeding to determine whether the juvenile court should terminate parental rights.

Lastly, the bill adds human trafficking to the definition of disorderly conduct, enabling parents or guardians to seek a disorderly conduct restraining order on behalf of minors who may be the target of attempted trafficking activities.

I would appreciate a do pass Mr. Chairman and committee members.

Thank you.

HOUSE BILL 1347 TESTIMONY
HOUSE JUDICIARY COMMITTEE
February 3rd, 2015
PRAIRIE ROOM

#2
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pg 1

By Jonathan Byers, Assistant Attorney General

Mr. Chairman and Members of the Committee:

My name is Jonathan Byers and I appear on behalf of the Attorney General. I wish to testify in favor of House Bill 1347.

This companion bill draft to SB 2107 amends the prostitution statute to remove minors as perpetrators of the crime of prostitution. Minors who have been coerced into human trafficking are recognized as deprived children, entitled to the protections and resources of the juvenile court system.

In addition, the minor's status as a deprived child, and trafficking victim, can be taken into consideration during a proceeding to determine whether the juvenile court should terminate parental rights.

12.1-31.2-01 is amended to add human trafficking to the definition of disorderly conduct, enabling parents or guardians to seek a disorderly conduct restraining order on behalf of minors who may be the target of attempted trafficking activities.

The Attorney General asks for a do pass. I would be happy to answer any questions.

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2-3-15
Pg 1

Testimony before the House Judiciary Committee

HB 1347

February 3, 2015

Christina Sambor – Coordinator, FUSE – ND Statewide Anti-trafficking Coalition

My name is Christina Sambor, and I am the Coordinator of FUSE, the statewide anti-trafficking coalition in North Dakota. FUSE is a multidisciplinary coalition made up of direct service providers, advocacy organizations, state agencies, the faith community and law enforcement that seeks to build a coordinated, comprehensive response to sex trafficking in North Dakota.

FUSE has worked closely with the Attorney General’s Office and the US Attorney’s Office to conduct public awareness events, training for direct service providers and input on the legislation that is before you today. FUSE strongly supports the comprehensive package of bills moving through the North Dakota Legislature, which, if passed, would increase services and remedies available to victims, increase penalties on traffickers, and ensure that victims of human trafficking are treated as victims, not as criminals.

FUSE is here today to testify in support of HB 1347. Section 1 of HB 1347 would add “human trafficking” to the definition of disorderly conduct in 12.1-31.2-01. FUSE believes that this amendment would help make the civil remedy of a disorderly conduct restraining order more available to parents of minors who believe, and can prove to the court’s satisfaction, that someone is attempting to or is trafficking their child. Similar laws have been enacted in other states as part of a comprehensive approach to human trafficking. This gives parents a strong tool to intervene on behalf of children who are at risk of commercial sexual exploitation but may not be aware of or willing to recognize the danger they are in. Specifically including the offense of human trafficking will help keep that tool available to parents even if the child insists that they are choosing to participate in commercial sex willingly. Under current and proposed law, facilitating a minor’s participation in commercial sex is human trafficking, regardless of the minor’s seeming willingness to engage in the activity. This policy recognizes that children who engage in commercial sex are in need of protection, intervention and services. Similarly, this

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2-3-15

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amendment would strengthen parents' or legal guardians' ability to intervene on an exploited child's behalf, and would potentially attach criminal penalties if the restraining order is violated.

Section 2 adds victims of human trafficking to the definition of "deprived child." FUSE is strongly in support of the "Safe Harbor" concept, which is a major part of companion legislation, SB 2107, currently being considered by the Senate Judiciary committee. Safe Harbor would treat minors identified as trafficking victims as children in need of services, and would bar prosecution under the juvenile delinquency statute for prostitution and related offenses. It is FUSE's understanding that this section is intended to reflect the proposed Safe Harbor provisions by amending other related code sections to ensure that trafficking victims are given access to services, rather than subjected to punitive measures. FUSE strongly supports this policy and therefore supports the proposed amendment in Section 2 of HB 1347.

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3/18/15

Thank you Mr. Chairman and members of the Judiciary committee.

For the record my name is Rep. Lisa Meier of District 32.

Human Trafficking has become a very serious situation in North Dakota and I appreciate being a part of this legislation.

This bill provides additional protections for minors, who have been coerced into human trafficking, by recognizing them as deprived children, entitled to the protections and resources of the juvenile court system.

In addition, the minor's status, as a deprived child, and trafficking victim, can be taken into consideration during a proceeding to determine whether the juvenile court should terminate parental rights.

Lastly, the bill adds human trafficking to the definition of disorderly conduct, enabling parents or guardians to seek a disorderly conduct restraining order on behalf of minors who may be the target of attempted trafficking activities.

I would appreciate a do pass Mr. Chairman and committee members.

Thank you.

HOUSE BILL 1347 TESTIMONY
SENATE JUDICIARY COMMITTEE
March 18th, 2015
FORT LINCOLN ROOM

By Jonathan Byers, Assistant Attorney General

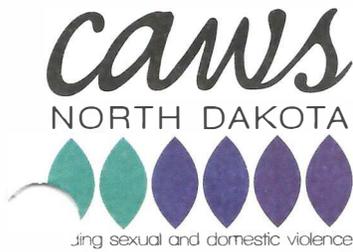
Mr. Chairman and Members of the Committee:

My name is Jonathan Byers and I appear on behalf of the Attorney General. I wish to testify in favor of House Bill 1347.

This companion bill draft to SB 2107, the uniform law committee human trafficking bill, amends the prostitution statute to remove minors as perpetrators of the crime of prostitution. Minors who have been coerced into human trafficking are recognized as deprived children, entitled to the protections and resources of the juvenile court system. In addition, the minor's status as a deprived child, and trafficking victim, can be taken into consideration during a proceeding to determine whether the juvenile court should terminate parental rights.

12.1-31.2-01 is amended to add human trafficking to the definition of disorderly conduct (for the purposes of this restraining order only), enabling parents or guardians to seek a disorderly conduct restraining order on behalf of minors who may be the target of attempted trafficking activities.

The Attorney General asks for a do pass. I would be happy to answer any questions.



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Testimony before the Senate Judiciary Committee

HB 1347

March 18, 2015

Janelle Moos, Executive Director, CAWS ND and founding member of FUSE – ND Statewide Anti-trafficking Coalition

Chairman Hogue and Members of the Committee:

My name is Janelle Moos, and I am the Executive Director of CAWS ND, the statewide coalition of domestic violence and sexual assault programs, and also a founding member of FUSE - the statewide anti-trafficking coalition in North Dakota. FUSE is a multidisciplinary coalition made up of direct service providers, advocacy organizations, state agencies, the faith community and law enforcement that seeks to build a coordinated, comprehensive response to sex trafficking in North Dakota.

FUSE has worked closely with the Attorney General's Office and the US Attorney's Office to conduct public awareness events, training for direct service providers and input on the legislation that is before you today. FUSE strongly supports the comprehensive package of bills moving through the North Dakota Legislature, which, if passed, would increase services and remedies available to victims, increase penalties on traffickers, and ensure that victims of human trafficking are treated as victims, not as criminals.

I am here today to testify on behalf of FUSE in support of HB 1347. Section 1 of HB 1347 would add "human trafficking" to the definition of disorderly conduct in 12.1-31.2-01. We believe that this amendment would help make the civil remedy of a disorderly conduct restraining order more available to parents of minors who believe, and can prove to the court's satisfaction, that someone is attempting to or is trafficking their child. Similar laws have been enacted in other states as part of a comprehensive approach to human trafficking. This gives parents a strong tool to intervene on behalf of children who are at risk of commercial sexual

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exploitation but may not be aware of or willing to recognize the danger they are in. Specifically including the offense of human trafficking will help keep that tool available to parents even if the child insists that they are choosing to participate in commercial sex willingly. Under current and proposed law, facilitating a minor's participation in commercial sex is human trafficking, regardless of the minor's seeming willingness to engage in the activity. This policy recognizes that children who engage in commercial sex are in need of protection, intervention and services. Similarly, this amendment would strengthen parents' or legal guardians' ability to intervene on an exploited child's behalf, and would potentially attach criminal penalties if the restraining order is violated.

Section 2 adds victims of human trafficking to the definition of "deprived child." FUSE is strongly in support of the "Safe Harbor" concept, which is a major part of companion legislation, SB 2107, currently being considered by the Senate Judiciary committee. Safe Harbor would treat minors identified as trafficking victims as children in need of services, and would bar prosecution under the juvenile delinquency statute for prostitution and related offenses. It is FUSE's understanding that this section is intended to reflect the proposed Safe Harbor provisions by amending other related code sections to ensure that trafficking victims are given access to services, rather than subjected to punitive measures. FUSE strongly supports this policy and therefore supports the proposed amendment in Section 2 of HB 1347.

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