

**FISCAL NOTE**  
**Requested by Legislative Council**  
**02/19/2015**

Amendment to: SB 2107

- 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.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$188,004		\$196,824	
Appropriations			\$188,004		\$196,824	

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

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

- 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).*

This bill relates to prevention of and remedies for human trafficking, repeals NDCC 12.1-40, expands definitions and creates five subsections with various felony levels, and allows grants or contracts with victim service organizations to benefit human trafficking victims.

- 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.*

The Department of Corrections and Rehabilitation (DOCR) indicated that the financial impact of this bill is difficult to estimate. The fiscal impact of this measure is dependent on the resulting change in the number of individuals being charged with and convicted of human trafficking. If the change is not substantial the DOCR will not experience a significant fiscal impact and vice versa. Due to the lack of historical data regarding the potential number of individuals this measure would apply to and other unknown factors, the DOCR can not estimate the fiscal impact of this measure as related to the cost of incarceration and supervision.

This bill provides that the Office of Attorney General may grant or contract with a unit of state or local government, tribal government or a nongovernmental victims service organization to develop or expand service programs for victims of human trafficking. No appropriation is provided in the bill for grants or staff to administer this program.

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.*

n/a

- 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.*

The DOCR indicated that additional estimated expenditures related to cost of incarceration and supervision, if any, are not determinable.

The grants amount to eligible entities is not reflected in this fiscal note. The \$188,004 noted above is the estimated salary, fringe and related operating costs of one FTE needed to administer the grant program.

- 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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

The DOCR indicated that additional estimated expenditures related to cost of incarceration and supervision, if any, are not determinable.

The grants amount to eligible entities is not reflected in this fiscal note. The \$188,004 noted above is the estimated salary, fringe and related operating costs of one FTE needed to administer the grant program.

**Name:** Kathy Roll

**Agency:** Office of Attorney General

**Telephone:** 701-328-3622

**Date Prepared:** 02/26/2015

**FISCAL NOTE**  
**Requested by Legislative Council**  
**02/19/2015**

Amendment to: SB 2107

- 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.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$188,004		\$196,824	
Appropriations			\$188,004		\$196,824	

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

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

- 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).*

This bill relates to prevention of and remedies for human trafficking, repeals NDCC 12.1-40, expands definitions and creates five subsections with various felony levels, and allows grants or contracts with victim service organizations to benefit human trafficking victims.

- 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.*

The Department of Corrections and Rehabilitation (DOCR) indicated that the financial impact of this bill is difficult to estimate. The fiscal impact of this measure is dependent on the resulting change in the number of individuals being charged with and convicted of human trafficking. If the change is not substantial the DOCR will not experience a significant fiscal impact and vice versa. Due to the lack of historical data regarding the potential number of individuals this measure would apply to and other unknown factors, the DOCR can not estimate the fiscal impact of this measure as related to the cost of incarceration and supervision.

This bill provides that the Office of Attorney General may grant or contract with a unit of state or local government, tribal government or a nongovernmental victims service organization to develop or expand service programs for victims of human trafficking. No appropriation is provided in the bill for grants or staff to administer this program.

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.*

n/a

- 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.*

The DOCR indicated that additional estimated expenditures related to cost of incarceration and supervision, if any, are not determinable.

The grants amount to eligible entities is not reflected in this fiscal note. The \$188,004 noted above is the estimated salary, fringe and related operating costs of one FTE needed to administer the grant program.

- 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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

The DOCR indicated that additional estimated expenditures related to cost of incarceration and supervision, if any, are not determinable.

The grants amount to eligible entities is not reflected in this fiscal note. The \$188,004 noted above is the estimated salary, fringe and related operating costs of one FTE needed to administer the grant program.

**Name:** Kathy Roll

**Agency:** Office of Attorney General

**Telephone:** 701-328-3622

**Date Prepared:** 02/26/2015

**FISCAL NOTE**  
**Requested by Legislative Council**  
**12/22/2014**

Amendment to: SB 2107

- 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.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$120,000		\$120,000	
Appropriations			\$120,000		\$120,000	

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

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

- 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).*

Measure relates to prevention of and remedies for human trafficking, repeals NDCC 12.1-40, expands definitions and creates five subsections with various felony levels, allows the DOCR to grant or contract with victim service organizations to benefit human trafficking victims.

- 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.*

The financial impact of this measure is difficult to estimate. The fiscal impact of this measure is dependent on the resulting change in the number of individuals being charged with and convicted of human trafficking. If the change is not substantial the DOCR will not experience a significant fiscal impact and vice versa. Due to the lack of historical data regarding the potential number of individuals this measure would apply to and other unknown factors, the DOCR can not estimate the fiscal impact of this measure as related to the cost of incarceration and supervision.

This measure makes reference to the DOCR administering a human trafficking victim service grant program, however does not provide for an appropriation to implement such a program. If such a program is funded the DOCR would require one additional FTE to provide necessary administration of grant program. The estimated biennial cost of such an FTE is \$120,000. The cost of the grants provided to eligible entities is not reflected in this fiscal note.

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.*

n/a

- 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.*

Additional estimated expenditures related to cost of incarceration and supervision, if any, are not determinable.

The cost of grants provided to eligible entities is not reflected in this fiscal note. The \$120,000 noted above is the estimated salary, fringe and related operating costs of one FTE needed to administer the referenced grant program.

- 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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Additional estimated appropriation related to cost of incarceration and supervision, if any, are not determinable.

The appropriation necessary to provide eligible entities with funding is not reflected in this fiscal note. the \$120,000 appropriation noted above is the estimated salary, fringe, and related operating costs of one FTE needed to administer the referenced grant program.

**Name:** Dave Krabbenhoft

**Agency:** DOCR

**Telephone:** 328-6135

**Date Prepared:** 01/02/2015

**FISCAL NOTE**  
**Requested by Legislative Council**  
**12/22/2014**

Bill/Resolution No.: SB 2107

- 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.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$120,000		\$120,000	
Appropriations			\$120,000		\$120,000	

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

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

- 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).*

Measure relates to prevention of and remedies for human trafficking, repeals NDCC 12.1-40, expands definitions and creates five subsections with various felony levels, allows the DOCR to grant or contract with victim service organizations to benefit human trafficking victims.

- 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.*

The financial impact of this measure is difficult to estimate. The fiscal impact of this measure is dependent on the resulting change in the number of individuals being charged with and convicted of human trafficking. If the change is not substantial the DOCR will not experience a significant fiscal impact and vice versa. Due to the lack of historical data regarding the potential number of individuals this measure would apply to and other unknown factors, the DOCR can not estimate the fiscal impact of this measure as related to the cost of incarceration and supervision.

This measure makes reference to the DOCR administering a human trafficking victim service grant program, however does not provide for an appropriation to implement such a program. If such a program is funded the DOCR would require one additional FTE to provide necessary administration of grant program. The estimated biennial cost of such an FTE is \$120,000. The cost of the grants provided to eligible entities is not reflected in this fiscal note.

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.*

n/a

- 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.*

Additional estimated expenditures related to cost of incarceration and supervision, if any, are not determinable.

The cost of grants provided to eligible entities is not reflected in this fiscal note. The \$120,000 noted above is the estimated salary, fringe and related operating costs of one FTE needed to administer the referenced grant program.

- 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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Additional estimated appropriation related to cost of incarceration and supervision, if any, are not determinable.

The appropriation necessary to provide eligible entities with funding is not reflected in this fiscal note. the \$120,000 appropriation noted above is the estimated salary, fringe, and related operating costs of one FTE needed to administer the referenced grant program.

**Name:** Dave Krabbenhoft

**Agency:** DOCR

**Telephone:** 328-6135

**Date Prepared:** 01/02/2015

**2015 SENATE JUDICIARY**

**SB 2107**

# 2015 SENATE STANDING COMMITTEE MINUTES

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

SB 2107  
1/28/2015  
22692

- Subcommittee  
 Conference Committee

Committee Clerk Signature



**Minutes:**

1,2,3,4,5,6,7,8,9,10,11

Ch. Hogue: We will open the hearing on SB 2107.

Gail Hagerty, ND Uniform Law Commissioners: Support (see attached #1).

Sen. Hogue: On page 7, the section on the immunity for the minor's offenses. I look at that as being fairly broad, so any forgeries, theft offenses, NSF checks, they would get immunity for all those crimes if there is a connection to being victim of human trafficking. What was the thinking of the commission in making that immunity fairly broad?

G. Hagerty: I think that there are so many offenses that are associated with young people being put in situations where they are dependent upon the pimps who are coercing that behavior. They are required to come back with so much money at the end of the day. You might have a young person, who is basically enslaved, maybe not in terms that we would think of immediately and they are sent out in the morning and told not to come back without \$500.00. Some of these offenses are a direct result of those situations that people find themselves in. There is a requirement that there be a connection, but on the other hand, you don't want that young person to be tangled up in the system they shouldn't be in because of being victimized.

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

Wayne Stenehjem, Attorney General, State of ND: Support. I am in support of all the bills that are before you today. About 12 years ago, I asked the BCI staff to give me a report on the status of human trafficking in ND and the response I received from them was that they suspect that there are some instances of human trafficking and prostitution in ND, but most of the cases

(see attached #2)

we see involve transportation of individuals in the sex trade through ND from Winnipeg on their way to Minneapolis or Chicago. I don't know if that was the pre-oil boom reality of human trafficking in ND or simply our lack of awareness of the extent of the problem in ND. I suspect it was a little bit of both. Today, we know more and know better. We know that human sex trafficking is the most common form of modern day slavery. Estimates on the number of domestic and international victims run into the millions. Mostly women and children enslaved in the sex trade for little or no money. Here in the US, as many as 300,000 children, estimated by FBI, are at risk of becoming victims of human trafficking. It's big business. According to FBI, it is the fastest growing business for organized crime in the world and the third largest criminal industry across the globe. It generates, according to estimates, in excess of \$150 billion dollars in revenue. The average age, at which a child in the US is likely to become the victim of sex trafficking, is between 12 and 14 years of age. This is a problem across the globe, across the US and here in ND. There is no reason to suspect that we don't have our share of that trade right here in ND, and we know that because our BCI agents have done a number of things in efforts to combat human trafficking in the state of ND. We've conducted several operations using federal, state and local law enforcement officers targeting individuals, the johns who are attempting to obtain children via the Internet, for sexual exploitation. We have been actively participating in multiple training to law enforcement and the public designed to raise awareness of the extent of the issue of human trafficking. We have been actively participating in undercover operations in an effort to identify underage victims and adult women who have been trafficked and to identify and prosecute the traffickers, the pimps, and they are here. The legislation that you will consider this morning represents a fight on all fronts of this pernicious problem. It includes funding for victim protection and services, enhanced prosecution tools including stricter sentencing, longer statutes of limitations, prosecution assistance, training for law enforcement and states' attorneys, and a victim centered approach. Demand reduction is an issue that you will consider in a later bill with enhanced penalties for repeat customers. I also need to promote our own budget, which includes additional enforcement and investigative tools, including two internet crimes against children, investigative agents to work on that problem, including human trafficking and seven additional BCI agents to work on the drug problem and the human trafficking problem on a state-wide basis as well as a victims' advocate and other enhancements. You will also consider later, a concurrent resolution urging the US Congress to enact the Stop Advertising Victims of Exploitation Act, which will enable state and local authorities and the Attorneys General operating nationally to join in the fight to hold websites which are basically internet

brothels responsible for promoting human trafficking. Our goal is to work with victims on all of these bills to work our way up the ladder to arrest and prosecute the traffickers, but we can only do that with the assistance of the victims and that's why it's critical to have a victim centered approach with services that are available. So investigation and apprehension, prosecution and the victim centered approach with services for the victims are an essential component multi-pronged effort. You will hear from a number of people today, who are devoting their lives to eradicating this terrible crime. These are people who are at the forefront of the problem. When you have heard them this morning, I am confident that you will agree that all of these proposals represent real solutions that will produce tangible results. The critical message has two parts. One, if you are a trafficker or you are a customer involved in the sex trade, we're coming after you. If you are a victim caught in the grips of this horrible life, we will work with you to help you find a better life. I want to commend all of the people we have; prosecutors from my office who worked on drafting much of this legislation and are working with local prosecutors and federal prosecutors to find and arrest and prosecute these folks. There are several individuals from the BCI who work on this issue each and every day, and there are a lot of other individuals here who have been in the trenches who will testify and talk about what they are seeing with the victims in ND. Thanks for all of the sponsors on this committee and elsewhere for bringing this issue before the public. I recommend the passage of each of these pieces of legislation today and the additional ones you will be considering later.

Ch. Hogue: You mentioned the National Data about the number of victims and total revenue. Is any agency attempting to measure the number of victims, in the commission of the number of crimes in the state of ND?

Wayne Stenehjem: We do attempt and are attempting to gather that information because that is a common question. How many cases of this are there in the state of ND and at this point, it is very difficult to get substantial figures. We have done a number of stings in western ND and elsewhere, and some are ongoing right now, where we place ads on Backpage or other internet sites asking people to come and get in touch and see if they are interested in purchasing the services of what appears to be minor children and every time we do that we find that there's no shortage of customers coming in. The one thing we know is that every time we do a sting, people respond and that tells me that we know that there is a demand and if there's a demand that indicates that there must be a supply as well.

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

Christina Sambor, Coordinator, FUSE-Statewide Anti-trafficking Coalition:  
Support (see attached #3).

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

Joy Marimon, Pastor of New Song Church: Support (see attached #4).

Ch. Hogue: Can you tell the committee, do the Bismarck churches either separately or in cooperation with one another, do they provide a safe house or any type of physical facilities for victims of human trafficking.

Joy Marimon: We do not have that in this state. We have ongoing fundraising to provide that in the state and also do work with other organizations with that same goal. In the event that we have an individual that is coming to us, we have set processes and assistance to where we can literally fly them out of the state to existing safe houses.

Ch. Hogue: Can you tell us whether the homeless shelter in Bismarck / Mandan are at capacity, or do they typically have vacancies.

Joy Marimon: I don't have that information. At four months ago, they were at capacity, but don't have recent information on that.

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

Marilyn Foss, ND Bankers Association: Support (see attached #5).

Sen. Casper: Can you define a little bit further for clarity on "enforceable debt" to understand that first amendment.

Marilyn Foss: To have an enforceable debt, as I said it cannot be made under duress; duress could be any kind of pressure that would make the debtor act other than from free will. It would not be an "enforceable debt" if it lacked consideration, which is a legal concept of a "quid pro quo". In the typical bank situation, consideration is giving you money for the loan, that's the consideration that's given. If no consideration is given, the debt is not enforceable. Then there is an issue whether a debt that is time barred, by which I mean technically barred by the statute of limitations, whether that debt remains enforceable or not. Certainly, federal regulatory agencies are taking

the position that is time barred, which I would note would be real debt. It would not be enforceable. It's that kind of situation.

Ch. Hogue: I was curious on the red flags and the suspicious activity testimony that you gave us. I certainly assume that the drug and human traffickers are dealing with cash. What is it that triggers a red flag that you alluded to, is it the large cash deposits or is there some other activity that the banks come into contact with the traffickers.

Marilyn Foss: It could be a number of things. I'll give an example from the FinCen Advisory on some things that are listed by FinCen as being a transactional red flag with behaviors observed as part of the account activity. The first one is a business customer, does not exhibit normal payroll expenditures. Payroll costs appear to be non-existent or extremely low for the types of transaction activity that the financial institution, bank or credit card is seeing with that customer. People are depositing checks that appear to have very substantial reductions when those checks are for wages. A customer with a business may be deducting large amounts from the wages of the employees or applying excessive charges against employee wages. Somebody comes in to cash a payroll check and is accompanied by another person and it appears that the check is cashed and then funds are exchanged with that person. I will leave the Advisory with the Committee.

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

Melanie Heitkamp, Exec. Director, Youthworks: Support (see attached 6). You asked some questions about homeless providers and we are a homeless agency. I am somewhat familiar with safe shelter and homeless accessibility in Bismarck and Fargo. I have information related to young adults as well. Because many of these victims are also young adults and our efforts in Bismarck and Fargo to develop a multi-disciplinary service delivery system for homeless and trafficked young adult victims.

Ch. Hogue: Had you alluded to capacity in Fargo and Bismarck. Can you tell me a little bit about that?

Melanie Heitkamp: We are the shelter in both Fargo and Bismarck for minor children and then we also have homeless shelters for young adults, 18-22. We are part of the homeless coalition in both communities. In Fargo, the homeless provider from the Fargo community is here and will give testimony. In Bismarck, the Ruth Meyers Hospitality House does often have openings. I

think it is important to talk about is the fact that some of these victims cannot enter a regular homeless facility. They need very specific and unique services. The level of intensity that needs to be provided is an issue for many of us homeless providers.

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

Stacey Pfliiger, ND Catholic Conference: Support (see attached #7).

Ch. Hogue: Thank you.

Linda Thorson, State Director, Concerned Women for America of ND:  
Support (see attached #8).

Ch. Hogue: Thank you.

Tom Freier, Exec. Director, ND Family Alliance: Support (see attached #9).

Ch. Hogue: Thank you.

Tony Weiler, Exec. Director, ND State Bar Association: Support. I represent almost 2,900 licensed lawyers in ND. One of the objectives of the State Bar Association is to promote the administration of justice. Our association supports legislation and laws that fairly and appropriately apply to all citizens. Generally, as a policy, we generally try not to engage in issues that may involve members on each side of an issue. As you know, sometimes lawyers can disagree but we hopefully agree to disagree. In these types of issues, we could have defense attorneys or prosecutors on a side, or members of our business community represented by attorneys. Because of that, we are often careful. However, we support this legislation; the harmonization of understandable laws in the appropriate manner that will hopefully help victims. We support all the bills, SB 2199, 2219, 2232, and 2250 as well.

Ch. Hogue: Can you tell the committee, does the Bar's pro bono program get requests to represent either juveniles or adults who are regarded as victims of human trafficking.

T. Weiler: Generally we don't those kinds of claim in the pro bono program. The program is inundated with calls for help in the family law area and one of the problems we have in any type of help that we try to provide through the pro bono program is just not enough. People who are able to do the work,

qualified to do the work, or have time to do the work are currently filling about 10% of the requests we get through our pro bono programs. It's something we're looking at and hoping that we have better access to justice. I don't think we have gotten that kind of request.

Ch. Hogue: Thank you. Further testimony in support. Testimony in opposition. Neutral testimony.

Julie Leer, Attorney for Dept. of Human Services: Neutral (see attached #10).

Ch. Hogue: You're not proposing an amendment, in conferring with states' attorneys; you both share the interpretation on 12.1-41-10.

Julie Leer: We didn't confer with states' attorneys; we conferred by email communications and our understanding from the response to that was there application of how subsection 3 is supposed to work, is that there can be that exchange of information, so that we can serve the people who are intended to be served and they can share that information with us.

Sen. Armstrong: When we're dealing with victim immunity, in your scenario of the 17 year old that would essentially be too old to receive services by virtue of birth date or month. In that scenario does ND refer to a private provider for an 18 year old? Does ND maintain any jurisdiction over that victim at that point in time if immunity is granted?

Julie Leer: Our child protective services and our child welfare services would not.

Sen. Casper: In regard to the amendment on the immigration status, are you including that because you are seeing or are concerned about as part of the trafficking we would have foreigners that are coming in and they would still get access to the service, perhaps getting trafficked into our state, would be part of the process.

Julie Leer: The immigration status, regardless of immigration status, is part of the original proposal and our concern is that our understanding is that that was included in the uniform law because of the concern that there are people who are not necessarily all US citizens who are being trafficked but also foreigners. Our concern is that some of the program eligibility would preclude eligibility based on immigration status, if somebody is not in the country legally. We're trying to make everything work together.

Sen. Casper: They would be included then under the amendment.

Julie Leer: I don't understand your question.

Sen. Casper: So you're saying to make everything work together, the immigrant, under the amendment, they would be able to get the services.

Julie Leer: I'm saying that under the amendment they would be able to get the services as long as the federal programming or regulations didn't require us to preclude them because of their immigration status.

Ch. Hogue: Thank you. Further neutral testimony.

Heather Ingman, Advocate and Direct Service Provider, Domestic Violence and Rape Crisis Center, Dickinson, ND: Support (see attached #11).

Ch. Hogue: You mentioned that victims of domestic violence and the victims of human trafficking require different services. Can you briefly describe those?

Heather Ingman: The services themselves don't differ. They are still going to need medical, legal, mental health services; but the knowledge is those services is going to be substantially different compared to domestic violence, just because of the difference in the trauma that they faced. Although services may be available, the qualified service providers are not. On the western side of the state, we have very little if any of an additions program and often times there are addictions attached to victims of trafficking, we are severely lacking in mental health professionals as far as counseling goes. I can tell you right now, it's about a six month wait. I called yesterday for another victim of domestic violence, but it was a 6 month wait even to do an initial intake for counseling. So when you have someone coming forward, especially with trafficking that needs to be delicately handled, those services are not readily available but in regard to the question, the specifics of a qualified either medical professional or mental health professional, we lack across the state.

Ch. Hogue: Thank you.

Christina Sambor, FUSE: We've been working with Jon Byers in the AG's office on some proposed amendments. There are some of the penalty

schemes that need to be amended and both FUSE and the AG's office are in favor of the amendments. Essentially to stay consistent with what the penalty scheme is for trafficking of minors and adults.

Sen. Grabinger: (directed to AG) I was privy to a seminar down at a conference in Washington DC this last year, on human trafficking. I was told that one of the real problems with human trafficking is recognizing the victims. I would like to know if you could elaborate a little bit on what funding our state has put forth and what programs we are using to actually recognize the problem.

Wayne Stenehjem, AG: You are absolutely right, that is one of the main issues, is trying to actually recognize who might be a victim; what are the signals, what are the signs. We have done a number of training exercises for local law enforcement, state law enforcement officers on that very question. It is a critical part of the entire problem. Last session you approved one additional FTE and that was for organized crime and human trafficking coordinator; his name is Rob Fontaneoux and he is here today. This is the kind of thing that we're working with all law enforcement, all the time, asking them what you need to do for training to recognize the possibility that you're dealing with a human trafficking victim. We have held a number of training seminars both through our office and in conjunction with the US Attorney's office addressing that very topic.

Sen. Grabinger: Do these training programs extend into the people who are working in these shelters. Are we doing programs outside of law enforcement to help?

Wayne Stenehjem: Absolutely, both in conjunction with our office, but also through FUSE and other non-profit organizations have conducted training and I will tell you that one of the things that is remarkable about this is the number of people in law enforcement and in the volunteer community who actually come in and attend these programs for that very reason. There are people here who have coordinated and arranged some of those programs. They could talk more specifically about the training examples. We had money for funding through the oil impact grant funding. We've used that for some of the training programs, private organizations have conducted their own training and that is always a component.

Ch. Hogue: Thank you. Further neutral testimony. We will close the hearing.

# 2015 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee  
Fort Lincoln Room, State Capitol

SB 2107  
2/9/2015  
23509

- Subcommittee  
 Conference Committee

Committee Clerk Signature



Minutes:

1,2,3,4,5

Ch. Hogue: We have multiple amendments and I have a Christmas tree version. I have two different drafts. The one is the version which incorporates all of the amendments of all of the witnesses with an indication of who proposed it (see attached 1) and a comprehensive one (see attached 2). Some of the folks wanted some enhanced penalties.

Sen. Grabinger: In this amendment, on page 10, line 13, is that supposed to be "for purposes of this section" or "for purpose of this section".

Ch. Hogue: What you have in front of you is my proposal for amending the bill which is essentially to adopt some of the amendments that were proposed to us but not all of the amendments. I would like the Committee to see everything first and I will walk you through why or why not amendments were added to the bill. I had the intern incorporate into SB 2107 all of the suggested amendments that we received when we heard the bill. I will just go through (#2) where I think we should accept and reject proposed amendments. Let's go to page 3, the first amendment was proposed by the Bankers Association. I didn't think that the amendment was completely necessary but I could see how someone could make the argument that the collection of a garden variety debt through collection efforts or a lawsuit could fall under that definition of debt bondage, so I thought it was okay to include their proposal on page 3, lines 18-20. Going over to page 4, you see a proposal by the FUSE organization. Basically they wanted to enhance the criminal penalties, including going up to a AA felony for trafficking of minors. I don't recommend that we adopt those; I don't think that fits with the bill and so I didn't include those in my version. The changes on page 5, the Bankers Association, I included that one, the same enhancement of penalties that I thought we should reject. The Bankers had another proposal on the bottom of

page 5 and top of page 6; I didn't understand why they would be concerned about that. They have the concern that because they are handling the money, potentially of the traffickers, that they could be brought into the web of being a potential criminal defendant. I just didn't see it, so I don't think we should adopt those particular amendments.

Sen. Armstrong: Are we talking about amending the bill.

Ch. Hogue: Yes. That's why you see on the bottom of page 5, you see the Banker's proposed amendments, but I am not adopting them that is why they are overstruck. You have Sen. Armstrong's proposed amendment on the top of page 8, lines 5-8.

Sen. Armstrong: We added drug use and possession to the crimes that get immunity and we changed it from forgery and theft, to misdemeanor forgery and theft, but get immunity, any of the felonies associated with that you would get to use it as an affirmative defense that you're a victim of human trafficking. Some of those cases can be quite large. If you are a victim and you get blanket immunity from it, the victim is still out \$150,000. When you do large amounts like that, felony theft, felony forgery, we said that you still get to use it as an affirmative defense but you don't felony possession. What I found out when I talked to people, drug use and possession is a means of control for the victims even in trafficking. I thought adding drug and possession as an immunity clause was a good idea. That's what those amendments do.

Ch. Hogue: Going over to page 9, part of this uniform act is that we are going to start requiring certain facilities to display public notice of the availability of certain services and part of it is in the uniform act but part of it is proposed by FUSE. I wasn't comfortable mandating that hospitals and other private businesses have to display signs. That's an encroachment on those businesses. I didn't think it was necessary. We would keep it for the rest areas that the Dept of Transportation operates and maintains anyway. That's the notice provision. Then going on to page 10, this is "for purpose" should be "for purposes", this is a Dept of Human Services amendment and I thought that should go into the bill. On page 11, lines 6-9, you will recall the Catholic Conference proposed an amendment to make sure that the grants or any state dollars are not used to refer or counsel in favor of abortion. I thought that one should be added. That's what gets you to the bill that was originally distributed. So this is another one with a fiscal note that we have to deal with today. Let's talk about where everyone is at with the amendments.

Sen. Casper: On the enhancements, going from B to A and A to AA. Can you give a quick rundown for those who aren't as familiar with the criminal code on what the differences are?

Sen. Armstrong: If you go to page 4, lines 2-3, this isn't enhancing, it's making it consistent with ND law now. ND law now is A and AA.

Ch. Hogue: AA for trafficking a minor.

Sen. Armstrong: Yes, right now under current law in ND. Again, there aren't any minimum mandatories so once you get to the word "felon"; it is 12.1-40-01 is the Code. Right now if it's an adult it's an A felony and if it is a minor, it is AA felony. This makes it consistent with current ND law.

Sen. Casper: You're saying that the amendment with the A and AA felony is making it consistent with current law.

Sen. Armstrong: Yes. The ones on page 5, I'm not sure; it's 12.1-40-01, under current law.

Sen. Nelson: Can it be written that way, that the penalties reference, instead of putting it in separately, so that there is a reference to that, on lines 16 and 17 on page 4. I was wondered if lines 16-17 could be written, "The penalties for trafficking an individual are stated in 12.1-40-01".

Sen. Armstrong: You could probably remove both of those lines and be fine. NDCC 21.1-40-01 already sets the penalties. It sets the penalties for human trafficking and that's been in the law for many years; it is current law.

Sen. Nelson: So do you need that whole section.

Ch. Hogue: We're repealing 12.1-40-01....

Sen. Nelson: So it has to be in there.

Ch. Hogue: NDCC 12.1-40-01 is going to repeal 12.1-40.

Sen. Nelson: So then it has to be same.

Ch. Hogue: It doesn't have to be since we are repealing it.

Sen. Grabinger: Are we going to take each of these as an amendment or putting it all together.

Ch. Hogue: Servitude is a smaller subset of human trafficking and so it is the same as prostitution, sexual servitudes because if you look, it is not in the definition section, it's a separately defined offense on page 4, lines 26-30. "Person commits the offense of sexual servitude if the person knowingly maintains or makes available a minor for the purposes of engaging, the minor in commercial sexual activity, or uses coercion or deception to compel an adult to engage in commercial sexual activity.

Sen. Nelson: Why isn't that in the definition section? When I'm looking for information, I go to the first section of the title to see what it is about. I don't expect to have to go through every subsection to try and figure it out.

Sen. Casper: Are you looking at 12.1-40-01-05.

Ch. Hogue: NDCC 12.1-40-01-04. On page 4, lines 26-30. We need to approach this as I am giving you a list of everyone's amendments. I have given you the list that I would propose to include. It sounds like everybody wants to keep the penalties at AA felony for trafficking minors and for sexual servitude of minors; an A felony for the other crimes.

Sen. Nelson: What about under patronization, do you go with A, B, A there instead of B, C, B. Under patronizing a victim, page 5, lines 9 and 11. Those penalties have been changed too.

Ch. Hogue: Yes.

Sen. Casper: I would maintain those penalties. My understanding of that is that's essentially the person who is purchasing the trafficked individual with the knowledge, in the last clause there, so on lines 6-8, they are making the purchase knowing that the victim is engaged in commercial sexual activity, so you are essentially sustaining it by being a purchaser.

Ch. Hogue: I think you have to have the knowledge that they are being coerced into doing it.

Sen. Casper: Correct, that's my understanding.

Sen. Armstrong: I guess I don't really care what the classification is on adults, because I'm not sure that it really matters. First of all, if you knowingly have sex with a minor regardless, I'm comfortable with it being an A felony. I don't really have a problem with it. Whether you know that person is a sex slave or not is really not my primary concern; but with the adult category - the difference between a C and a B is five or ten years and there are no minimum mandatories. I think that knowingly language and just from what we are getting here, I just want to stress that there is a difference between human trafficking and prostitution. Both are not good things. I just feel that there is really a big difference between the two and maybe this isn't the appropriate bill to talk about it on, there is a big difference between the two sentences. Sometimes I think we are blurring the line between those two sentences because we have 6,000 bills on this; I am comfortable strengthening the laws against human trafficking. The difference between a C felony and a B felony is the top end. None of these have minimum mandatories, so I'm not necessarily sure it's really all that big of a deal, if it's your first offense; the knowingly aspect of this can be very difficult to prove in some of these situations. I don't have a problem with the A felony for a minor because whether you knew a minor was a victim of trafficking or not you should probably know that having sex with minors is not a good idea under any circumstances. I don't think that cleared anything up at all.

Ch. Hogue: We are on page 5, lines 9-11 and I thought you were okay with the change on line 11, but not necessarily with the change on line 9, relating to....

Sen. Armstrong: Yes. I'm not really not okay with it anyway; I just wanted to clarify a little more. That's the one where the line can get blurred. I think we want to pay attention to the other bills because we want to maintain consistency, which is why it is good to do this bill first.

Ch. Hogue: Let's move on to the bottom of page 5. Any other concerns about other proposals to amend the bill, either by the Bankers Association, the Dept of Human Services, the Catholic Conference, FUSE, Dept. of Health.

Sen. Nelson: I'm a little concerned about the one on page 11, because the AG said that's not a concern, it's already covered.

Ch. Hogue: The Catholic Conference one. We have the penalties; we are going those because we think those are consistent with existing law, under NDCC 12.1-40.

Sen. Nelson: Is that one on page 4, lines 15, 17 and 24.

Ch. Hogue: Yes; going through the patronizing on page 5, lines 9-12 where it goes from B to an A. Where are we with those amendments?

Sen. Armstrong: The one at the bottom of page 5, I know the Bankers are the ones who testified on it, but does this make ND's indemnity clause the one that we use, if you say "as provided by 12.1-03. It's just not for the Bankers; it's for hotel clerks, gas station attendants. Essentially I was told that we just use the ND's law regarding that because we vetted that through various legislative sessions; we've had this discussion relating to other issues. Just to make it consistent with ND's law on business indemnity. If that's what this does, I am comfortable with it.

Ch. Hogue: Yes, well 12.1-03 defines when a corporation may be an accomplice to a crime. So that's what the model act calls for. The Bankers wanted that special exemption that I didn't think was necessary.

Sen. Luick: I think if it is covered, it's already in there, that's fine.

Sen. Nelson: If this gets over to the House, and they want to fix it when it gets to conference committee we can hash it out then.

Ch. Hogue: Let's talk about page 8; Sen. Armstrong's amendments on page 8, line 5-8. The concept is that there shouldn't be unlimited immunity because that is what we are providing to the victims; we have provided unlimited immunity for a range of criminal offenses that would otherwise be prosecuted and the policy behind it is that we want the victims to be cooperative, we want to encourage them to try to separate themselves and to do that, the carrot is immunity and I guess countervailing issue is okay, but is it unlimited for crimes like theft of property where I think Sen. Armstrong mentioned what if they stole \$150,000.00. So he's got the actual language you should look at, in the original bill that I distributed, not the comprehensive bill, which really fleshes out the language.

Sen. Nelson: What are we starting with; the numbering is goofed up on mine.

Ch. Hogue: Go to the original Hogue Christmas tree bill that was distributed this morning (#2). On page 8, lines 1-42.

Sen. Armstrong: You're essentially going to give victims of human trafficking significantly more even with my amendment, more protection than any other criminal defendant has. When we were at the hearing, I actually sent an email to AG Stenehjem and Gail Hagerty who was involved with this and why not drug use, because my guess is that it will be the single most prevalent crime for a victim and I was told by the FUSE advocates and others that that is absolutely the case. They use heroin addiction primarily and other oxycodone and drugs to control the victims. They also then say if you get caught with drugs, you're going to jail. So come back to me.....then the flip side to that is I have spoken to some other people and you can't give blanket immunity to every felony theft and forgery. You can't have this situation where the victims have no recourse in the criminal justice system for very large thefts. I have spoken with the people; I think most people are pretty comfortable with this language, they still get an affirmative defense, they still get to raise it and we are actually providing them more protection, because it will be the most prevalent, but we are taking a little away on the felonies and they can only use it as an affirmative defense and not as blanket immunity.

Sen. Grabinger: I don't disagree with that at all, Sen. Armstrong; I am just questioning if you need lines 35-38, because it looks to me like that is covered in the section right above that, where you are already giving the immunity, for example on lines 1 and 2 on page 8. I think you already covered it, but then you go back and put in lines 35-38. Are they different?

Sen. Armstrong: On page 7, lines 35-38 is going to tell you specifically what they are granted immunity for.

Sen. Casper: I think page 8, lines 1 and 2 are saying that they would have immunity for those offenses, but 35-42 sets out the difference in the immunity with regard to a minor or regard to whether it's a misdemeanor or a felony. This isn't the perfect way to go about doing this, I see what you're saying but if we took out lines 35-38, then it would just be that they have immunity.

Sen. Armstrong: We still need 3, 3 would become 2.

Sen. Grabinger: I agree. I was just saying 35-38 looks like there isn't a need for it.

Sen. Armstrong: You are correct. This is being put together in stages, so some of it has gone out.

Ch. Hogue: This is a complex bill so it requires more of our deliberative time. Other than the removal of subsection 2, on lines 35-38, are a majority of us on board with the policy behind this change. At the end of this process we're going to give these changes to the Intern for a 3<sup>rd</sup> Christmas tree version. On page 9, we talk about the displays; the mandatory displays and having the Dept of Labor make these signs that are to be displayed in certain establishments and public buildings. The proposal from FUSE, wanted to add exotic dancing establishment, public health facilities, and emergency service providers, which would be all hospitals with ER's. My version does not have that in it; I'm not on board with that policy. My version says you can put it in the rest areas, we don't need the Dept of Labor to be tasked with creating this sign and we can just have the Dept of Transportation put up the appropriate sign in the rest areas and the public hospital in Jamestown. Although I don't know how effective that would be.

Sen. Nelson: Many years ago, we had a similar debate that dealt with signs in bars, that said drinking beer and alcoholic beverages might be detrimental to pregnant women. They thought we were intruding on private property; but if you go into a bar nowadays, you see them, they are all over the place. I have a problem with the Dept of Labor making these signs. I don't know why someone can't just make a sign on their computer and put it up. If you send out a form or a file that says, here is what we want you to put in your establishment. It wouldn't cost anything but a piece of paper to do that. If they want to get fancy they can put it in plastic wrap. I don't think Dept of Labor needs to be involved, which would probably cut down on the physical note somewhat. I don't have a problem with telling employers we would really like for you to do this. It's becoming more and more of an issue; the NFL is promoting that this is not the way we behave and more private businesses are getting involved.

Sen. Luick: These public awareness signs, what is on them, the purpose for them?

Ch. Hogue: It must contain state and local human trafficking resources information and the National Human Trafficking Resource Center Hotline information.

Sen. Luick: If we're going to promote anything, I would think that we would want to promote wherever it has the best outcome for any type of result. The public health units and the emergency service providers, I would think that they would be on top of this anyway and they would be willfully doing it no

matter what. The exotic dancing establishment and the bars are probably the more prime target to be placing them anyway.

Sen. Armstrong: We're not promoting it; we're mandating it to the tune of a \$100.00 fine for each violation. The other thing is how many doors are on your hospital, but mine has a lot. So either this is a feel good where they have to put it somewhere that the vast majority of the people who walk into the hospital will never see, or are they going to put it everywhere. There isn't a guide to how it would be done. That concerns me because then guides get set through some other way other than the legislative process. I like your amendment but I don't like mandating these signs. I don't think it is appropriate regulation of businesses to force them to hang these kinds of signs. I don't vote for any of them, so I'm not going to vote for this one, I like your amendment.

Sen. Casper: I agree with the Ch. Hogue's amendment.

Ch. Hogue: The federal government is very good at mandating these signs and you try to read them; the print has to be so small because they are up on someone's human resources bulletin about various issues that the federal government wants to require all employers to post. If you ever go into a public employer, for example, just try to read their signs. I think they have a little tear-away so you can tear it down and read if you want.

Sen. Grabinger: It says on line 17, penalty for failure to display. I don't see where that is spelled out. I don't see the \$100.00 fine language.

Sen. Armstrong: It's \$300.00 per violation on an employer that doesn't do this.

Sen. Grabinger: My question is, isn't this already being put in places like out emergency rooms and buildings where they see a lot of this type of behavior.

Sen. Armstrong: Yes, you'd be amazed at how many things you can get fined for, for not hanging the signs in your business.

Sen. Grabinger: Are there non-profits or groups out there that are getting the national hotline number out there, and signs out there about this so people can find these resources. Are we not getting that message out there so we have to mandate this?

Ch. Hogue: I can't answer that question.

Sen. Armstrong: Display signs are going to become more and more arcane as we get more digital. If you can't find a number on the Google within 30 seconds, I don't like the concept. I like the amendment.

Ch. Hogue: When I read through it and thinking about proposing this amendment, the most obvious place that this list didn't include was the jail. That's where they are most likely to be apprehended and are going to want to think about, okay, maybe this isn't the best lifestyle or life choice for me. It doesn't seem to compel that.

Sen. Luick: You have the time to read the small print.

Ch. Hogue: Yes, they do have time to read. The Dept. of Human Service amendment, we want to change that from "purpose" to "purposes" if you recall their testimony.

Julie Leer, Attorney for Dept of Human Services: We had some feedback from Catholic Conference and FUSE on our amendment that was proposed. So we came up with a revision to it (see attached 3). We believe it is accomplishing the same thing; it's the language that makes them a lot more comfortable, that we are only going to be doing this when we absolutely don't have the ability to waive an immigration status requirement or other requirements that are tied to our funding.

Ch. Hogue: Refresh our memory on the purpose of the amendment.

J. Leer: The purpose of this amendment was because there is a statement in the bill that says they are entitled to a benefit or service available through the state, regardless of immigration status. Our concern with that is that we have a lot of programs that are available through the state, through the Dept. of Human Services, where immigration status is a requirement. If they don't have certain immigration statuses, it is a requirement that they not be allowed to receive the benefit of the service. Our concern was, that the bill as written and drafted, was going to create a conflict for us where on the one hand, we're expected under state law to allow people access to certain benefits or services, but our federal partners, who provide the funding, or any special funding for it, would prohibit us from doing that, because of their immigration status. We were trying to make it so that we could have the best of both worlds. One of the things that we added in here, is using federal or special funds, acknowledging that if it is state general fund program, we recognize

that the immigration status can be waived under the uniform law but recognizing also that if it is a federal or special fund program, where we are specifically required to deny benefits to somebody based on immigration status, that we are not going to be kind of in an awkward catch 22 situation; being expected to do one thing from the feds and a different thing from the state.

Sen. Casper: If this amendment was accepted and included in this legislation if passed, then state funds appropriated for these services would be allowed to be used with regard to illegal immigrants but federal funds would not.

J. Leer: If we have a program that has a part of both, we're going to be bound by the federal requirements. If it is a program that is state-funded, our expectation is that we could use our state funded program regardless of immigration status requirements.

Sen. Armstrong: How many programs are exclusively states funded in your organization at this point in time?

J. Leer: We do have a couple of programs. One is our Home and Community based services programming. Some of that is done under Medicaid waiver, but our service payments for the elderly and disabled is a general fund program.

Sen. Grabinger: If there is federal funding involved in any way that is governed by the federal law and we can't circumvent that anyway. Wouldn't that take precedence where we wouldn't even need this language.

J. Leer: Some would probably argue that. Our concern is that it creates an ambiguity that makes uncomfortable, because the uniform law doesn't define a benefit or service available through the state, so we are trying to define what that's intended to mean and just clarify that it doesn't include federal funding. We don't like the ambiguity of having to justify one vs. the other, so we want to be really clear.

Ch. Hogue: Clarity is good. Any thoughts on the amendment distributed by Ms. Leer.

Sen. Casper: I am fine with it.

Ch. Hogue: Moving through the Catholic Conference amendment. This one says "except as required by federal law, no funds from the grant or contract may be used to refer for or counsel in favor of abortion. In my version I added that provision.

Sen. Grabinger: I don't think we need it. The Attorney General said it was already covered. It's probably not a place where we need to be between the counselors and the victims. I would like to see that struck.

Sen. Casper: Can someone elaborate on where else this is covered in Code. I want to make sure that it is covered. My question is about enforcement of this. How would this take place?

Ch. Hogue: I'll have to find that statutory provision.

Sen. Grabinger: I don't know where it is located in Code, the AG made the statement.

Sen. Luick: Can Chris come and explain his new amendment.

Christopher Dodson, Catholic Conference: Looking over this amendment and realizing that we have another bill that went out that this would be piece meal. I wrote this amendment specifically for the grant or contract from DOOCR in this bill. Maybe we should mirror what we already do in the Code for family (#4) planning funds and just say any program that funds victims services can't counsel or refer for abortion, or use taxpayer money for that. Then it would have to come back next year or the next session. It won't resolve disagreements among the committee members on whether it is a good idea, but it would be a cleaner way of doing this, and then we don't have to keep coming back up. This amendment is mirrored after what I think that some people thought was covered or prohibited this use of taxpayer funds for counseling for an abortion already. The Code actually says that state money used for family planning cannot be used for counsel in favor of or refer for abortions. Most people think that it covers everything, but it is just directed at family planning. In the past, we have a law on family planning dollars, a law on abortion alternatives dollars and a law regarding public schools. That says you can't counsel or refer for abortion. There isn't a general prohibition on counseling and referring for abortion. It's just been a piece meal on the Code. There is a blanket prohibition on funding for the performance of and I think some people I think have gotten that confused. The amendment I provided would actually make it consistent with other programs in the state code. Then

we wouldn't have to go and find each contract or service out there and add the language back on.

Sen. Armstrong: This is the language that exists currently in the Code.

C. Dodson: It mirrors it, except for the words "human trafficking", and the one says to "encourage" and I took that out. For the sake of the Dept. because of their concerns about ambiguity, I added the clause, "except when required by federal law". That is implicit in all codes, but this makes it clear so we're not asking the Dept. of any Dept. to violate federal law and set up a court case. That's not what we're asking.

Sen. Casper: The top part, the pagination in line would need to be changed. It's in section 4, so I think that it would be added at the end, section 3 is repeal.

Ch. Hogue: Mr. Dodson, what is your suggestion, to adopt that and delete what's currently the proposal that was offered during the hearing.

C. Dodson: Instead of the amendment that I offered before, just forget that and I offer this one instead.

Ch. Hogue: When you say, offered before, it was at the hearing.

C. Dodson: Correct.

Sen. Grabinger: I just struggle with how you are going to do this. I see the counselor and a victim in a counseling situation discussing the options of this victim and what the victim is facing, etc. If that counselor is a state-funded counselor, working for the state, we're basically in this language limiting the talk, the discussion that the counselor can have with this victim. I'm not saying we should buy them a trip to the abortion center or anything like that. I don't know that this is our place to in between them and have those discussions and telling them that you can't talk about this. This is how I read this.

Sen. Nelson: If the victim brings up the subject, how does the counselor answer it, if this is in the bill? You say that you're sorry, I can't talk about this; this is state law. That's not counseling the victim very well. I just don't know how that would be enforced. Those things happen, how are they going to handle it?

Ch. Hogue: I am sensing the committee is split 4-2 on this, so the Intern will add the #4 amendment, but we're still going to vote on them. We will have the intern do up a new proposed Christmas tree bill version that incorporates #3 and #4 amendments, and adds the penalties back in. Then we will vote on the amendments as a block if we can. If we can't, we'll go through one at a time, but I think I know where everybody is at.

We'll take a look at the new version of the bill (see attached #5).

Sen. Grabinger: We were going to take out lines 8-11 on page 8. We didn't do that in this new amendment.

Sen. Casper: I was looking at this after our discussion earlier this morning. If we removed lines 2 or 3, or 8-11, we'd be creating a gap because 8-11 refers to the minors having the immunity so for the adults to have the immunity for the misdemeanor forgery or misdemeanor theft, then we have to have lines 2, 3 and 8 through 11. That would cover the adults that have the immunity and minors would have the immunity. Then part of 3, would be if it rises from a misdemeanor to a felony then they would have the affirmative defense but not the immunity. So I think we need all of it.

Sen. Armstrong: The title of the section is "minor immunity". Adult is covered in the next section to some degree or another. We didn't discuss whether all victims should have immunity or just the minors have immunity. That is a bigger discussion that, quite frankly, will have to be taken up on the House side if we have to vote on it today. Under the statute, we can delete that too; it's redundant.

Sen. Nelson: On page 8, the numbering goes 1, 2, 3, 3, 4, 5. On page 10, it still says for purposed of this section, instead of purposes of this section. We need to change that second word in line 21 on page 10.

Ch. Hogue: We will remove the "d" from purposed on line 21 on page 10 and change it to "purposes". Are we making the change on page 8 to delete lines 8-11?

Sen. Grabinger: I would move that, and also renumber, all you have to do is change the "3" on line 12 to a "2".

Ch. Hogue: Correct. Everyone was in agreement with that. We are amending this comprehensive bill informally for the purposes of voting on

these as a block of amendments. On page 8, we are deleting lines 8 through 11 and renumbering on line 12. Then over on page 10, line 4 we are overstriking the first "d" on purposed and substituting an "s" for purposes.

Sen. Grabinger: I remove my motion.

Sen. Luick: I move the amendment's technical corrections to SB 2107.

Sen. Armstrong: Second the motion.

Ch. Hogue: Voice vote, motion carried. So let's take a look the amendment as a whole now.

Sen. Casper: I move the amendment with all technical corrections.

Sen. Luick: Second the motion.

Ch. Hogue: We will take a voice vote. Motion carried. We now have the bill before us as amended.

Sen. Casper: I move a Do Pass as Amended and rereferred to Appropriations.

Sen. Luick: Second the motion.

**6 YES 0 NO 0 ABSENT**

**DO PASS AS AMENDED AND REREFERRED TO APPROPRIATIONS**

**CARRIER: Sen. Nelson**

February 10, 2015

PROPOSED AMENDMENTS TO SENATE BILL NO. 2107

1 of 2  
2/10/15  
TD  
2/9/15

- Page 3, line 12, remove the underscored colon
- Page 3, line 13, replace "a. Commercial" with "commercial"
- Page 3, line 14, remove the underscored semicolon
- Page 3, line 15, replace "b. Labor" with "inducing an individual to provide labor"
- Page 3, line 15 remove the underscored colon
- Page 3, line 16, replace "(1) The" with "the"
- Page 3, line 17, remove the underscored semicolon
- Page 3, line 18, replace "(2) The" with "if the"
- Page 3, line 19, after the underscored period insert "The term does not include an effort by a creditor to collect an enforceable obligation by means that are permitted under state or federal laws."
- Page 4, line 17, replace "B" with "A"
- Page 4, line 18, replace "A" with "AA"
- Page 4, line 23, replace "B" with "A"
- Page 4, line 24, replace "A" with "AA"
- Page 5, line 4, replace "A" with "AA"
- Page 5, line 5, replace "B" with "A"
- Page 5, line 11, replace "C" with "B"
- Page 5, line 12, replace "B" with "A"
- Page 5, line 28, remove "only if:"
- Page 5, remove lines 29 through 31
- Page 6, replace lines 1 and 2 with "as provided by chapter 12.1-03."
- Page 7, line 29, replace "Forgery" with "Misdemeanor forgery"
- Page 7, line 30, replace "Theft" with "Misdemeanor theft"
- Page 7, line 30, remove "and"
- Page 7, line 31, replace the underscored period with ";
- e. Manufacture or possession of a controlled or counterfeit substance offenses under section 19-03.1-23; and
  - f. Drug and paraphernalia offenses under chapter 19-03.4.

2 of 2

Page 8, line 1, after "2." insert: "It is an affirmative defense to felony forgery, felony theft, and felony drug distribution that the individual was a minor at the time of the offense and committed the offense as a direct result of being a victim as defined by this chapter."

3."

Page 8, line 4, replace "3." with "4."

Page 8, line 7, replace "4." with "5."

Page 9, line 11, remove " - **Penalty for failure to display**"

Page 9, line 12, remove "1."

Page 9, remove lines 16 through 25

Page 10, after line 5, insert:

"4. For purposes of this section, "a benefit or service available through the state" does not include a benefit or service of a program administered by the department of human services using federal or special funds, if the victim or minor does not meet program eligibility requirements including an eligibility requirement that is based on immigration status."

Page 10, after line 26, insert:

**"12.1-41-20. Use of public funds for abortions prohibited.**

Except as provided by federal law, funds of this state or a political subdivision of this state and federal funds passing through the state treasury or a state agency to provide treatment and support services for victims of human trafficking may not be used to refer for or counsel in favor of abortion."

Re-number accordingly

SB 2107  
2/9/15

Date: 2/9/15  
Voice Vote # 1

2015 SENATE STANDING COMMITTEE  
VOICE VOTE  
BILL/RESOLUTION NO. 2107

Senate Judiciary Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:  Adopt Technical Corrections

Do Pass     Do Not Pass     Without Committee Recommendation

As Amended     Rerefer to Appropriations

Place on Consent Calendar

Other Actions:     Reconsider     \_\_\_\_\_

Seconded By

Motion Made By Sen. Luick

Sen. Armstrong

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

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

*Voice Vote: Motion Carried*

Date: 2/9/15  
Voice Vote # 2

2015 SENATE STANDING COMMITTEE  
VOICE VOTE  
BILL/RESOLUTION NO. 2107

Senate Judiciary Committee

Subcommittee

Amendment LC# or Description: 15.0227.01001 02000

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

Other Actions:  Reconsider     \_\_\_\_\_

Seconded By

Motion Made By Sen. Casper Sen. Luick

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

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

Voice Vote: Carried

Date: 2/9/15

Roll Call Vote #: 3

2015 SENATE STANDING COMMITTEE  
ROLL CALL VOTE

BILL/RESOLUTION NO. 2107

Senate

**JUDICIARY**

Committee

Subcommittee

Amendment LC# or Description: 15.0227.01001 02000

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. Casper    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. Nelson

1 of 1  
2/9/15

REPORT OF STANDING COMMITTEE

**SB 2107: Judiciary Committee (Sen. Hogue, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2107 was placed on the Sixth order on the calendar.

Page 3, line 12, remove the underscored colon

Page 3, line 13, replace "a. Commercial" with "commercial"

Page 3, line 14, remove the underscored semicolon

Page 3, line 15, replace "b. Labor" with "inducing an individual to provide labor"

Page 3, line 15 remove the underscored colon

Page 3, line 16, replace "(1) The" with "the"

Page 3, line 17, remove the underscored semicolon

Page 3, line 18, replace "(2) The" with "if the"

Page 3, line 19, after the underscored period insert "The term does not include an effort by a creditor to collect an enforceable obligation by means that are permitted under state or federal laws."

Page 4, line 17, replace "B" with "A"

Page 4, line 18, replace "A" with "AA"

Page 4, line 23, replace "B" with "A"

Page 4, line 24, replace "A" with "AA"

Page 5, line 4, replace "A" with "AA"

Page 5, line 5, replace "B" with "A"

Page 5, line 11, replace "C" with "B"

Page 5, line 12, replace "B" with "A"

Page 5, line 28, remove "only if:"

Page 5, remove lines 29 through 31

Page 6, replace lines 1 and 2 with "as provided by chapter 12.1-03."

Page 7, line 29, replace "Forgery" with "Misdemeanor forgery"

Page 7, line 30, replace "Theft" with "Misdemeanor theft"

Page 7, line 30, remove "and"

Page 7, line 31, replace the underscored period with ":

e. Manufacture or possession of a controlled or counterfeit substance offenses under section 19-03.1-23; and

f. Drug and paraphernalia offenses under chapter 19-03.4."

2 of 2  
SB 2107  
2/1/15

Page 8, line 1, after "2." insert: "It is an affirmative defense to felony forgery, felony theft, and felony drug distribution that the individual was a minor at the time of the offense and committed the offense as a direct result of being a victim as defined by this chapter."

3."

Page 8, line 4, replace "3." with "4."

Page 8, line 7, replace "4." with "5."

Page 9, line 11, remove "**- Penalty for failure to display**"

Page 9, line 12, remove "1."

Page 9, remove lines 16 through 25

Page 10, after line 5, insert:

"4. For purposes of this section, "a benefit or service available through the state" does not include a benefit or service of a program administered by the department of human services using federal or special funds, if the victim or minor does not meet program eligibility requirements including an eligibility requirement that is based on immigration status."

Page 10, after line 26, insert:

**"12.1-41-20. Use of public funds for abortions prohibited.**

Except as provided by federal law, funds of this state or a political subdivision of this state and federal funds passing through the state treasury or a state agency to provide treatment and support services for victims of human trafficking may not be used to refer for or counsel in favor of abortion."

Renumber accordingly

**2015 SENATE APPROPRIATIONS**

**SB 2107**

# 2015 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee  
Harvest Room, State Capitol

SB 2107  
2/18/2015  
Job # 24042

- Subcommittee  
 Conference Committee

Committee Clerk Signature

*Alice Grose*

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

Relating to the Uniform Act on Prevention of and Remedies for Human Trafficking

## Minutes:

Attachment

Legislative Council - Chris Kadrmas  
OMB - Nick Creamer

Chairman Holmberg called the committee to order on SB 2107. Roll Call was taken. All committee members were present.

**Christina Sambor, FUSE ND, Lobbyist #358:** (No written testimony) I'm here this morning speaking on behalf of the Attorney General's office, as well as carrying his message, which is similar to our position on this. Last night there was an amendment to SB2199 that shifts the appropriation of \$1 million to the AG's office for the provision of direct services for human trafficking victims. That bill relates quite closely with SB2107 and the anticipated fiscal impact of this bill in that subsection 12.1-41-19 of SB2107 indicates that the Department of Corrections and Rehabilitation may make a grant or administer grant funds. What the AG's office views this position would be that the appropriate thing to do would be to amend that provision to indicate now that the AG's office would, in fact, be responsible for administering the grant funds as was indicated by his office, and discussed by Senator Mathern last night. The funds that are referred to in this section are hypothetical grant funds and now that we have those grant funds allocated by SB2199, it would make sense to amend the section of 21-07 to indicate that the AG's office would be administering the grants. In our discussions with the AG's office, it appears that he would intend that his Human Trafficking Commission and his office would work to administer those grant funds, should they be approved and appropriated at the end of this session. I don't think there would be much fiscal impact in that process. The Human Trafficking Commission would just include that as part of their workload in working on their broader mission.

**Senator Mathern** -- What specific section of this bill might require an amendment to make sure that the grants that come from that other bill actually are authorized by this group? Is there a specific part of this bill?

**Christina Sabor** -- It would be on page 11 of the marked up version of SB2107. It is the place where it is indicated DOCR. What happened was that the Uniform Law Commission, when they drafted this, selected the DOCR as the manager of those funds, based upon the fact that DOCR manages other victim fund and grant programs and it is something that needed to be made consistent and was inconsistent from the beginning, between 2199 and 2107, in that 2107 had DOCR as administering any hypothetical grant funds in the uniform law and 2199 had DHS administering the funds. That has been amended to the AG's office. Our position in AG's office would be that this section, it would be on line 17 of page 10 of the first engrossment, would need to be amended to reflect that it would be the AG's office, not DOCR in the same way that now it is the AG's office and not DHS in SB2199.

**Senator Mathern** -- It would appear to be in both line 18 and line 22. An amendment would be in order to change DOCR to AG's office.

**Christina Sabor** -- Yes, that would be my understanding.

**Senator Krebsbach** -- That leads me to fiscal note. There's \$120,000 and according to the commentary in section 2, subsection b, where that money goes to DOC for an additional FTE to carry out the administration of the grant program. Does that need to be changed also?

**Christina Sabor** -- Yes and my understanding would be that the Human Trafficking Commission, its SB2299, has been passed by the senate. That would essentially bring together a volunteer group that is going to work more broadly on the AG's work on human trafficking issues. I think the AG contemplates that that group would be working on the administration of some of these funds so I don't know that there would be a fiscal impact because it would be a volunteer committee or costs absorbed by his office.

**Chairman Holmberg** -- If you look at that fiscal note, it was prepared by DOCR because they are not in that area and they felt they'd have to hire someone. If we amend the bill as Chris has written down, then there would be no fiscal impact on the bill which makes it even more popular in this committee.

**Senator Wanzek** -- In reading the fiscal note, it won't leave a fiscal impact, but it's difficult to determine how additional people might be charged with criminal charge.

**Chairman Holmberg** -- The AG's office can absorb it. So we wouldn't have to do any amendments on anything else.

**Senator Wanzek** -- That's a million dollars in that other one?

**Senator Mathern** -- I just want to confirm: so you do want us to provide an amendment?

Chairman Holmberg closed the hearing on SB 2107. If someone wants to make a motion.

**Senator Mathern** -- I think that we could amend this bill by changing the words, the Department of Corrections and Rehabilitation on line 18 and also on line 22 to include the words the Attorney General's office. Taking out Corrections and Rehab, putting in Attorney

General's office. I think we could amend that right here by the committee and act on the bill.

**Chairman Holmberg** -- Okay. You moved the amendment. Is there a second?

**Seconded by Senator Heckaman**

Discussion on amendment to make this consistent with the other bill and remove the fiscal impact.

Voice vote carried.

**Senator Krebsbach** moved Do Pass, as amended on SB2107

**Senator Robinson** seconded.

A Roll Call vote was taken. Yea: 13    Nay: 0    Absent: 0

**Senator Nelson** will carry the bill on the floor.

15.0227.02001  
Title.03000

Prepared by the Legislative Council staff for  
Senate Appropriations Committee  
February 18, 2015

TV  
2/18/15

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2107

Page 10, line 18, replace "department of corrections and rehabilitation" with "attorney general"

Page 10, line 22, replace "department of corrections and rehabilitation" with "the attorney general"

Renumber accordingly

Date: 2-18-15  
Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2107

Senate Appropriations Committee

Subcommittee

Amendment LC# or Description: goes to AG office remove fiscal impact

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 Mathern Seconded By Heckaman

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg			Senator Heckaman		
Senator Bowman			Senator Mathern		
Senator Krebsbach			Senator O'Connell		
Senator Carlisle			Senator Robinson		
Senator Sorvaag					
Senator G. Lee					
Senator Kilzer					
Senator Erbele					
Senator Wanzek					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

*Vote carried*

Date: 2-18-15  
 Roll Call Vote #: 2

**2015 SENATE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. \_\_\_\_\_**

Senate Appropriations Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Refer to Appropriations  
 Place on Consent Calendar  
 Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Krebsbach    Seconded By Robinson

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Heckaman	✓	
Senator Bowman	✓		Senator Mathern	✓	
Senator Krebsbach	✓		Senator O'Connell	✓	
Senator Carlisle	✓		Senator Robinson	✓	
Senator Sorvaag	✓				
Senator G. Lee	✓				
Senator Kilzer	✓				
Senator Erbele	✓				
Senator Wanzek	✓				

Total (Yes) 13    No 0

Absent 0

Floor Assignment Judiciary (Nelson)

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

**REPORT OF STANDING COMMITTEE**

**SB 2107, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2107 was placed on the Sixth order on the calendar.

Page 10, line 18, replace "department of corrections and rehabilitation" with "attorney general"

Page 10, line 22, replace "department of corrections and rehabilitation" with "the attorney general"

Renumber accordingly

**2015 HOUSE JUDICIARY**

**SB 2107**

# 2015 HOUSE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Prairie Room, State Capitol

SB 2107  
3/18/2015  
25069

- Subcommittee  
 Conference Committee

Committee Clerk Signature



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

Relating to human trafficking; and to provide a penalty.

## Minutes:

Testimony #1,2,3,4,5,6,7,8,9,10,11,12,

**Vice Chairman Karls:** Opened the hearing on SB 2107.

**Judge Gail Hagerty:** (See Testimony #1) (0:34-7:42) Highlighted certain sections of the bill.

**Rep. Kretschmar:** There is nothing in the bill about statutes of limitation. We would generally be going on what the law is in ND on statutes of limitations under this act here?

**Judge Hagerty:** I think there maybe someone that can provide a better answer for you on that.

**Rep. L. Klemin:** On Section 19, page 10 I noticed that the Senate appropriations made an amendment that transferred that responsibility to the Attorney General. Why did they do that?

**Judge Hagerty:** I had not even picked up they had done that.

**Rep. Lois Delmore:** Is \$1 million enough money?

**Judge Hagerty:** I don't know if I can answer that? We may have to work with the money that is available and then come back next time and put a number or figure on that without the availability of this act. It is hard to predict exactly what is needed. I suspect even what you appropriate will not be enough.

**Rep. L. Klemin:** Question on Section 16 about the public awareness sign. The Senate took out language relating to the original bill about putting a sign in the hospital or emergency services. I am not sure DOT has authority to put a sign in an airport?

**Judge Hagerty:** People are voluntarily posting signs; not that it is required by law.

**Christina Sambor, Coordinator of FUSE:** Referring to testimony handed out yesterday on 2199. (See handout #2) This is a summary of the laws since there are so many. A question came up on a companion bill about statutes of limitations. Right now there is no specific statute of limitations that applies to human trafficking crimes so they do fall under the general three year statute. Human trafficking of minors could be effected by the discussion that was had yesterday around the ten year versus unlimited statute of limitation on child sex crimes. We are looking at a seven year on all child sex crimes. We see crisis beds both in the east and west if necessary.

**Rep. Lois Delmore:** I hear pilot program and that sends a red flag. I think we have shown it is statewide so we need to have funds to be sure we address it statewide.

**Christina Sambor:** I agree. This is a combination of new and old services. On the Senate side they did pull out the post requirement that any private business post. Department of Homeland Security on a federal level has a really effective public information campaign that they put in airports about not looking past what is often right in front of you. Went through the handout. (16:20-21:19)

**Rep. D. Larson:** Are you saying there are no circumstances under which 16 and 17 year could be adjudicated delinquent then for prostitution?

**Christina Sambor:** No for the crime specifically of prostitution. The Senate provided immunity for misdemeanor crimes, but if it was a felony level offense that the minor engaged in then there is an affirmative defense that is available. The things that tend to be used for control methods by traffickers. It only comes under immunity if it is directly tied to trafficking. So this is not blanket immunity for minors. There is also an issue of quotas for commercial sex workers and for minors that are being sexually exploited. Often pimps will say don't come home with less than \$1000 on you. If they do there are very real consequences like beatings and all the other forms of abuse. Minors use of drugs is somewhere between 80-90% in a lot of studies. A lot of the is used as control methods.

**Rep. D. Larson:** In a juvenile court when would that immunity for a minor be? If they say they are a victim under this statute and they come out clean and say I have this person forcing me into this servitude then any of these things the court would not be able to use for treatment or rehabilitation. They would have to go with a deprived adjudication.

**Christina Sambor:** It bears discussion. It is a major shift in approach. You are giving up some of those prosecutors. So you are correct in your assessment that you would shift focusing on some of those delinquent tools to service based tools.

**Chairman K. Koppelman:** In the immunity section on pages 7 & 8 of the bill it says the immunity is triggered if they have committed an offense as a direct result of being a victim. On the next page it says victim is defined in this chapter so we have a definition of victim on page 4 means an individual who is subjected to human trafficking or to conduct that would have constituted human trafficking had this chapter been in affect when the conduct occurred regardless of whether a perpetrator is identified, apprehended, prosecuted or

convicted. So it is a reach back provision here for anyone who may have been engaged in at any time in their life I assume.

**Christina Sambor:** Here we have had the human trafficking law in place so the reach back would just be if it wasn't identified in the code.

**Chairman K. Koppelman:** Subsection 3, Page 8 it says an individual who is engaged in commercial sexual activity is not criminally liable or subject to a juvenile delinquency proceeding under chapter 27-20 for prostitution if the individual was a minor at the time of the offense. How does the reach back interface with that? Could it apply to someone older?

**Christina Sambor:** Safe Harbor applies if you are under 18. If you are over 18 you can't be charged with juvenile delinquency in the first place so it is two different systems.

**Chairman K. Koppelman:** Subsection 5 it says this section does not apply in a prosecution or a juvenile delinquency proceeding for patronizing a prostitute. Could you elaborate on that?

**Christina Sambor:** If you are 17 years old and go on back page and you locate someone and call them and you set up a date to engage in commercial sex that is not covered under the immunity. So if you are acting as a consumer of commercial sex even if you are a minor they wouldn't be charged with solicitation just because of the way the juvenile system works.

**Chairman K. Koppelman:** The person engaging in the prostitution would not be a criminal, but the person purchasing it would be.

**Christina Sambor:** That approach has proved effective in other countries to penalize the purchase of commercial sex and to decriminalize the selling of commercial sex.

**Rep. D. Larson:** Some situations come to mind as we are talking about this type of immunity. I see the juvenile justice system as one that is treatment and therapeutic focused and not criminal focused.

**Christina Sambor:** What you are saying is legitimate about Safe Harbor provisions and what is the right approach. We want to make sure we are not giving up tools that might be more effective than putting them into a deformation hearing. Then you are looking at foster care and all of that. I am not a director of juvenile kids. I think someone else can address this better.

**Chairman K. Koppelman:** Yesterday we listened to some heart wrenching testimony about sexual abuse among children. We are saying a juvenile who patronizes a prostitute; that could not also been driving by the same kind of damage and child sexual abuse that we were hearing about yesterday. Are we saying that could not be driven by the child exploitation? We are saying some groups are immune and some are not?

**Christina Sambor:** I think from a legal standpoint you always have the issue of prosecutory discretion. So it is supply and demand.

**Chairman K. Koppelman:** So you are dealing with the market on that issue and the individuals on the other issue. Is there a bridge for treatment for this scenario or not?

**Christina Sambor:** That is part of the work we are doing to train. I again go back to SB2199 and that being a critical piece of this puzzle because we have folks like the Red River Human Response Team that have got all the players at the table for comprehensive services. They have a plan and a forty page written protocol to implement how services would be implemented.

**Chairman K. Koppelman:** You talked about Ms. Moos and people showing up to help and they are not really geared to help, but it is sort of related so they are trying to help. Do you see these as two parallel tracks or as an integrated treatment system?

**Christina Sambor:** It is integrated treatment system. Once we get up and running we can be tracking and that is why FUSE came into being. We are supposed to be a collation. We are working looking at this globally. That coordination is going on behind the scenes.

**Rep. K. Wallman:** Could we receive some information about the history of SAFE Harbor provisions so that we know about it and how it is implemented.

**Christina Sambor:** I will get that to you by the end of the week. Continued going through the handout. (40:50-42:57)

**Chairman K. Koppelman:** The defense is after you are charged. It sounds like in one scenario it's a get out of jail free card and the other scenario you are charged and you go to court and now you can defend yourself. How do you see that?

**Christina Sambor:** The Senate tried to balance the victim centered approach with the rights of victims of crime. If it is misdemeanor crime prostitution is generally immune only for minors with things like thief forgery. If it is a misdemeanor crime then they can be immune. If it is a felony crime they can be charged, but they can assert an affirmative defense, if they were threatened with serious injury or death. They would have to provide that. I think it balances the more serious crime rights with the minor victim.

**Rep. L. Klemin:** Section 13: The effect of the Senate amendment to Section 12 seems to have a big effect on section 13; affirmative defense. Previous to the Senate amendment which put the misdemeanor part in it was an affirmative defense to any of those offenses such as felony, forgery, felony theft. The language stayed the same in Section 13. They changed subsection 1 of section 12 to misdemeanors so now it is no longer an affirmative defense as it is for a minor at the top of that page. Can you speak to that situation because I see that as a major change which maybe wasn't intended?

**Christina Sambor:** I think in terms of the details I would have to look more specifically at that. The intent is for minors because we are talking about immunity available for minors.

**Rep. L. Klemin:** There is an unintended consequence here because this is taken a lot of the affirmative defense of the adult victim away. If we were going to keep it as the original intent we would have to add the language that is up at the top of this page for minors on felony theft felony forgery otherwise it is only an affirmative defense as to a misdemeanor.

**Christina Sambor:** That is not the intention of the amendment. It was to limit the immunity for minors to only misdemeanor defenses. The intention of subsection 13 is to keep an affirmative defense available for trafficking victims that sustain a conviction as a result of being a human trafficking victim.

**Rep. L. Klemin:** It would be that same kind of language that is up at the top for a minor felony for your felony theft. That wasn't in the original bill either.

**Christina Sambor:** Yes that is correct. Continuing going through the amendment. (48:30-50:35)

**Chairman K. Koppelman:** Could you expand upon that there are other types of human trafficking.

**Christina Sambor:** It could be a domestic servant that is abused. Sexual assault is happening in these situations too. Also debt bondage is happening. Explained examples. These things are used for control by the trafficker.

**Elaine Frissell:** Five years ago my daughter and I decided to take a trip when she was seventeen. We are at a hotel swimming pool and then my daughter was enticed by a man to go to work somewhere else and taken out of state by a friend. Discussed how her daughter was enticed from ND. She was asked to bring all her legal documents with her when she left. He also gave her a great idea that they would be traveling and that is why she should bring those documents with her. She thought she would be modeling for a music video. Told the story about how her daughter was forced into human trafficking Discussed fact she could get no help from the law enforcement in ND. There is a huge need to what we make available to law enforcement. I contacted a bounty hunter My daughter is not here today but she is still a victim. Victims are very controlled in these situations. ( 53:26-1:10:15)

**Chairman K. Koppelman:** She is a constituent of mine and I had heard her story before. This happens in ND and in good families and bad and we never know.

**Winnie Lazenko, Executive Director 4her ND:** (See Testimony #3 & #4) (1:11:21-1:15:10) If those girls are victims of sex trafficking; or possibly going to be victims; they do need help. Diversion programs work incredibly well throughout different states how are enacted with the safe harbor law. The founder of JEMS 15 years ago started this and was a very powerful voice and was one of the first ones to work with the State of New York to pass the Safe Harbor Law. She just got her passport back from a European county. Here is a successful woman who is helping to serve thousands of girl's lives. They serve over 400 women in the state of New York every year and yet she had a record that inhibited her from going home to visit her family. She was just able to get her record expunged as a

survivor of sex trafficking. I also want to testify in support of SB2250. (Handed out pamphlet #4) These charges should absolutely demand felony charges.

**Anna Frissell, Executive Director, Red River Children's Advocacy Center, Fargo, ND:** (See Testimony #5) (1:19:22-1:27:50) (Testimony #6 handed out with no one there)

**Rep. P. Anderson:** So how do you see the \$1 million being used? How do you see that working?

**Anna Frissell:** We need to be able to support a victim that comes from anywhere in the state. We would be prepared to offer services and work with the original granting situation to make it available and we would offer out budget and request funding. We don't think it is extravagant. It would likely be in some kind of a granting situation. That would be our modeling and offer our budget and request funding to provide what we could within the half million dollars. YWCA, Youth Works, Rape and Abuse Crisis Center, and the Red River Children's Advocacy Center and although we work together often daily or weekly; it is unusual we came together to put this budget together.

**Chairman K. Koppelman:** We are hearing what we heard yesterday in regard to the grant?

**Anna Frissell:** We decided to try to get a real number for the budget. We are going to use advocacy organizations that are in the communities for this. The advocacy will be an initial responder; an initial contact for law enforcement. Often times when a victim come into a system or is connected to our first contact person adult victims are going to make choices of who they want to call and when they want to call them. The \$500,000 a year we will take whatever we can get from that. What we can't get from that we are going to try to find other sources to meet that \$6-\$700,000 budget.

**Chairman K. Koppelman:** What we are hearing from you is really the testimony we heard yesterday regarding the grant.

**Anna Frissell:** it is a general support of the policy changes and support providing you further information about funding issues.

**Chairman K. Koppelman:** The budget you talked about is that encompassing all the providers in the state who have the ability or interest to provide these kinds of services?

**Anna Frissell:** No that is just in our Red River area. We looked at what resources we had available and our history with these kinds of victims as a group and we developed our budget.

**Chairman K. Koppelman:** I see you have in the budget \$123/day; youth shelter \$280/day, but then it is also plus supportive services so why the differential there and what does it cost and why so much in a youth shelter?

**Anna Frissell:** Those services were brought by WYCA to our meeting. They have not typically sheltered youth. We had a challenge coming up with youth beds. That is a reflection of the increased services and supervision levels needed.

**Chairman K. Koppelman:** Is there best practices out there? Are there networks that you can use that have been doing this already?

**Anna Frissell:** Absolutely. I felt we had not had an adequate network to demonstrate that we had those services available. We came together in Fargo and tried to set down together and take a look at different models there are and the different provision of services and the kinds of best practices to begin a good dialogue.

**Mark Heinert: Homeless Program Works:** (See Testimony #7) I would like to speak today about the vulnerability of youth today. We then have a struggle building relationships after they have been abused. A victim that has been abused cannot turn it on and off. We have the challenge of how do we walk this fine line to build a relationship of trust. The brain washing aspect of it especially when there are truths involved just adds to those layers. We are working with individuals for months to help them see we could help them get out of that and there could be an opportunity for intervention.

**Rep. D. Larson:** My concern is limiting the judge's ability to use YCC as a safety net so they can do a delinquent adjudication but the youth is going off in a bad direction for all those factors we have been listening to. The parent shouldn't have to lose custody in order for that change to happen. I worry we are limiting what tools we can use if we say they cannot an adjudicated delinquent. We know when there is a juvenile that is threatening suicide we will put them in a psych ward and hold them for a while until we can get some things done to make a change in that path. What are your thoughts on that?

**Mark Heinert:** The first factor would be the label that I have done something wrong. Delinquent hearings it is about us saying this child has committed a delinquent act. They have done something against the law and there needs to be an intervention on their behalf. When we legally label a person as a delinquent we see that they have been victimized. We need to look at the resources where these young people are placed within a setting where placed in a setting where other delinquent individuals the environment provided where there are young people unruly and deprived. They have committed some unruly acts and they are placed in this setting and it is more difficult to provide that treatment.

**Rep. D. Larson:** What about a victim that becomes a pimp; but they are participating in a business?

**Mark Heinert:** I have mixed feeling labeling any individual that has been victimized.

**Chairman K. Koppelman:** We in the legislature are here to make public policy. A lot of us are weary to take an entire class of people and say none of this is wrong. It is just victimization. Are we on a slippery slope here?

**Mark Heinert:** As we are learning more about trafficking there is overwhelming evidence that individuals that are being trafficked so it does differ between them. I am stuck more on the fact that I am going to have a harder time getting younger people seeking support.

**Chairman K. Koppelman:** We do have laws on human trafficking. What are the tools available now?

**Mark Heinert:** We do. We have built relationships for months with individuals however we have not been able to make that connection to law enforcement. If we could be able to tell them they are not going to get in trouble with this it would be significant. It is paramount to the success of treating trafficking victims.

**Rep. D. Larson:** I feel whether you have confidence in the juvenile justice system or not. I have worked with many youth because of the violation of the law and are restored. Is the court system a tool or is it part of the enemy.

**Mark Heinert:** I agree. I do not feel our juvenile system is doing a poor job now. If we can prevent a young person from entering into that and being labeled and confused but they need to know there are services that can be helpful up front.

**Rep. D. Larson:** My concern is we are eliminating it in situations where it could be effective where better supervision might be helpful.

**Mark Heinert:** Regardless of whether a juvenile in juvenile court is found to be a deprived or delinquent it is the state's responsibility to provide services and intervene on their behalf.

**Rep. K. Wallman:** This provision is less about the law and more about the perception of the victim.

**Mark Heinert:** Yes but it is about the contribution that is made toward how you see yourself and what you believe within yourself and the power that that trafficker has over you. We want to get help to that victim and that is the most important.

**Rep. K. Wallman:** It is about perception about the victim?

**Chairman K. Koppelman:** Monday we will reopen the hearing on this bill since one of the committee members wanted to testify on this bill and she is absent today.

**Christopher Dodson, Executive Director and General Counsel:** (See Testimony #7)  
(1:58:06- 2:12:29)

**Chairman K. Koppelman:** Someone participating in some of these activities at 17 assumable has a brain that can't develop and they can't consent but on their 18 birthday suddenly they can. We have heavy duty laws that deal with these issues. When we are making policy we have to strike a balance and say this is where the line is going to be drawn. When we say some of these acts are non-criminal and can't be criminal and are going to be considered victims and others are going to be criminals not matter what. We kind of remove the discretion that the juvenile system has had.

**Christopher Dodson:** That is exactly the discussion we have had. Or if you need to do the Safe Harbor because of that perception. There is a difference in a minor purchasing sex and the giving of sex in a commercial activity. A minor pimp where is arranging for others is arranging for a different type of act. Do the goals here outweigh the consequences? We are OK with the safe harbor.

**Rep. L. Klemin:** On Section 20 I have questions. Is it your position what we are talking about on line 27 page 10 is not the same as simply having some literature available wherever they might be in the office of the service provider that someone might pick up like the information you handed out. Just so I understand; having that information available is not the same as referring for counseling for abortion?

**Christopher Dodson:** That is how I understand it.

**Rep. L. Klemin:** There is a statutory provision in ND Century Code about the title is not part of the statute. That is not really what this section is about. This doesn't talk about using public funds for abortions so I am wondering if the title should be amended to something that is more closely resembles this.

**Christopher Dodson:** The amendment I presented to the Senate was a separate section of the bill so it didn't have a title. You can change it or whatever you need to do. Titles are only confusion if you are looking at the heading. Ask legislative counsel why they worded it that way? It wasn't in my amendment.

**Rep. L. Klemin:** You would not have a problem if we amended the title of that to more closely resemble what is in this section?

**Rep. K. Wallman:** From the Dept. of Health on page 2 it says for the policy for the state of ND that childbirth is given preference, encouragement and support as it is in the best interest and wellbeing and common good of ND citizens. Do you know where that language came from? Is that in statute somewhere?

**Christopher Dodson:** Yes it is in the statute since 1987 and was reenacted in 2011 and that language is almost mirrors language that was upheld by the US Supreme Court in 1989.

**Rep. K. Wallman:** You published a letter to the editor you said when a human trafficking victim is being provided services and tries to get out of that life they are not in any position to consent to an abortion?

**Christopher Dodson:** that doesn't sound like something I wrote. That depends on the individual and I think those dealing closer with the person would be better able to answer that. We have a number of informed consent requirements to make sure the woman understands if she is consenting to an abortion. That is also in the code.

**Brandi Jude:** (See Testimony #8) (2:20:56- 2:23:53)

**Rebecca Matthews:** (See Testimony # 9) (2:24:08-2:25:57)

**Tony Weiler, Executive Director of the State Bar Association:** We support this bill plus 2232, 2250 & 2266.

**Tom Freier, ND Family Alliance:** (See Testimony #10) (2:27:15-2:27:46) We are in support of all those bills too. In relation to some of the questions this morning we have heard questions about the immunity clause and how it would best carry out what was really intended here. We wanted to make whatever was done there was actually used by the perpetrators to their advantage.

**Jonathan Byers, Attorney General's office:** The Attorney General is firmly behind this bill. My job for 26 years has been to take people who have committed criminal offense and make sure they get a criminal sanction for the bad choices that they have made. As a prosecutor that what I am use to. In this particular circumstance the people that we are letting out of having that criminal sanction are people who have not had a decision to make so I am not sure what purpose it serves to make sure they have a criminal sanction? I think it better serves the rehabilitation concepts.

**Rep. L. Klemin:** Part of this bill deals with grants from the Attorney General to develop service programs for victims etc. There is no appropriation with this bill. The fiscal note says not grants or contracts are granted to administer this program. What outside of this bill is available to the Attorney General to make these things happen?

**Jonathan Byers:** I believe was it was originally included from the Uniform Commission was to provide for the circumstance where there maybe grants that can be exceeded.

**Rep. L. Klemin:** So there is really nothing that would be able for the Attorney General to make a grant and there is nothing in either budget's that would provide funds for this grant?

**Jonathan Byers:** I am not aware of anything.

Neutral:

**Brock Spelling, ND Rights to Life:** (See Testimony #11) (2:33:57-2:35:35).

**Rep. Lois Delmore:** What would happen if a woman in that situation came in and asked for the information? Someone would have to be silent and that is an option you have?

**Brock Spelling:** There is no gage information in this. This is just using state funds.

**Rep. Lois Delmore:** if we pass this bill and they go into one of the centers and want that information yes it is state funded money.

**Brock Spelling:** There is nothing that prevents any individual from offering any counseling or referrals. This prevents state funding from being used for that counseling or referral.

**Rep. L. Klemin:** I think I am hearing you say there is a difference between some affirmative action to refer counsel to somebody for abortion versus having some information on that subject in the office available from a third party?

**Brock Spelling:** Yes that is correct.

Recess the hearing.

(See Testimony #12 handed out later)

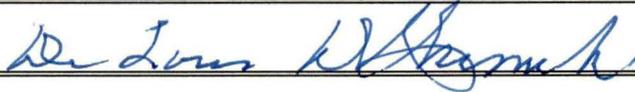
# 2015 HOUSE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Prairie Room, State Capitol

SB 2107  
3/18/2015  
25006

- Subcommittee  
 Conference Committee

Committee Clerk Signature



**Minutes:**

Chairman K. Koppelman: Reopened the hearing on SB 2107. PM

Neutral: None

Opposition:

Recessed.

# 2015 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee  
Prairie Room, State Capitol

SB 2107  
3/23/2015  
25299

- Subcommittee  
 Conference Committee

Committee Clerk Signature



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

Relating to student and student organization disciplinary proceedings at institutions under the control of the state board of higher education.

## Minutes:

Testimony #1, Proposed #2, Handout #3

**Chairman K. Koppelman:** Reopened the hearing on SB 2107. It was held open for someone on the committee who could not be here for the testimony so we don't intend to extend this throughout the day.

**Renee Stroma, Executive Director of the ND Women's Network ;** ( See Testimony #1) (proposed amendment #2) (: 51-2:44) We support the amendment.

**Rep. L. Klemin:** Is the amendment you are proposing the Planned Parenthood amendment?

**Renee Stromme:** This is Rep. K. Hawken amendment.

**Rep. Karls:** Would you explain that one phase that would kill this bill?

**Renee Stromme:** Some people might ask for a no vote on the bill. I don't know if that would happen but I want to avoid that. If we clarify it I think we can avoid that.

**Rep. Hawken:** (See Handout #3) human trafficking is horrendous. I care very deeply on this bill. The Senate amendment makes no difference on this bill. My biggest complaints about the federal government is no one will work together to get things done. There are a number of states who have non directed counseling which allows for people to provide information. This amendment hands out a pamphlet which could include not only medical but social services in it. We need to keep in mind what we are talking about. These are people and they are victims. We want to be sure we don't spend money on abortions. The testimony last week did point toward this amendment we handed out. What is a compromise? There are a number of states who have what is called nondirective consoling. It simply allows for people to provide information. It was said last week there wouldn't be anything wrong with handing out brochures during the testimony. That is what

this amendment does. It is non-directive and the pamphlets could then include not only medical; social services; but it could include some of those other areas as well. You don't say this is where you go. This would be an avenue we could take without spending any state or federal money that is a compromise between having the amendment and not having the amendment. I think the testimony I did see pointed to an amendment like the one you have in front of you. We need a middle ground because there are people who will vote no if it are perceived as trying to be a Gaylord. We want all green votes on this bill.

**Chairman K. Koppelman:** I think the testimony we heard on the amendment made it clear that the only thing the amendment does is use it prohibit those receiving tax payer dollars to use those dollars for counselling or referral for abortion. It doesn't say anything about how what they can do outside of the use of that money and that is less restrictive than a lot of other things in law.

**Rep. K. Hawken:** If that is accurate and that is what the amendment does is OK. If somebody told the information to you at the time you probably don't remember it so the pamphlet would be something you can go back to.

Opposition: None

Neutral: None

Hearing closed.

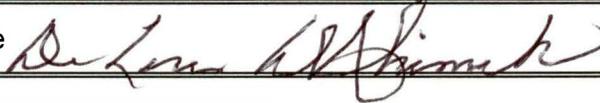
# 2015 HOUSE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Prairie Room, State Capitol

SB 2107  
March 25, 2015  
25440

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## Minutes:

Proposed amendment #1,#2, #3,#4, #5

**Chairman K. Koppelman:** Opened the hearing on SB 2107. Discussing proposed amendment #1 by the ND Dept. of Human Services. It is just a technical correction.

**Moved the amendment by Rep. K. Hawken: Seconded by Rep. Mary Johnson:**

Discussion: None

**Voice vote carried.**

**Rep. L. Klemin:** (See proposed amendment #2. #03007) Went over the bill with some of the changes the Senate did and how their changes affected the bill adversely. Went over the proposed amendment.

**Motion made to move amendment #2 15.0277.03007 by Rep. L. Klemin: Seconded by Rep. G. Paur**

**Rep. Mary Johnson:** Rep. Klemin is saying that 12.1-41-1-13 regards adults as well as minors.

**Rep. L. Klemin:** No the affirmative defense for minors is in section 12 at the top of page 8. All of Section 12 applies to minors. Section 13 applies to adult victims.

**Voice vote carried.**

**Rep. D. Larson:** (see proposed amendment #3) As you know I have had a lot of heartburn over the juvenile justice portion of this bill because I was concerned about removing altogether the ability of juvenile court to be able to adjudicate a delinquent when those situations would best serve the juvenile. (8:07- 12:00) Went over the proposed amendment. This satisfies the issue because we are still keeping everything in here. We are still recognizing a safe harbor and we are still saying a juvenile that is engaging in this is going to not be charged as a delinquent, but it is not going to eliminate them from everything they have done. It is just going to be an affirmative defense. The Uniform Juvenile Court act was established to remove the taint of criminality from youthful

offenders. It was established to provide treatment and rehabilitation and not punishment and that is the whole focus of juvenile court anyway.

**Chairman K. Koppelman:** There is a technical issue in the drafting should be not line 1 does not make sense.

**Rep. L. Klemin:** Line 1-3 is identical to what you are inserting as a new 2?

**Rep. D. Larson:** I meant to keep it; I just wanted to renumber it. Since the title is kept we thought it would make more sense to begin the number one thing with that immunity for a minor.

**Rep. L. Klemin:** I thought you did not want them to have an affirmative defensive. So in this amendment you are taking out Subsection 1 of section 12. You are taking out 1 and 5. Everything else is staying in but just being renumbered.

**Chairman K. Koppelman:** I think you said that the part of subsection 1 under section 12 that is being deleted is restated somewhere else or duplication?

**Rep. D. Larson:** If you look at the bottom of page 7 under a that is one of the things they are not going to be held criminally liable for is the prosecution. Then it basically restates that on page 8.

**Rep. P. Anderson:** So this section immunity of a minor this is in the uniform bill that all other states are going to have? Then we are going to take it out and do something else with it?

**Chairman K. Koppelman:** When the Uniform Law Commission puts forth legislation it is not necessary that states adopt it identically. Most states don't.

**Rep. D. Larson:** When I expressed my concerned Ms. Sambor was helpful. She understood my concerns and showed me the Minnesota law is much less restrictive. That law makes the children immune if they are under 15; but over that they are not immune.

**Chairman K. Koppelman:** So some states have implemented this in various ways. The highbred was that under 15 there was a safe harbor. 15 to 18 there was a juvenile system they went into. The discussion was should we have a highbred as a state because this is new.

**Rep. L. Klemin:** Things I don't like with the amendment is you are making an affirmative defense for certain felonies. Not an affirmative defense for misdemeanors, insufficient funds, manufacturer and possession of controlled substance or drug offenses are not counted at all.

**Rep. D. Larson:** I completely agree. I only left that in here because the wording in here. I don't need to limit this. The only reason I had it this way is because this is the wording that was in the bill. I didn't change that part of it.

**Rep. L. Klemin:** So you are saying you would treat minors and adult the same as far as affirmative defense. That is what Section 13 does.

**Rep. D. Larson:** As far as felonies. Juveniles are already treated differently than adults for misdemeanors.

**Chairman K. Koppelman:** For everything except prostitution.

**Rep. D. Larson:** I didn't want there to be immunity to be able to be charged as a delinquent defense. I wanted it to be an affirmative defense, but the ability to still be able to be there to charge as a delinquent offense when it is warranted.

**Chairman K. Koppelman:** The amendment says the victim status is for prostitution. Just because you commit thief or forgery, if you are doing that because you are a victim of human trafficking then you can use the defense when acquiesced of that crime. But it still preserves the immunity for prosecution as well.

**Rep. Lois Delmore:** All the misdemeanors are taken out and we are only covering felony charges? I don't think we want to do that.

**Rep. P. Anderson:** All the juvenile things function very well.

**Rep. D. Larson:** They meet regularly and discuss how to keep things the same around the state.

**Rep. K. Wallman:** I am stuck on if a minor is being prostituted they may also being asked to do a bunch of illegal activities. Depuration versus delinquency hearing just the name of it has an impact on the way that victim internalizes their behavior and if we have some depuration hearing is a special place for these victims, I would prefer that. Especially it is important that they have to make the case that these other felonious activities were a result of their victimization and I think it already has a safe guard. I will resist the amendment.

**Rep. D. Larson:** My worry is there are times a juvenile who is in love or being brain washed by an older boy friend will do things that their parents are devastated by. That kid is going off on their own direction because of that manipulation and connecting it with drugs. If we don't allow for a judge determined separation in those cases where the kid is so determined to go down this path no matter how you try to stop them; then we are taking a valuable tool out of the ability of that juvenile court judge to look at the best interest of the child.

**Rep. P. Anderson:** What you just described to me is the boyfriend is pimping this young woman all day long to all his friends?

**Rep. L. Klemin:** This section of 12; immunity of a minor is the Safe Harbor provision in the uniform act. This is one of the cornerstones of the uniform act to get these children out from under the hands of a human trafficker. What Rep. Larson's amendment does is I believe is to remove the safe harbor and that is a major change in this uniform law. I can't support that amendment.

**Chairman K. Koppelman:** It does not remove the Safe Harbor for prostitution which is what we have been hearing 95% of the testimony on. It does say for forgery, thief, drug distribution etc. Then you can say it was this happened because I was a victim of human trafficking.

**Rep. Lois Delmore:** A is prostitution and we are removing all of that.

**Chairman K. Koppelman:** On the next page it is covered there.

**Rep. L. Klemin:** Page 7, line 31 it is prostitution under 12.1-29.03 in the subsection 1 portion and it prostitution under chapter 27-20 in the other section so I think there is a difference there. I am not prepared to tell you what it is without looking at those statutes.

**Rep. D. Larson:** Chapter 27-20 is the uniform juvenile court act and in that act it says juvenile court has exclusive jurisdiction for any of these offenses. They would not be heard in adult court.

**Christina Sambor:** 12.1-29.03 is the criminal code prostitution section for adults. 27-20 lays out all the juvenile proceedings and procedure. I am not stating support for the amendment, but just proving information. Subsection 1 was designed to list any other crimes that a legislature would decide to apply safe harbor to. That is why prostitution is restated in subsection 3. Prostitution could have been left out of that list in subsection 1 because it is already addressed in subsection 3. If they are on the deputation side they are looking at child welfare services.

**Chairman K. Koppelman:** If the amendment was adopted it preserves the safe harbor for prostitution. It is not immunity; it is a defense to say I was a forger because I was a human trafficker.

**Christina Sambor:** Rep. Larson wants to limit the applicable of immunity to just prostitution.

**Chairman K. Koppelman:** There could be a defense used because of being a victim of human trafficking.

**Christina Sambor:** A lot of kids end up on the delinquency side because of related crimes so I think they are very much part of the equation.

**Chairman K. Koppelman:** Is that your understanding?

**Rep. D. Larson:** Yes it is. Obviously a judge isn't necessarily going to take a juvenile into a delinquency hearing if that is not what they think is best.

**Rep. L. Klemin:** The uniform act has been the subject of a lot of major groups including the Uniform Law Commission and American Bar Association, taskforce on Human Trafficking including the ADA Center for Human rights and National Association of Attorney General;

including the National Violence against Women project. All of those people in the drafting of this bill simply put in duplication. I think they are in there for a reason.

**Chairman K. Koppelman:** If you want to add that chapter reference that could be done as well. If we are going to vote on this amendment there should be a correct in addition to line 1 on page 8 in the underscored paragraph between the words too and felony maybe add misdemeanor or. I don't think the intent was to eliminate misdemeanors.

**Rep. K. Wallman:** During testimony we heard that safe harbor has been used when pimps force a trafficking victim to commit crimes against them and say if you turn yourself in they will still charge you for this and this so you might as well just not leave because you will be convicted of another crime. Pimps are using the threat of being penalized for another crime to keep from coming forward as a victim.

**Chairman K. Koppelman:** This allows a defense based upon that right?

**Rep. K. Wallman:** Now we know in the testimony we heard my understanding was the reason the safe harbor provision is written the way it is because we want them to feel safe coming forward. If they feel they will be imprisoned for some other crime they would be less likely to come forward.

**Chairman K. Koppelman:** I don't know if juveniles know enough about the system to know about those judgments?

**Rep. Lois Delmore:** The safety issue is important. What is someone is arrested for forgery and she was forced to do it; and she says to law enforcement I had to do this; do we not believe here then, we just do the forgery?

**Rep. L. Klemin:** This shifts almost everything into an affirmative defense and that is turning safe harbor on its nose.

**Chairman K. Koppelman:** If someone was caught stealing and the reason I stole was because I am in human trafficked and I am a victim and this person forced me to do this. If your amendment were law how would the juvenile or law enforcement treats that?

**Rep. D. Larson:** Based upon my experience I have seen the juvenile court proceed in a way that going to serve the child. Even under #1 anybody charged with any of these things still has to show that they committed it as a direct result of being a victim. Even if they are charged with a felony because that is what they are caught doing they are going to still have to go and explain why they did it. I think the juvenile court will handle them differently and it is not as a result of being a victim.

**Motion moved amendment #3 by Rep. D. Larson: Seconded by Vice Chairman Karls:**

**Discussion:**

**Chairman K. Koppelman:** How is this finding confirmed under the bill if somebody is acquiesced and they committed the offense as a direct result of human trafficking how do they demonstrate that?

**Rep. L. Klemin:** if the child victim is picked up by law enforcement would be one way to get into the system. Another method is maybe they ran away and in response to one of those signs they saw about human trafficking get help. Instead they got arrested; I think in the process of determining whether that child is a victim or not from the standpoint of charging somebody the prosecutor is going to exercise some discretion to review the circumstances.

**Chairman K. Koppelman:** You said the prosecutor makes the decision.

**Rep. D. Larson:** Sometimes it is just the police officer that makes the decision. They don't charge them if they are rescued.

**Chairman K. Koppelman:** So Johnny is picked up for shoplifting and he says I am a victim; if he passes as is, it sounds like law enforcement, police officer or prosecutor can look at that and say yea he said he is a victim and evidence shows he is a victim and he is in safe harbor. If the bill as Rep. Larson's amendment would change is law and the same circumstance occurs would the same kind of judgment or what?

**Rep. L. Klemin:** In order to get into the appointed time first you have to be arrested and charged and then you go into criminal prosecution. This amendment requires all of that. We don't want to get into all that if we don't have to.

**Chairman K. Koppelman:** Rep. Larson just said that in some of those circumstances they are charged. If this were the statue and that circumstance came up wouldn't the law enforcement or prosecutors folks say if we do charge you and it goes to court we know that it is an affirmative defense that you were being trafficked so we are not going to charge you because we aren't out to punish you. How would they get them into these processes? If what is written here is the law how would they then get into the juvenile system and out of the safe harbor scenario?

**Rep. L. Klemin:** The main point here is the human trafficker will hold this over that child's head. You are going to have to prove your innocence.

**Rep. K. Hawken:** I think the reason for this bill is to make sure the victims are treated as victims and so we can't suppose that somebody is going to be nice. It is always harder when you have to prove yourself innocent. We need to make sure whatever it is we put in here has the safest guards we can have for minors. I am not sure what we are doing here.

**Chairman K. Koppelman:** An affirmative defense is part of your defense when you are acquiesced of something you still have to prove guilt.

**Rep. G. Paur:** If a child is picked up for shop lifting and the police figure there is immunity are they just let go?

**Voice vote failed.**

Recessed.

**Chairman K. Koppelman:** We have adopted two amendments to SB2107.

**Rep. L. Klemin:** (See proposed amendment #4 .03008) Rep. Klemin went over the amendment.(56:10-58:10)

**Rep. K. Hawken:** (See proposed amendment #5). This is an addition to what Rep. Klemin is saying so that would allow what is on hand. How would we best help the victim and this would allow them to have this information. It would be a list of any service that would help the victim.

**Rep. D. Larson:** How does it change what is here?

**Rep. L. Klemin:** My amendment is a clarification and funds may be used for family counseling services, but cannot be used for abortion.

**Chairman K. Koppelman:** Are family planning services defined in the Century Code?

**Rep. L. Klemin:** These clinics work in conjunction with the Dept. of Human Services which is funneled through there for these clinics.

**Chairman K. Koppelman:** There is a difference between an entity that services state funds and what they can do with those funds versus an entity that receives federal funds that pass through the state. Would a group say they provide family planning purposes?

**Rep. L. Klemin:** Is it the Dept. of Human Services or Dept. of Health that has this under their wing and where do they get their money?

**Christopher Dodson:** It is not in the code so the authority must come through the health appropriation bill. The money comes from the State Dept. of Health. It comes through a delegate agency and there are nine of them.

**Chairman K. Koppelman:** Do you think this amendment changes anything in the bill?

**Christopher Dodson:** I don't think it changes anything. I will not comment on this.

**Rep. Lois Delmore:** It is the same brochure that he passed out to us with his testimony.

**Amendment #4 moved by Rep. L. Klemin: Seconded by Rep. K. Wallman:**

Discussion:

**Rep. L. Klemin:** I think it is a clarification.

**Rep. K. Wallman:** Rep. Klemin had a question about the heading?

**Rep. L. Klemin:** I think the amendment was consistent with the title so I didn't change the title.

**Chairman K. Koppelman:** I will resist this amendment. I disagree that there is lack of clarity in the bill.

Voice vote unclear.

**Roll Call Vote Passed: 8 Yes 5 No 0 Absent**

**Rep. K. Hawken:** (See proposed amendment #5 Revised LC 3004) Went through the proposed amendment.

**Motion made to move this amendment by Rep. K. Hawken: Seconded by Rep. Lois Delmore:**

**Rep. K. Hawken:** I was requested to put state family planning so I made that correction. The Catholic Conference; FUSE, CAWS, and the Attorney General requested this. I feel it is important that this all be stated. If we are looking at the victim this is something that has worked. They don't have to be scared and they have some where to go.

**Rep. L. Klemin:** Since we have adopted the previous amendment which says that funds may be used for family planning services; now we go to this proposal which applies to the amendment we just adopted does not include these things which it most certainly does.

**Rep. K. Hawken:** I just want a victim will be handed information and they will have some where to go.

**Withdraw amendment #5. By Rep. Hawken and Seconded by Rep. Lois Delmore:**

**Rep. L. Klemin:** Maybe we should just make another subsection. Made a change to have it read after 2. Human trafficking may be provided with.

**Motion to move the amendment by Rep. K. Hawken: Seconded by Rep. Lois Delmore:**

Discussion:

**Rep. Mary Johnson:** This has become a complete mess. Rep. Klemin's amendment directly reflects chapter 14 languages including the family planning services. Now we have this language that is confusing; undefined and that is why I am going to oppose this amendment.

House Judiciary Committee  
SB 2107  
March 25, 2015  
Page 9

**Roll Call Vote: 6 Yes 7 No Failed.**

**Do Pass As Amended by Rep. Lois Delmore: Seconded by Rep. Mary Johnson:**

**Roll Call Vote: 13 Yes 0 No 0 Absent Carrier: Rep. L. Klemin:**

**Referred to Appropriations.**

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2107

Page 2, line 9, after "b" insert "of subsection 1"

Page 8, line 7, replace "2" with "3"

Renumber accordingly

15.0227.03007  
Title.

Prepared by the Legislative Council staff for  
Representative Klemin  
March 24, 2015

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2107

Page 7, line 31, remove "and"

Page 8, line 13, after "prostitution" insert ", felony forgery, felony theft, felony drug distribution,"

Renumber accordingly

**Proposed Amendments to SB 2107 from Representative Larson**

Page 7, remove lines 22 through 31

Page 8, ~~line 1~~, remove lines 1 through 3

Page 8, line 4, replace "3." with "1."

Page 8, after line 6, insert "

2. It is an affirmative defense to felony forgery, felony theft, and felony drug distribution that the individual was a minor at the time of the offense and committed the offense as a direct result of being a victim as defined by this chapter."

Page 8, line 7, replace "4." with "3."

Page 8, remove lines 10 through 11

15.0227.03008  
Title.

Prepared by the Legislative Council staff for  
Representative Klemin  
March 24, 2015

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2107

Page 10, line 27, remove "not"

Page 10, line 27, remove "in favor"

Page 10, line 28, replace "of abortion" with "for family planning services, but may not be used to perform, refer for, or encourage abortion"

Renumber accordingly

revised LC 3004

Proposed Amendments to SB 2107

Page 10, after line 24, insert "1."

Page 10, after line 28, insert:

2. As used in subsection 1, "refer for or counsel" does not include giving a victim of human trafficking nondirective counseling. Nondirective counseling includes:
  - a. A list of health care, social service, legal, shelter, and state family planning providers.
  - b. Nondirective information about the listed providers.

Renumber accordingly

March 25, 2015

82  
3/25/15

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2107

Page 2, line 9, after "b" insert "of subsection 1"

Page 7, line 31, remove "and"

Page 8, line 7, replace "2" with "3"

Page 8, line 13, after "prostitution" insert ", felony forgery, felony theft, felony drug distribution,"

Page 10, line 27, remove "not"

Page 10, line 27, remove "in favor"

Page 10, line 28, replace "of abortion" with "for family planning services, but may not be used to perform, refer for, or encourage abortion"

Renumber accordingly

Date: 3-25  
 Roll Call Vote #: 1

**2015 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 502107**

House JUDICIARY Committee

- Subcommittee                       Conference Committee

Amendment LC# or Description: 3-19-15 Human Services #1

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

Other Actions:  Reconsider                       \_\_\_\_\_

Motion Made By Rep. Hawken Seconded By Rep. Johnson

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

*Vote Carried*

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

Date: 3-25  
 Roll Call Vote #: 2

**2015 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. SB2107**

House JUDICIARY Committee

Subcommittee  Conference Committee

Amendment LC# or Description: 15.0277.03007

Recommendation:  Adopt Amendment  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations  
 Other Actions:  Reconsider  \_\_\_\_\_

Motion Made By Rep Klemm Seconded By Rep. Paur

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

*VOICE  
 VOTE  
 CARRIED*

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

Date: 3-25-15  
Roll Call Vote #: 3

2015 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. SB2107

House JUDICIARY Committee

Subcommittee  Conference Committee

Amendment LC# or Description: Larson Amend #3

Recommendation:  Adopt Amendment 3  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations  
Other Actions:  Reconsider

Motion Made By Rep. Larson Seconded By Rep. Karls

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

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

**2015 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL NO. SB 2107**

House JUDICIARY Committee

Subcommittee  Conference Committee

Amendment LC# or Description: 15.0227.03008 #4

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

Other Actions:  Reconsider  \_\_\_\_\_

Motion Made By Rep. L. Klemin: Seconded By Rep. K. Wallman:

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) 8 No 5

Absent 0

Floor Assignment: \_\_\_\_\_

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

**Voize Vote carried**

Date: 3-25-15  
 Roll Call Vote #: 5

**2015 HOUSE STANDING COMMITTEE**  
**ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 582107**

House JUDICIARY Committee

Subcommittee  Conference Committee

Amendment LC# or Description: Revised LC 3004 #5

Recommendation:  Adopt Amendment #5  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations  
 Other Actions:  Reconsider  \_\_\_\_\_

Motion Made By Rep Hawken Seconded By Rep. Delmore

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

Total (Yes) 6 No 7

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

*Failed*

Date: 3-25-15  
 Roll Call Vote #: 6

**2015 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. SB2107**

House JUDICIARY Committee

Subcommittee  Conference Committee

Amendment LC# or Description: 15.0227.03009, 04008

Recommendation:  Adopt Amendment  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations  
 Other Actions:  Reconsider  \_\_\_\_\_

Motion Made By Rep. Delmore Seconded By Rep. Johnson

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

Total (Yes) 13 No 0

Absent 0

Floor Assignment Rep. Klemin

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

**REPORT OF STANDING COMMITTEE**

**SB 2107, as reengrossed: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed SB 2107 was placed on the Sixth order on the calendar.**

Page 2, line 9, after "b" insert "of subsection 1"

Page 7, line 31, remove "and"

Page 8, line 7, replace "2" with "3"

Page 8, line 13, after "prostitution" insert ", felony forgery, felony theft, felony drug distribution,"

Page 10, line 27, remove "not"

Page 10, line 27, remove "in favor"

Page 10, line 28, replace "of abortion" with "for family planning services, but may not be used to perform, refer for, or encourage abortion"

Renumber accordingly

**2015 HOUSE APPROPRIATIONS**

**SB 2107**

# 2015 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee  
Roughrider Room, State Capitol

SB 2107  
4/2/2015  
Job #25787

- Subcommittee  
 Conference Committee

Committee Clerk Signature *Kenneth M. Tothel*

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

A BILL for an Act to create and enact chapter 12.1-41 of the North Dakota Century Code, relating to the Uniform Act on Prevention of and Remedies for Human Trafficking; to amend and reenact subsection 1 of section 12.1-32-15 of the North Dakota Century Code, relating to definitions; to repeal chapter 12.1-40 of the North Dakota Century Code, relating to human trafficking; and to provide a penalty.

## Minutes:

**Chairman Jeff Delzer:** Opened the meeting.

**Repr. Kim Koppelman;** Spoke on the bill. SB 2107 is the major human trafficking bill. We have several of those. We've already voted on a couple of them, but this is the lynch-pin. This bill comes to us from the Uniform Law Commission. It essentially lays out the groundwork for dealing with human trafficking. I think everybody agrees that the selling and trading of human life for the purpose of sex, labor or any other purpose is an attack on human dignity, as one of the testifiers in our committee said. Sex trafficking turns people, and oftentimes it's young girls and boys, into mere commodities, sex objects that are bought and sold, and used and discarded. No human being should be treated this way, and the Judiciary Committee has heard hours of testimony on these issues this session, and we believe that this is very important. As for the fiscal impact of this bill, the fiscal note was written by the DOCR, and I was attempting to determine what iteration of the bill this changed in, but it appears to me that the fiscal note that I see is for the 0200 version of the bill, and I don't know if there has been a revision since then. Is it the same amount, Mr. Chairman?

**Chairman Jeff Delzer:** For \$188,000 on 004.

**Koppelman:** Look at the previous fiscal note. That one was for \$120,000. The one from the Department of Corrections was for one FTE to administer this program of grants.

**Chairman Jeff Delzer:** This one looks like it's for somebody to do the grants. Apparently they pay a whole helluva lot more.

**Koppelman:** It must be a lot more in the Attorney General's office than they do in DOCR. I would encourage you to look at the 02000 version just for reference.

**Chairman Jeff Delzer:** Is that set up so that DOCR would handle that? This section does set up the granting. This bill has on the last page, page 10, the grants to providers. Maybe there's another bill that's going to follow this that also has an appropriation in it. Why are they not together?

**Koppelman:** You're correct. This does set up the grant program, so the fiscal piece in this bill is strictly for the administration of that program. I'm no expert on staff time, but I don't know that it would take a full-time person for the biennium to do this. The other bill, 2199, that's the money bill. That's an appropriation within a bill.

**Chairman Jeff Delzer:** You say this came from the Uniform Law Commission?

**Koppelman:** This came from the Uniform State Law Commission, and the other one was introduced by legislators.

**Chairman Jeff Delzer:** This came from them with the grants? Was that added afterwards? Is this part of that Uniform State Law Commission?

**Koppelman:** I don't have the original version of the bill, but I believe that it probably does contain a granting provision.

**Brady Larson, Legislative Council:** The bill, as introduced, provided for the DOCR to make a grant or contract for these services.

**Chairman Jeff Delzer:** And the Senate changed it to the attorney general.

**Larson:** That is correct.

**Koppelman:** That's my understanding as well. I think it probably is better placed in the Attorney General's Office.

**Chairman Jeff Delzer:** Frankly, I don't know that I agree with that. Why do you think it's better there?

**Koppelman:** The program, and you'll see this in SB 2199, the program for grants goes out to organizations that deal with the victims of human trafficking. It's designed for treatment and so on. So the Department of Corrections being the area that deals with criminal offenders, it really isn't as well placed there. I believe the Attorney General's Office probably is a better place for that administration. Now whether the money is appropriate is your decision.

**Representative Pollert:** You talk about felonies; are there fines? In the DOCR budget, they have fines to pay for a victims' fund. Could that be applicable here? So instead of a general fund, is there a fine for something like that? And that these felons have to pay?

**Koppelman:** I'm not sure whether those victim resource funds are tapped for these. The way the bill stands now, I don't believe it does do that. But it's certainly something that could be investigated. I will tell you that on SB 2199, our committee did attach a provision that says that if a human trafficker is arrested and convicted, and there is money seized as part of that, that money would flow into the grant program.

**Chairman Jeff Delzer:** Brady, check that out for us, and find out what the fine is and where the fine would go.

**Representative Skarphol:** Do not all fines have to go into the common schools trust fund?

**Chairman Jeff Delzer:** Not all of them, no.

**Brady Larson:** Generally a fine for a violation of state law must go into the state tuition fund for the benefit of common schools. However, with our state laws, there are several fees instead of fines, and so there are some instances where a statutory fee for speeding, perhaps, could be interpreted as being able to go somewhere other than the state tuition fund.

**Chairman Jeff Delzer:** Go ahead and check that out for us, and see what this amounts to.

**Chairman Jeff Delzer:** Any further questions on 2107?

Chairman Jeff Delzer closed the hearing on SB 2107.

# 2015 HOUSE STANDING COMMITTEE MINUTES

## Appropriations Committee Roughrider Room, State Capitol

SB 2107  
4/8/2015  
Job #25900 and #25947

- Subcommittee  
 Conference Committee

Committee Clerk Signature

*Kenneth M. Tolsted*

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

A BILL for an Act to create and enact chapter 12.1-41 of the North Dakota Century Code, relating to the Uniform Act on Prevention of and Remedies for Human Trafficking; to amend and reenact subsection 1 of section 12.1-32-15 of the North Dakota Century Code, relating to definitions; to repeal chapter 12.1-40 of the North Dakota Century Code, relating to human trafficking; and to provide a penalty.

### Minutes:

**Chairman Jeff Delzer** opened the hearing and discussed SB 2107. When we look at 2107, it incorporates all of the amendments that the House Judiciary put on, and then adds the language, to the extent the entity provides \$1 of matching funds for every \$1 of state funding provided in the entity. If we want some matching language at all, we need to adjust that however you want to adjust it. I do believe there should be some matching, and Rep. Skarphol, on your 2199, you were wanting to make that so that it could be matched, or were you wanting to split those out and not have a match?

**Representative Skarphol:** I believe the providers that are wanting to work with the money available would suggest that if they can have \$1-million to work with, they think they would have sufficient dollars to work with. And while I understand your desire to have some skin in the game on the part of the local communities, I guess I agree with Rep. Streyle about the fact that I'm not sure this is an entity that has the ability to raise the money. This is an entity that is trying to help the folks that are victims of human trafficking. And I'm at a loss to know where they're supposed to get the match from, unless they get it from a local political subdivision.

**Chairman Jeff Delzer:** They could get it from a local political subdivision or a Federal grant or anything. Because there's going to be all sorts of Federal grants out there for human trafficking now. It's one of the major buzzwords that's going on. It seems to me there was even some Congressional stuff about grants on this. So I don't know that, expecting a little bit of a match. If you think 1-to-1 is too much, we could maybe go to 1-to-2 or whatever. Or do it as in-kind if they're paying wages, there is match there. You would have in essence some sort of match, so it's not something that's being looked at simply from the state standpoint.

**Rep. Skarphol:** I guess I'm not familiar enough with their experience to be able to gauge their capability. So I guess I would ask that we just hold this, give us an opportunity to visit with the people involved, and find out what they think their capabilities are. And we'll be prepared to move forward rather quickly next time.

**Chairman Jeff Delzer:** I would ask that you try to get, if it's possible, try to get yours written for 2199, too, so we can look at that. 2107 actually sets up the language for the granting for the human trafficking, I believe it probably sets up some other language as well. The granting language is in here. This is from the Uniform Commission on Uniform State Laws. What are your wishes? Actually, the amendments that were handed out were requiring some sort of match, and I think there has been a lot of discussion that it would be hard for these entities to do the matching. And the communities don't want to be required to step forward unless they want to. On that issue, I believe Rep. Skarphol, your 2199 was actually dealing with the three major hub cities: Minot, Williston and Dickinson. At 250 apiece.

**Rep. Skarphol:** If you recall, we did some work with domestic violence centers in pretty much these same communities requiring match money there. I think we've probably asked enough of them. That's why I didn't ask for the match on 2199.

**Chairman Jeff Delzer:** And the match language would have to be in 2107 if we wanted to have the match language anyway; maybe in both, but it certainly would have had to have been in 2107. So what are your wishes?

**Representative Hogan:** I move Do Pass on SB 2107 version 04000.

**Representative Brandenburg:** Seconded

**Chairman Jeff Delzer:** We have a motion for a Do Pass with no amendment on 2107.

**Representative Dosch:** Is the fiscal note still in effect? Or the extra money that Rep. Skarphol put in 2199, was that to cover the fiscal note on this? Or where are we at with this?

**Chairman Jeff Delzer:** The fiscal note has to do with DOOCR, and thinking how many they'll get in, it looks like. I don't know that there's much you can do with that. There can't be very many people coming in. That's what it looks like. It doesn't look like they're talking about any more FTEs or anything. No, it is saying one FTE for the grant program, but I don't think in the Attorney General's Office that we're offering them another FTE, and I don't believe this bill has that in it.

**Representative Pollert:** I was just going to bring to your attention that last page about the one FTE, and you already mentioned it.

**Chairman Jeff Delzer:** Basically, it's a case of, if we passed it, we would be saying they had to do it within their existing FTEs and money. I think there is an issue of them wanting to hold a certain amount of their grant money. I know that was in the original bill. I don't know what Government Ops has done with that, but they were wanting to hold any grant money they got, they were wanting to hold 10 percent or something. I think that's a pretty big number, but we'll have that discussion when we do the Attorney General's. Further discussion on the Do Pass motion? Seeing none, the clerk will call the roll for a Do Pass.

ROLL CALL VOTE TAKEN: YES: 22 NO: 0 ABSENT: 1

Motion for a Do Pass carries 22-0-1.

Representative Klemin is the carrier.

**Chairman Jeff Delzer** closed the hearing on SB 2107.

Date: 4/8/15  
 Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES

BILL/RESOLUTION NO. 2107

House: Appropriations Committee

Subcommittee

Amendment LC# or Description: No amendment

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: Hogan Seconded By: Brandenburg

Representatives	Yes	No	Absent
Chairman Jeff Delzer	✓		
Vice Chairman Keith Kempenich	✓		
Representative Bellew	✓		
Representative Brandenburg	✓		
Representative Boehning	✓		
Representative Dosch	✓		
Representative Kreidt	✓		
Representative Martinson	✓		
Representative Monson	✓		
Representative Nelson	✓		
Representative Pollert	✓		
Representative Sanford	✓		
Representative Schmidt	✓		
Representative Silbernagel	✓		
Representative Skarphol	✓		
Representative Streyle	✓		
Representative Thoreson	✓		
Representative Vigesaa	✓		
Representative Boe	✓		
Representative Glassheim			AB
Representative Guggisberg	✓		
Representative Hogan	✓		
Representative Holman	✓		
TOTALS	22	0	1

Floor Assignment: Klein

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

**REPORT OF STANDING COMMITTEE**

**SB 2107, as reengrossed and amended: Appropriations Committee (Rep. Delzer, Chairman) recommends DO PASS (22 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).** Reengrossed SB 2107, as amended, was placed on the Fourteenth order on the calendar.

**2015 TESTIMONY**

**SB 2107**

**Senate Bill 2107**

**Uniform Act on Prevention of and Remedies  
for Human Trafficking**

**Testimony Before Senate Judiciary Committee  
by Uniform Law Commissioner Gail Hagerty**

**January 28, 2015**

Chair Hogue and Members of the Senate Judiciary Committee:

I am Gail Hagerty, one of North Dakota's Uniform Law Commissioners. I'm here today to give an overview of the Uniform Act on Prevention of and Remedies for Human Trafficking. North Dakota's Uniform Law Commissioners have tried to get the word out about the Act and to engage those who are advocates for victims of human trafficking. We sponsored a well-publicized free continuing legal education session in August, and had Terry Morrow, Legislative Director of the Uniform Law Commission, on hand to discuss the Act. We had the co-chair of the drafting committee, Steve Wilborn, in North Dakota when a summit on human trafficking was held in November. We've worked with the Attorney General's Office and Project Fuse as they have considered how the Act may need to be amended to be most effective in North Dakota and as they have worked on legislation which will supplement the Act. I know there will be amendments proposed which will improve the Act, and I am suggesting you look favorably on amendments which will make the Act more responsive to North Dakota's needs.

I am not an expert in the area of human trafficking legislation. You probably know that district judges are general practitioners, not specialists. We have an ongoing need to educate ourselves and learn from people who have specialized in specific areas of the law. What I'm suggesting is that there will probably be people better equipped than I am to answer questions. But that's not to say I won't give it a shot!

The Act presents a three-pronged approach to combating human trafficking. The Act seeks to prevent and to penalize the criminal conduct – trafficking, forced labor, and sexual servitude. Clear offenses are created that reflect the ways in which human traffickers operate. The second prong of the act provides essential protections for human trafficking victims. The identity and images of the victim and the victim's family must be kept confidential unless required for investigation or prosecution. Just as rape shield laws do, the Act prohibits evidence of the alleged victim's past sexual behavior. The third prong promotes partnerships in the fight against human trafficking and elevates public awareness.

During the drafting process, the Uniform Law Commission worked with the American Bar Association (ABA) Center for Human Rights, the ABA Task Force on Human Trafficking, the ABA Section on Business Law, the Polaris Project, the National Association of Attorneys General, the National Violence Against Women Project, the U.S. Department of State Office to Monitor & Combat Trafficking in Persons, Shared Hope International, the Global Freedom Center, LexisNexis, and representatives from a number of state and local prosecutors' offices.

On Page 2 of Senate Bill 2107, you will find the definitions used throughout the Act. Key definitions are the definitions of terms associated with human trafficking, including coercion, commercial sexual activity, and debt bondage.

On Page 4, Section 12.1-41-02 offers a comprehensive definition tied to the Act's provisions on forced labor (Section 12.1-41-03) and sexual servitude (Section 12.1-41-04). Trafficking occurs when a person "knowingly recruits, transports, transfers, harbors, receives, provides, obtains, isolates, maintains, or entices an individual." The crime of forced labor occurs when a person knowingly uses coercion to compel an individual to provide labor or services. There are enhanced penalties if the individual is a minor. Sexual servitude also involves an enhanced penalty when a minor is made available or maintained for the purposes of

SB2107  
1/28/15

commercial sexual activity.

Sections 12.1-41-05 and 12.1-41-06 augment existing criminal penalties for patrons of commercial sexual activity.

Section 12.1-41-07 deals with business entity liability. I understand amendments will be proposed to delete this section and have current law concerning corporate liability for criminal conduct govern. I think that amendment will improve the Act.

Under Section 12.1-41-08, there is an additional penalty if a criminal defendant recruited, enticed, or obtained a victim from a shelter for human-trafficking victims or other vulnerable individuals.

Section 12.1-41-09 provides for restitution which can be ordered paid to victims of human trafficking. Section 12.1-41-10 provides for victim confidentiality, except for when disclosure is necessary for investigation or prosecution, required by a court order, or necessary to ensure that a victim or a victim's family receives benefits.

Section 12.1-41-11 limits evidence of a victim's past sexual behavior, much as evidence of a rape victim's past sexual behavior is limited.

Section 12.1-41-12 gives minors immunity from prosecution for offenses if the offense was the direct result of being a victim. Section 12.1-41-13 provides an affirmative defense for an adult who is charged with an offense which was the direct result of being a victim. (Both sections refer to the same specific offenses.)

Section 12.1-41-14 allows for a motion to vacate and expunge a conviction under certain circumstances. Section 12.1-41-15 allows for a civil action against a person who has committed an offense under the Act, allowing a victim to recover damages

Section 12.1-41-16 deals with display of public-awareness signs.

Section 12.1-41-17 provides for eligibility for benefits or services. Of course that

provision is meaningless if there isn't adequate funding of benefits or services.

Section 12.1-41-18 provides for a law enforcement protocol to assist victims in dealing with federal agencies. Section 12.1-41-19 allows the Department of Corrections and Rehabilitation to make grants to develop or expand service programs.

I understand this Act will require amendments, but I urge you to work with those proposing amendments and to recommend a "Do Pass" as amended.

#2

Wayne Stenehjem, Attorney General

January 28, 2015

Support all bills heard today.

SB 2107  
1/28/15

Senate Bill 2107

**Uniform Act on Prevention of and Remedies  
for Human Trafficking**

**Testimony Before Senate Judiciary Committee  
by Christina Sambor - Coordinator, FUSE - Statewide Anti-trafficking Coalition  
January 28, 2015**

Chairman Hogue and members of the Committee:

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 this comprehensive package of bills, 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.

During my work with FUSE, I have often encountered the question of whether or not sex trafficking is truly happening in North Dakota. Before I presented to a group of attorneys in December, I spent some time looking at ads on backpage.com, which is one of the most prominent internet websites where commercial sex is advertised. I counted approximately 170 ads placed in North Dakota on a Thursday. Of those ads, many of them advertised that the commercial sex worker was "back in town" or "only here for the weekend." At a recent training

provided to prosecutors and law enforcement officers, the presence of that language in the ads was flagged as a strong indicator that the person in the ad was being "trafficked" or was under pimp control. This is because women who are being trafficked are typically moved from city to city, state to state, on a "track" in an effort to isolate the victims and evade law enforcement. Sadly, you need only take a digital "step" into this world to see the prevalence of trafficking in our state.

The statistics around the commercial sex industry are very troubling. We have long operated in this country under the impression that life for a commercial sex worker is like it was for Julia Roberts in the movie *Pretty Woman*. Plain and simple, it is not.

Researchers describe pimp control as follows:

"Pimps assume psychological, biological, social, and economic control over the lives of the women they sell to johns through the use of chronic terror, cunning use of various aspects of captivity, and isolation from others who might offer support and validation. In addition they employ starvation, sleep deprivation, protein deprivation, conditioned physiologic hyperarousal, unexpected sexual violence, and learned helplessness."

In addition, consider the following statistics:

- 95% of those in prostitution experienced sexual harassment that would be legally actionable in another job
- 65% to 95% of those in prostitution were sexually assaulted as children.
- 70% to 95% were physically assaulted in prostitution
- 60% to 75% were raped in prostitution

SB 2107

1/28/15

- 75% of those in prostitution have been homeless at some point in their lives.
- 85% to 95% of those in prostitution want to escape it, but have no other options for survival.
- 68% of 854 people in strip club, massage, and street prostitution in 9 countries met criteria for posttraumatic stress disorder or PTSD
- 80% to 90% of those in prostitution experience verbal abuse and social contempt which adversely affect them

These statistics, and the prevalence of commercial sex in North Dakota, paint a picture of a crisis that must be addressed. We are here today in the hope that this legislation will begin the march toward eliminating this form of abuse from our state.

This morning, direct service providers from Youthworks, the YWCA, the Domestic Violence and Rape Crisis Center and 4her North Dakota will provide testimony about their observations of sex trafficking in North Dakota, and will address specific provisions in the bills that will be considered, and how those provisions will strengthen North Dakota's response to sex trafficking. FUSE notes, as Judge Hagerty has mentioned, that some of the legislation requires some refining, but supports and joins in the anticipated testimony of the direct services providers and urges a do pass recommendation on this package of bills with certain amendments.

Respectfully submitted,

Christina Sambor

SB 2107  
1/28/15

**SB 2107 - Uniform Act on Prevention of and Remedies For Human Trafficking**

- Section 1
  - Amends existing definitions to reflect repeal of current human trafficking statute
- Section 2 - Enacts 12.1-41
  - 12.1-41-01
    - Defines key terms: "Adult," "Coercion," "Commercial Sexual Activity," "Debt Bondage," "Human Trafficking," "Identification Document," "Labor or Services," "Minor," "Serious Harm," "Sexual Activity," "State," and "Victim"
  - 12.1-41-02
    - Defines Trafficking through forced labor or sexual servitude and provides a classification of offenses
    - Provides classification of offenses - higher penalty for minors
  - 12.1-41-03
    - Defines Forced Labor
    - Provides classification of offenses - higher penalty for minors
  - 12.1-41-04
    - Defines Sexual Servitude
      - For Minors - maintains or makes available for commercial sex
        - No defense that minor consented or that defendant believed minor was an adult
      - For Adults - Compels commercial sex through coercion or deception
    - Provides classification of offenses - higher penalty for minors
  - 12.1-41-05
    - Criminalizes patronizing a victim of sexual servitude if defendant knew the person was a victim
    - Provides classification of offenses - higher penalty for minors
  - 12.1-41-06
    - Adds an increased penalty if defendant *intentionally* engaged in commercial sex with a minor
  - 12.1-41-07
    - Makes a business entity criminally liable:
      - if the entity knowingly engaged in trafficking, or
      - if an employee engages in trafficking as part of a pattern that benefitted the business, the business knew the conduct was occurring and failed to take effective action to stop the conduct
    - Provides penalties
  - 12.1-41-08
    - Provides an additional five year imprisonment if trafficker recruited victim from a shelter

- 12.1-41-09
  - Mandates restitution even if victim is unavailable to accept payment, and directs it to crime victims fund
  - Provides options to calculate restitution based on income to defendant, amount contracted with victim or value of labor or services calculated under Fair Labor Standards Act
- 12.1-41-10
  - Mandates confidentiality of victim and victim's family unless necessary for prosecution, required by law or necessary for victim's services or benefits
- 12.1-41-11
  - Limits admission of victim's past sexual behavior
- 12.1-41-12
  - Creates immunity for a minor trafficking victim for the offenses of prostitution, forgery, theft and insufficient funds if committed as a direct result of being trafficked
  - Presumes minor victims as a child in need of services
  - Does not create immunity for a minor who patronizes a prostitute
- 12.1-41-13
  - Creates an affirmative defense for a person charged with prostitution if the charge was a direct result of being trafficked
- 12.1-41-14
  - Allows for a person convicted prostitution to move a court to expunge the conviction if a court finds that the charge was a direct result of being trafficked
- 12.1-41-15
  - Creates a civil right of action for a trafficking victim
- 12.1-41-16
  - Mandates the posting of human trafficking awareness signs that contain the national hotline number
- 12.1-41-17
  - Entitles victims of trafficking to services regardless of immigration status
  - Requires law enforcement to notify DOCR Victims Services division that victim has been identified that may be in need of services
- 12.1-41-18
  - Requires a police officer to fill out the appropriate immigration forms upon request from a victim who needs immigration assistance
- 12.1-41-19
  - Allows Department of Corrections to administer grant program for victims' services. (Does not appropriate any funds)
- Section 3 - Repeals 12.1-40

SB 2107  
1/28/15

#4-1



FIND (FREE International North Dakota) is a non-profit New Song Church mobile ministry team in North Dakota.

We partner with FREE, a faith based organization dedicated to the four-fold mission to: (F)ind, (R)escue, (E)mbrace and (E)mpower international and domestic victims of modern day slavery and forced prostitution.

FIND is about fundraising to provide education, spreading awareness, and prevention by bringing the "Say Something" school assemblies to North Dakota.

This preventive approach to educate students, faculty and community leaders with the behavioral signs of those individuals at risk for human trafficking is vital and affords individuals with the appropriate connections to national hotlines and government agencies.

Our goal is to prevent human trafficking in the areas where individuals are at their highest risk...middle and high school ages.

We need to prevent human trafficking and it takes partnerships with law enforcement, government officials, health care agencies, churches and other non-profit organizations to combat the fastest growing criminal industry nationally and globally. It is now estimated to be a \$32 billion-dollar industry globally.

Human trafficking is modern-day slavery in which people profit from exploiting others through force, fraud, or coercion.

It is our obligation to lead this fight against human trafficking and protect our children and to provide a safe and holistic environment for those rescued.

We support North Dakota SB 2107,2199,2219,2232 and 2250

New Song Church FIND team North Dakota

*Joy Marimon*

#5-1  
4/28/15

TESTIMONY OF MARILYN FOSS

NORTH DAKOTA BANKERS ASSOCIATION

SB 2107

Chairman Hogue, members of the Judiciary Committee, I am Marilyn Foss, General Counsel for the North Dakota Bankers Association. I am here this morning to provide you with some general information about how the banking industry is working to address issues with human trafficking and to offer amendments that will allow NDBA to support this bill.

North Dakota's banks are already working hard to support law enforcement efforts to uncover and eradicate human trafficking. We are doing this through our active anti-money laundering efforts (which can include monitoring accounts for suspicious activity), by reporting suspicious activity when we become aware of it, and by educating our employees about "red flags" that can indicate financial activity related to human trafficking. I won't take up time with a detailed narrative about what banks are looking for and doing about human trafficking. However, that detail is included in the FinCEN Advisory, "Guidance on Recognizing Activity that May be Associated with Human Smuggling and Human Trafficking – Financial Red Flags" which is found at

[http://www.fincen.gov/statutes\\_regs/guidance/html/FIN-2014-A008.html](http://www.fincen.gov/statutes_regs/guidance/html/FIN-2014-A008.html) . This guidance points out that financial activity related to human trafficking is difficult to discover precisely because transactions that can be associated with trafficking are ordinary banking transactions by ordinary customers.

I am proposing only two amendments and I have vetted them with Mr. Byers from the Office of the Attorney General, and also with Ms. Sambor for FUSE and Ms. Stromme of the North Dakota Women's Network. All have informed me that the amendments are acceptable to them.

Under the bill, "coercion" includes the use of "debt bondage", while "debt bondage" is expansively defined and applies to "real" debt". All my first proposed amendment does is to make it clearer that "debt bondage" does not include collection efforts by a creditor who is trying to collect an enforceable debt by means that are lawful under current state and federal laws. Those state and federal laws include detailed regulations and proscriptions against unfair and deceptive practices and require adherence to fair debt collection practices. However, read literally, the current definitions of coercion and debt bondage could apply to the following situation:

Creditor: Mr. Debtor, you need to restart making your payments.

Debtor: How am I supposed to do that?

Creditor: Get a job.

This literally induces the provision of labor or services toward the satisfaction of a real or purported debt without the length of the labor or services being limited and without definition of the nature of the labor or services, but it is not "debt bondage" as that term is ordinarily understood. That's what we want made clear.

The second amendment we propose is to apply the business entity accomplice liability which is found at N.D. Cent. Code Ch. 12.1-03 to human trafficking. The current law appropriately holds any business criminally liable for ongoing criminal activities of which management and owners have "knowledge", even if that knowledge is not, in some cases, "actual knowledge". It does not allow a business to "get out of jail" if the business lacks knowledge because it has been "sticking its head in the sand." Our concern about SB 2107 is that it includes a different and overly broad standard of business entity liability that would apply only to human trafficking and can make a business entity criminally liable for acts of any employee if the business fails to take "effective" action to stop the activity. In banking, we are obligated under federal law to report suspicious activity to federal agencies and we do

SB 2107  
1/28/15

so. We are also prohibited from alerting the customer to the fact of a report. I am concerned by the way this bill is drafted, that banks may be deemed to have "known" trafficking was occurring and be held liable under the provisions of SB 2107 because reporting is not deemed to be an effective act to stop that activity. Of course, this is all assessed in hindsight.

Retaining the current law for business entity liability gives better guidance to law enforcement about what the legislature is getting at with the business entity liability provision of the new law and also allows them to use current case law to interpret how to use that provision of law.

Before closing I also want to note that the state chamber has authorized me to say it, too, supports the amendment to retain current law for business entity liability.

With that, I would be happy to respond to questions from committee members.

PROPOSED AMENDMENT TO SB 2107

(Sponsored by North Dakota Bankers Association)

Page 3, after line 19 insert "Debt bondage does not include an effort by a creditor to collect an enforceable obligation by means that are permitted under state or federal laws on the effective date of this Act."

Page 5, line 28, remove "only if:" and insert immediately thereafter "as provided by chapter 12.1-03."

Page 5, remove lines 29 through 31

Page 6, remove lines 1 through 2

Renumber accordingly



FIN-2014-A008

September 11, 2014

# Advisory

## Guidance on Recognizing Activity that May be Associated with Human Smuggling and Human Trafficking – Financial Red Flags

*FinCEN identifies "red flags" to assist financial institutions in identifying and reporting suspicious financial activity connected to human smuggling and human trafficking.*

To support law enforcement efforts to fight human smuggling and human trafficking, the Financial Crimes Enforcement Network (FinCEN) seeks to advise financial institutions on how to detect and report suspicious financial activity that may be related to human smuggling and/or human trafficking. Financial institutions, large and small, can play a critical role in identifying and reporting transactions related to these unlawful activities based on their observations when interacting with customers and their monitoring processes.

FinCEN, in collaboration with law enforcement agencies, non-governmental organizations and members of the financial industry, has identified financial indicators, or "red flags," that may indicate financial activity related to human smuggling or human trafficking. In addition to identifying red flags, this advisory provides common terms that financial institutions may use when reporting activity related to these crimes. The use of common terms will assist law enforcement in better identifying possible cases of human smuggling or human trafficking reported through Suspicious Activity Reports (SARs).

### Human Smuggling

*Acts or attempts to bring unauthorized aliens to or into the United States, transport them within the U.S., harbor unlawful aliens, encourage entry of illegal aliens, or conspire to commit these violations, knowingly or in reckless disregard of illegal status.<sup>1</sup>*

### Human Trafficking

*The act of recruiting, harboring, transporting, providing or obtaining a person for forced labor or commercial sex acts through the use of force, fraud or coercion.<sup>2</sup>*

1. See, 8 U.S.C. § 1324.  
2. See generally, 18 U.S.C. §§ 1581, 1584, 1589, 1590, 1591, 24121, 2422, 2423 and 2425, The Victims of Trafficking and Violence Protection Act of 2000 (Pub. L. No. 106-386), applicable State laws and the President's Interagency Task Force – Progress in Combating Trafficking in Persons: The U.S. Government Response to Modern Slavery.

## FINCEN ADVISORY

## Difference between Human Smuggling and Human Trafficking

## Human Smuggling

- (i) Involves persons choosing to immigrate illegally.
- (ii) Is limited to illegal migration or the harboring of undocumented aliens.
- (iii) Involves foreign nationals.
- (iv) The crime involves an illegal border crossing or the harboring of someone that illegally crossed the border.

## Human Trafficking

- (i) Involves the use of force or coercion and the exploitation of victims.
- (ii) Includes, but is not limited to, involuntary servitude, forced labor, debt bondage, peonage and sexual exploitation.
- (iii) Anyone can be a victim regardless of origin, sex, age or legal status.
- (iv) There is no need for a person to cross a border to be trafficked; individuals can be trafficked within the borders of a country.

## Understanding How Human Smuggling and Human Trafficking Work

There are a number of identifiable stages involved in human smuggling and in human trafficking during which traffickers may need to interact with the financial system. This advisory includes below a brief description of these stages to provide financial institutions with the necessary context to appropriately identify potential human smuggling and/or human trafficking-related transactions. Financial indicators, including those described in Appendices A and B, may reflect transactions associated with actions that facilitate one or more of the stages of human smuggling and/or human trafficking.

## How Human Smuggling Works

Stages of Human Smuggling generally include:

**Solicitation:** A potential migrant may seek the services of a local facilitator/smuggler. Local facilitators/smugglers are often part of a larger smuggling network that works to bring migrants across a country border. In the United States, illegal migrants often originate from Mexico and Central America, but they may originate from anywhere in the world.

**Transportation:** Migrants may be smuggled through a number of different routes and transportation modes to avoid detection. The person may be transported by air, sea and/or land over an international border.

## FINCEN ADVISORY

**Payment:** Payment to smugglers or to smuggling networks are generally conducted in one of three ways.

1. *Pay In Advance:* The migrant or the migrant's relatives provide full payment to the smuggler before traveling. This method of payment is often used by relatives of unaccompanied minors for their migration.
2. *Partial Payment:* A portion of the smuggling fees is paid prior to departure, with the remaining due upon arrival; final payment is often made by relatives of the migrant in the United States.
3. *On Arrival:* After the migrant is successfully smuggled, the migrant's relatives pay the full fee to the smuggler. This method of payment is often used by relatives of unaccompanied minors for their migration.

## How Human Trafficking Works

Stages of Human Trafficking generally include:

**Recruitment or Abduction:** Traffickers obtain their victims through deception or force. For instance, traffickers may recruit victims through the use of kidnapping, false marriages, or advertisements offering employment or study abroad. Individuals from countries and geographic areas that have been affected by economic hardship, armed conflicts or natural disasters are particularly vulnerable to these tactics.

**Transportation:** After being collected, victims are transported to locations where they are exploited or sold to other traffickers. Victims may originate from abroad or within the United States and may be transported by air, sea and/or land domestically or internationally.

**Exploitation:** During this stage, traffickers profit from exploiting victims through forced labor, sexual exploitation, involuntary participation in crimes or other activity. Businesses in the service and manual labor industries (e.g., massage parlors, restaurants, farms, construction companies, domestic services) have been frequently used to exploit trafficked individuals.<sup>3</sup> In contrast to the one-time illicit proceeds of human smuggling, this final phase of human trafficking may generate ongoing criminal proceeds.

3. To view the industry sectors particularly vulnerable to human trafficking, please see the [U.S. Department of State Trafficking in Persons Annual Report](#) and the July 2011 [FATF Report: Money Laundering Risks Arising from Trafficking in Human Beings and Smuggling of Migrants](#).

SB 2107  
1/28/15

## How to Identify Human Smuggling and Human Trafficking Transactions

To help identify and report transactions possibly associated with human smuggling and human trafficking, FinCEN has identified a number of red flags (see [Appendices A](#) and [B](#)) that financial institutions may consider incorporating into their monitoring programs. In applying these red flags, financial institutions are advised that no single transactional red flag is a clear indicator of human smuggling or trafficking-related activity. Accordingly, financial institutions should consider additional factors, such as a customer's expected financial activity, when determining whether transactions may be associated with human trafficking.

The red flags described in Appendices A and B may be associated with one or more of the stages of human smuggling or trafficking described above and may be considered by all financial institutions. Some red flags may be common to several types of financial institutions (e.g., banks, money transmitters, credit unions) while other red flags may be unique to a specific type of financial institution. Appendices A and B describe the human smuggling/trafficking stages and/or types of financial institutions most closely associated with each red flag.

In order to more effectively evaluate transactional activity, financial institutions may consider reviewing transactions at the relationship level rather than at the account level. Relationship level reviews allow financial institutions to analyze a customer's transactions across multiple accounts instead of reviewing transactions that are conducted solely through one account. This approach may also be applied when monitoring for any type of suspicious activity to offer financial institutions a more comprehensive perspective on the customer's behavior and activity.

Finally, direct interactions by branch or floor personnel with customers during the course of daily transactions can also alert financial institutions to human smuggling or trafficking-related activity. In many cases, smugglers and traffickers and/or their victims may hold accounts or receive services from financial institutions. Observations made by branch or floor personnel can lead to the identification of anomalous activity that could alert a financial institution to initiate a review of a customer's transactions.

### FinCEN Guidance to Financial Institutions

Due to some similarities with legitimate financial activities, financial institutions may consider evaluating indicators of potential human smuggling or trafficking activity in combination with other red flags and factors, such as expected transaction activity, before making determinations of suspiciousness. No one transaction or red flag by itself is a clear indicator of human smuggling or trafficking. Additionally, in making a determination of suspiciousness, financial institutions are encouraged to use previous FinCEN advisories

SB2107  
4/28/15

FINCEN ADVISORY

and guidance as a reference when evaluating potential suspicious activity. For instance, in May 2014 FinCEN published an advisory on the use and structure of funnel accounts,<sup>4</sup> one of the red flags identified in Appendices A and B of this advisory. Financial institutions may consider incorporating the guidance outlined in this advisory in a manner that is commensurate with their risk profile and business model.

In evaluating whether certain transactions are suspicious and/or related to human smuggling or trafficking, financial institutions are encouraged to share information with one another, as appropriate, under Section 314(b) of the USA PATRIOT Act.<sup>5</sup> Section 314(b) establishes a voluntary information sharing mechanism allowing financial institutions to share information with one another regarding possible terrorist activity or money laundering and provides financial institutions with the benefit of a safe harbor from liability that might not otherwise exist with respect to the sharing of such information.<sup>6</sup> Thus, suspected money laundering involving the proceeds of human smuggling or human trafficking activity could be shared amongst financial institutions under Section 314(b).

**Suspicious Activity Reporting**

SARs continue to be a valuable avenue for financial institutions to report suspected human smuggling or trafficking. Consistent with the standard for reporting suspicious activity as provided for in 31 CFR Chapter X, if a financial institution knows, suspects, or has reason to suspect that a transaction has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the financial institution knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction, the financial institution should file a Suspicious Activity Report.

To assist law enforcement in targeting instances of human smuggling and trafficking, FinCEN requests that financial institutions include one or both of the below key term(s) in the Narrative and the Suspicious Activity Information:<sup>7</sup>

**“ADVISORY HUMAN SMUGGLING” and/or “ADVISORY HUMAN TRAFFICKING”**

Financial institutions should include one or both terms to the extent that financial institutions are able to distinguish between human smuggling and human trafficking. The narrative should also include an explanation of why the institution knows, suspects, or has reason to

4. See, FinCEN (May, 2014) Advisory [FIN-2014-A005](#) for a detailed description of funnel accounts.
5. Pub. L. No. 107-56, § 314(b). See also, 31 CFR 1010.540.
6. For further guidance related to the 314(b) Program, please see FinCEN’s [Section 314\(b\) Fact Sheet](#) and [FIN-2009-G002](#) (June, 2009), Guidance on the Scope of Permissible Information Sharing Covered by Section 314(b) Safe Harbor of the USA PATRIOT Act.
7. Financial institutions may include any relevant key terms in the “Other” fields of items 29 through 38, as applicable, of Part II (Suspicious Activity Information) of the SAR.

F I N C E N   A D V I S O R Y

suspect that the activity is suspicious. It is important to note that a potential victim of human smuggling or trafficking should not be reported as the subject of the SAR. Rather, all available information on the victim should be included in the narrative portion of the SAR.

Questions or comments regarding the contents of this Advisory should be addressed to the FinCEN Resource Center at (800) 767-2825 or (703) 905-3591. *Financial institutions wanting to report suspicious transactions that may relate to terrorist activity should call the Financial Institutions Toll-Free Hotline at (866) 556-3974 (7 days a week, 24 hours a day).* The purpose of the hotline is to expedite the delivery of this information to law enforcement. Financial institutions should immediately report any imminent threat to local-area law enforcement officials.

**FinCEN's mission is to safeguard the financial system from illicit use and combat money laundering and promote national security through the collection, analysis, and dissemination of financial intelligence and strategic use of financial authorities.**

## APPENDIX A: Human Smuggling Red Flags

**Financial institutions may choose to use this appendix as a handout for their investigations staff and/or branch personnel.** No one transaction or red flag by itself is a clear indicator of human smuggling; accordingly, financial institutions may consider applying these red flags in combination with other factors, such as a customer's profile and expected transaction activity.

Transactional and Customer Red Flags	Who would most likely see the Red Flag?
<p> Multiple wire transfers, generally kept below the \$3,000 reporting threshold, sent from various locations across the United States to a common beneficiary located in a U.S or Mexican city along the Southwest Border.<sup>1</sup></p>	<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  Money Transmitters         </div> <div style="text-align: center;">  Banks/Credit Unions         </div> </div>
<p> Multiple wire transfers conducted at different branches of a financial institution to or from U.S or Mexican cities along the Southwest Border on the same day or on consecutive days.</p>	<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  Money Transmitters/ Prepaid Card Providers         </div> <div style="text-align: center;">  Banks/Credit Unions         </div> </div>
<p> Money flows that do not fit common remittance patterns:</p> <ul style="list-style-type: none"> <li>• Wire transfers that originate from countries with high migrant populations (e.g., Mexico, Guatemala, El Salvador, Honduras) are directed to beneficiaries located in a U.S or Mexican city along the Southwest Border.</li> <li>• Beneficiaries receiving wire transfers from countries with high migrant populations (e.g., Mexico, Guatemala, El Salvador, Honduras) who are not nationals of those countries.</li> </ul>	<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  Money Transmitters         </div> <div style="text-align: center;">  Banks/Credit Unions         </div> </div>
<p> Unusual currency deposits into U.S. financial institutions, followed by wire transfers to countries with high migrant populations (e.g., Mexico, Guatemala, El Salvador, Honduras) in a manner that is inconsistent with expected customer activity. This may include sudden increases in cash deposits, rapid turnover of funds and large volumes of cash deposits with unknown sources of funds.</p>	<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  Money Transmitters         </div> <div style="text-align: center;">  Banks/Credit Unions         </div> </div>
<p> Multiple, apparently unrelated, customers sending wire transfers to the same beneficiary, who may be located in a U.S or Mexican city along the Southwest Border. These wire senders may also use similar transactional information including but not limited to common amounts, addresses and phone numbers. When questioned to the extent circumstances allow, the wire senders may have no apparent relation to the recipient of the funds or know the purpose of the wire transfers.</p>	<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  Money Transmitters         </div> <div style="text-align: center;">  Banks/Credit Unions         </div> </div>
<p> A customer's account appears to function as a funnel account,<sup>2</sup> where cash deposits (often kept below the \$10,000 reporting threshold) occur in cities/states where the customer does not reside or conduct business. Frequently, in the case of funnel accounts, the funds are quickly withdrawn (same day) after the deposits are made.</p>	<div style="text-align: center;">  Banks/Credit Unions         </div>

1. The Southwest Border is generally described as the U.S. – Mexico land border.  
 2. See, FinCEN (May, 2014) Advisory [FIN-2014-A005](#) for a detailed description of funnel accounts.

5B2107  
4/28/15

## APPENDIX A: Human Smuggling Red Flags

continued...

Transactional and Customer Red Flags	Who would most likely see the Red Flag?
<p> Checks deposited from a possible funnel account appear to be pre-signed, bearing different handwriting in the signature and payee fields.<sup>3</sup></p>	 Banks/Credit Unions
<p> Frequent exchange of small-denomination for larger denomination bills by a customer who is not in a cash intensive industry. This type of activity may occur as smugglers ready proceeds for bulk cash shipments.<sup>4</sup></p>	 Casinos  Banks/Credit Unions
<p> When customer accounts near the Southwest Border are closed due to suspicious activity, new customers may begin transacting on behalf of those customers whose accounts have been closed. This may be done as a means to continue illicit activities. In this case, new accounts often reflect activity similar to that of the closed accounts where transactions may be frequently-occurring, currency-intensive and involve individuals that used to receive/send funds from/to accounts previously-closed due to suspicious activity.</p>	 Banks/Credit Unions
<p> Unexplained/unjustified lifestyle incommensurate with employment or business line. Profits/deposits significantly greater than that of peers in similar professions/business lines.</p>	 Casinos/ Money Transmitters/ Check Cashers/ Prepaid Card Providers  Banks/Credit Unions
<p> Inflows are largely received in cash where substantial cash receipts are inconsistent with the customer's line of business. Extensive use of cash to purchase assets and to conduct transactions.</p>	 Money Transmitters/ Check Cashers  Banks/Credit Unions

3. See, FinCEN (May, 2014) Advisory [FIN-2014-A005](#) for a detailed description of funnel accounts.

4. See, FinCEN (April, 2006) Advisory [FIN-2006-A003](#) for a detailed description of repatriation of currency smuggled into Mexico from the United States.

SB 2107  
1/28/15

## APPENDIX B: Human Trafficking Red Flags

**Financial institutions may choose to use this appendix as a handout for their investigations staff and/or branch personnel.** No one transaction or red flag by itself is a clear indicator of financial institutions may consider applying these red flags in combination with other factors, such as a customer's profile and expected transaction activity.

Transactional Red Flags: Behaviors observed as part of account activity	Who would most likely see the Red Flag?	When most likely to see the Red Flag?
<p> A business customer does not exhibit normal payroll expenditures (e.g., wages, payroll taxes, social security contributions). Payroll costs can be non-existent or extremely low for the size of the customer's alleged operations, workforce and/or business line/model.</p>	<p> Banks/Credit Unions</p>	<p> Exploitation Stage</p>
<p> Substantial deductions to wages. To the extent a financial institution is able to observe, a customer with a business may deduct large amounts from the wages of its employees alleging extensive charges (e.g., housing and food costs), where the employees only receive a small fraction of their wages; this may occur before or after the payment of wages.</p>	<p> Check Cashers/ Prepaid Card Providers</p> <p> Banks/Credit Unions</p>	<p> Exploitation Stage</p>
<p> Cashing of payroll checks where the majority of the funds are kept by the employer or are deposited back into the employer's account. This activity may be detected by those financial institutions that have access to paystubs and other payroll records.</p>	<p> Money Transmitters/ Check Cashers/ Prepaid Card Providers</p> <p> Banks/Credit Unions</p>	<p> Exploitation Stage</p>
<p> The following two red flags may signal anomalous customer activity; however, they should be applied in tandem with other indicators when determining whether transactions are linked to human trafficking.</p> <ul style="list-style-type: none"> <li>• Transactional activity (credits and/or debits) inconsistent with a customer's alleged employment, business or expected activity, or where transactions lack a business or apparent lawful purpose.</li> <li>• Cash deposits or wire transfers are kept below \$3,000 or \$10,000 in apparent efforts to avoid record keeping requirements or the filing of Currency Transaction Reports (CTRs), respectively.</li> </ul>	<p> Casinos/ Money Transmitters/ Check Cashers/ Prepaid Card Providers</p> <p> Banks/Credit Unions</p>	<p> Recruitment Stage</p> <p> Transportation Stage</p> <p> Exploitation Stage</p>
<p> Frequent outbound wire transfers, with no business or apparent lawful purpose, directed to countries at higher risk for human trafficking<sup>1</sup> or to countries that are inconsistent with the customer's expected activity.</p>	<p> Money Transmitters</p> <p> Banks/Credit Unions</p>	<p> Recruitment Stage</p> <p> Transportation Stage</p> <p> Exploitation Stage</p>
<p> A customer's account appears to function as a funnel account,<sup>2</sup> where cash deposits occur in cities/states where the customer does not reside or conduct business. Frequently, in the case of funnel accounts, the funds are quickly withdrawn (same day) after the deposits are made.</p>	<p> Banks/Credit Unions</p>	<p> Exploitation Stage</p>

1. To view the countries of origin, transit and destination of human trafficking victims, please refer to the [U.S. Department of State Trafficking in Persons Annual Report](#) and the July 2011 FATF Report: [Money Laundering Risks Arising from Trafficking in Human Beings and Smuggling of Migrants](#).

2. See, FinCEN (May, 2014) Advisory [FIN-2014-A005](#) for a detailed description of funnel accounts.

## APPENDIX B: Human Trafficking Red Flags

continued...

<p> Multiple, apparently unrelated, customers sending wire transfers to the same beneficiary. These wire senders may also use similar transactional information including but not limited to a common address and phone number. When questioned to the extent circumstances allow, the wire senders may have no apparent relation to the recipient of the funds or know the purpose of the wire transfers.</p>	<p> Money Transmitters  Banks/Credit Unions</p>	<p> Exploitation Stage</p>
<p> Transactions conducted by individuals, escorted by a third party (e.g., under the pretext of requiring an interpreter), to transfer funds (that may seem to be their salaries) to other countries.</p>	<p> Money Transmitters/Check Cashers  Banks/Credit Unions</p>	<p> Exploitation Stage</p>
<p> Frequent payments to online escort services for advertising, including small posting fees to companies of online classifieds as well as more expensive, higher-end advertising and website hosting companies.</p>	<p> Money Transmitters/Prepaid Card Providers  Banks/Credit Unions</p>	<p> Exploitation Stage</p>
<p> Frequent transactions, inconsistent with expected activity and/or line of business, carried out by a business customer in apparent efforts to provide sustenance to individuals (e.g., payment for housing, lodging, regular vehicle rentals, purchases of large amounts of food).</p>	<p> Money Transmitters/Prepaid Card Providers  Banks/Credit Unions</p>	<p> Transportation Stage  Exploitation Stage</p>
<p> Payments to employment or student recruitment agencies that are not licensed/registered or that have labor violations.</p>	<p> Money Transmitters/Check Cashers/Prepaid Card Providers  Banks/Credit Unions</p>	<p> Recruitment Stage  Transportation Stage  Exploitation Stage</p>
<p><b>Customer Interaction Red Flags: Behaviors observed while interacting with the public</b></p>	<p>Who would most likely see the Red Flag?</p>	<p>When most likely to see the Red Flag?</p>
<p> A customer establishes an account or visits a branch to conduct transactions while always escorted by a third party (e.g., under the pretext of requiring an interpreter). Correspondingly, the third party escorting the customer may always have possession of the customer's ID.</p>	<p> Money Transmitters/Check Cashers  Banks/Credit Unions</p>	<p> Exploitation Stage</p>
<p> Common signer(s)/custodian(s) in apparently unrelated business and/or personal accounts. Similarly, common information (e.g., address, phone number, employment information) used to open multiple accounts in different names.</p>	<p> Banks/Credit Unions</p>	<p> Exploitation Stage</p>
<p> Accounts of foreign workers or students where the employer or employment agency serves as a custodian.</p>	<p> Banks/Credit Unions</p>	<p> Exploitation Stage</p>
<p> Unexplained/unjustified lifestyle incommensurate with employment or business line. Profits/deposits significantly greater than that of peers in similar professions/business lines.</p>	<p> Casinos/Money Transmitters/Check Cashers/Prepaid Card Providers  Banks/Credit Unions</p>	<p> Recruitment Stage  Transportation Stage  Exploitation Stage</p>
<p> Inflows are largely received in cash where substantial cash receipts are inconsistent with the customer's line of business. Extensive use of cash to purchase assets and to conduct transactions.</p>	<p> Money Transmitters/Check Cashers  Banks/Credit Unions</p>	<p> Recruitment Stage  Transportation Stage  Exploitation Stage</p>

SB 2107

1/28/15

SB 2107

Testimony by Melanie Heitkamp, Executive Director Youthworks

Chairman Houge, Members of the Judiciary Committee

My name is Melanie Heitkamp and I am the Executive Director of Youthworks, a private, non-profit, youth serving agency serving Runaway and Homeless Youth in North Dakota. At Youthworks we provide diversion services for the Juvenile Court, as well as providing shelter for Runaways and other youth in need of emergency placement. We work closely with Law Enforcement, County Social Services, Juvenile Court and the schools. I am a Licensed Certified Clinical Social Worker who has worked with at risk youth for the past 35 years in North Dakota. I worked in Mercer and McLean Counties when the Coal Gasification plant was being built and am familiar with providing services to communities deeply impacted by an energy boom.

I come before you today in support of the Safe Harbor provision found in Section 12.1-41-12 of the Uniform Act on Prevention of and Remedies for Human Trafficking.

At Youthworks, we have become all too familiar with the child victims of human trafficking. The victims we have worked with fit the profile of children who are easy targets. They often come from poverty, have been mistreated or abused by adults, have low self-worth, have had exposure to drugs and alcohol, have runaway or been

4/28/15

in foster care, have been sexually assaulted or raped, and have experienced homelessness; making them vulnerable for sexual exploitation.

Gaining the trust of victims is extremely difficult, as they have been threatened with abuse, public humiliation, harm to their family or friends or even death. Addiction to drugs has been a technique used by their traffickers to maintain control of them.

These children are truly victims of crime who have been "groomed" into a specific way to act, talk and behave that will please their adult perpetrators. They develop street smarts and have learned to be cautious of adults who make promises. When entering our system they are identified as delinquent or unruly teens and are often held in detention centers. The likelihood that they will trust helping professionals is compromised in our current system, with the victims giving very guarded, calculated answers to questions intended to help them. Considering the time and effort it takes social service providers and counselors to develop this bond of trust, you can imagine the deep level of mistrust for law enforcement, prosecutors and court officials. Many of the youth that we work with have already come into some contact with the law, and it can be difficult for us to convince them that working with law enforcement in certain instances is beneficial to them and other potential victims.

This past year, we worked with a 17-year-old victim who had been brought into North Dakota from another State, by her pimp, for the purposes of sexually

SB 2107  
4/28/15

trafficking her. This had not been the first time she had been trafficked into North Dakota. This time her friend, who was 16 years old came along. The friend had eluded the authorities, but she had not, and she was placed in detention. She had a longer history as a traffic victim than her friend. In attempting to work with her, she repeatedly requested that someone find her friend, certain that serious harm had come to her friend. Her pimp was never arrested. She would not cooperate with providing more information, possibly because she was in a locked facility and her friend was in danger. She was returned to her home State and we were never able to learn the whereabouts of her friend. To her, she was in jail and her pimp was free to abuse her friend or carry out any threats he had made in the past. Our efforts to gain trust and help her escape the abuse, was futile under the circumstances.

This Safe Harbor provision will allow my workers to provide a consistent message to the victims they work with, that they are indeed victims and will be treated accordingly. Currently we provide a very mixed message, "we believe you are a victim, but you will enter our court system with criminal charges."

This past year, I helped my daughter move into an apartment and began college. She cleared the landlord's background check and will receive Federal student loans. Her dreams and goals are just beginning. Had she been a trafficked victim identified in our system, her ability to get an apartment and college loans would be compromised due to prior criminal charges. Safe harbor provisions allow victims to move past

SB 2107  
4/28/15

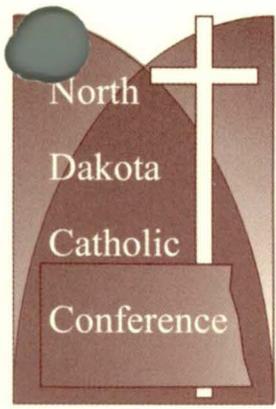
their abuse and exploitation and pursue their dreams and goals, which, interestingly, often involve the desire to help others.

As awful as the actual crime usually is for the victims, the inability to access state benefits, benefits that oftentimes these youth are desperately in need of, can result in a lifetime of closed doors, lost opportunity, and the inability to move forward and rebuild their lives. We as social workers and service providers think it is critical that victims have access to these benefits, as they provide a critical tool in our recovery and rehabilitation efforts.

I urge you to pass the Safe Harbor provision found in Section 12.1-41-12 of the Uniform Act on Prevention of and Remedies for Human Trafficking.

January 28, 2015

TO: Senate Judiciary Committee  
FROM: Stacey Pfliiger, Associate  
SUBJ: Senate Bill 2107



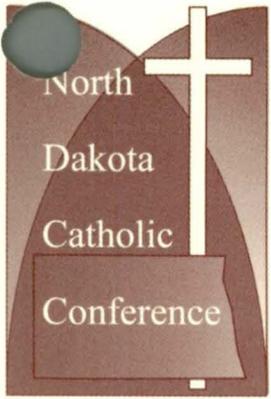
Representing the Diocese of Fargo and the Diocese of Bismarck

Christopher T. Dodson  
Executive Director and  
General Counsel

Chairman Hogue and Members of the Committee, my name is Stacey Pfliiger and I am here on behalf of the North Dakota Catholic Conference. The North Dakota Catholic Conference supports SB 2107 and urges a do pass recommendation.

The Catholic Church's opposition to human trafficking is rooted in the principles of Catholic social teaching. It [human trafficking] is an offense against the fundamental dignity of the human person. We are here today to advocate for an end to this modern day slavery.

Human trafficking is knowingly engaging in the recruitment, transportation, harboring, receiving, isolating, obtaining, or the enticing of a person by force, fraud, coercion, or deceit for the purpose of forced labor or sexual servitude. These acts violate the dignity of the human person and are clearly crimes against humanity.



Representing the Diocese of Fargo and the Diocese of Bismarck

Christopher T. Dodson  
Executive Director and  
General Counsel

Victims of human trafficking are often lured by traffickers with false promises. False promises of education, financial security, and even love. Victims are very often poor, desperate, and oppressed. They often suffer physical, mental, and psychological abuse not only at the hands of their trafficker, but also at the hands of their 'johns' and even other victims as they all struggle to survive.

In addition, we as a society must also work toward changing attitudes. Whenever people engage in sexual servitude or turn away from unjust working conditions, they too contribute to the environment that allows human trafficking to flourish. These actions ultimately impact real people and violate the dignity of a child of God.

In keeping with the tradition of the State of North Dakota to protect every human life, the North Dakota Catholic Conference urges a DO PASS recommendation on Senate Bill 2107.

SB 2107  
4/28/15

PROPOSED AMENDMENTS TO SENATE BILL NO. 2107

Page 10, line 23, after the underscored period insert "Except as required by federal law, no funds from the grant or contract may be used to refer for or, counsel in favor of, abortion."

Renumber accordingly



**To the Senate Judiciary Committee  
In Support of SB 2107**

**Relating to the Uniform Act on Prevention of and Remedies for Human Trafficking; relating to definitions; relating to human trafficking; and to provide a penalty.**

**January 28, 2015**

Mr. Chairman and members of the Committee, my name is Linda Thorson. I am the Interim State Director for Concerned Women for America (CWA) of North Dakota. CWA is the nation's largest public policy women's organization. We are here today on behalf of our North Dakota members in support of SB 2107, relating to the Uniform Act on Prevention of and Remedies for Human Trafficking.

Sexual exploitation is one of CWA's seven core issues on which we focus our efforts. We are concerned about the ever-increasing prevalence of pornography, prostitution and sex slavery. CWA is aware of the ways in which these different forms of commercial sexual exploitation feed off of each other to create a multi-billion dollar industry that exploits thousands of girls and women.

Members of CWA of ND are concerned about the cultural climate that is detrimental to the well-being of both women and children. We advocate for sound policies that will "end demand" and protect those who are most vulnerable. We believe it is important to increase prosecutions against exploiters and mandate consistent, strict enforcement of laws regarding pornography, prostitution and sexual slavery.

Those who are under the domination of a trafficker or pimp are often victimized through coercion and then forced into commercial sexual activity. Steven Watson, who was the Director of the Health and Human Services Center's Human Trafficking Program, from 2003-2006 made this statement:

"The average age of entry into sex exploitation is about 14. The average life expectancy of someone in commercial sexual exploitation is seven years... [t]he mortality rate for someone in commercial sexual exploitation is 40 times higher than for a non-exploited person of the same age."<sup>1</sup>

Furthermore, if a female victim becomes pregnant, traffickers and pimps will not allow the victim to provide informed consent to an abortion. She has no voice in the decision due to the

---

**Concerned Women for America of North Dakota**

P.O. Box 213 Park River, N.D. 58270-0213 Phone (701) 331-0946 [director@northdakota.cwfa.org](mailto:director@northdakota.cwfa.org) [nd.cwfa.org](http://nd.cwfa.org)

fact that the service of abortion is a benefit to the trafficker.

SB 2107 would help victims by penalizing predators and dangerous individuals who use the threat of force, abduction, serious harm, or physical restraint on an individual.

The bill will help identify women and children who are victims of sexual predators or human trafficking and will stop providing perpetrators with opportunities to cover up and continue their crimes.

CWA of North Dakota and its members are committed to common-sense protections for life. Penalizing human traffickers and protecting the lives of those coerced into sexual exploitation will help victims of sex trafficking to receive care and compassion that is equal to their immeasurable dignity and worth. We urge the members of the committee to pass SB 2107.

<sup>1</sup>Wagner, Steven, Kathleen Sebelius' Gruesome Moral Calculus", National Catholic Register, 1/29/11, <http://www.ncregister.com/daily-news/kathleen-sebelius-gruesome-moral-calculus>

---

Concerned Women for America of North Dakota

P.O. Box 213 Park River, N.D. 58270-0213 Phone (701) 331-0946 [director@northdakota.cwfa.org](mailto:director@northdakota.cwfa.org) [nd.cwfa.org](http://nd.cwfa.org)

1/28/15

# North Dakota Family Alliance Action

*A Trusted Voice Impacting Our Legacy*

Tom D. Freier, EXECUTIVE DIRECTOR

# 9-1

Senate Judiciary Committee

January 28, 2015

SB 2107

Including references to other Human Trafficking Bills

Mr. Chairman and members of the Senate Judiciary Committee, I am Tom Freier with the North Dakota Family Alliance, and am here to testify in favor of SB 2107.

In the United States, slavery ended with President Lincoln's Emancipation Proclamation and the end of the Civil War. Unfortunately, that was not the end of slavery in our country. By the beginning of the 20<sup>th</sup> century, President Theodore Roosevelt warned against the "white slave trade," which involved the abduction and forced prostitution of young women and girls. This kind of sexual servitude now referred to as sex trafficking continues in the United States – and globally –and right here in North Dakota, to this day.

The selling and trading of human life for the purpose of sex, labor or any other purpose is an attack on human dignity. The reality is sex trafficking turns people, often very young girls and even boys, into mere commodities — sexual objects to be bought, sold, used and discarded. No human being should be treated this way.

Trafficking is no respecter of age, ethnicity, educational achievement, economic or social status. No one by status is safe.

Two years ago the North Dakota Family Alliance, in its desire to know what was on the hearts and minds of our millennials, held a number of focus meetings. The number one issue on the minds of these young people—the issue they wished to have an impact on—was human/sex trafficking. A number of those attending the focus groups started a non-profit known as the Voice for the Captives. The name says a lot, these mostly young girls, are enslaved, they are captives, and they need a voice. Today, there are many voices, in this room.

As we worked with Voice for the Captives on an action plan, we settled in on three general goals: 1) to raise the general awareness; 2) to facilitate a means to rescue these victims from captivity, to provide a safe harbor; and then 3) to strengthen the efforts to bring the perpetrators to justice. We believe SB 2107 will do much to respond to our three general goals.

We believe SB 2107 in itself can bring an increased level of awareness. But in addition, we know the great work of the faith based organizations like Voice for the Captives, 4HerND in the northwest, and the many churches across the state. Coordinating these efforts may be a task for a possible human trafficking commission.

*Dedicated To Strengthening Families*

3220 18th St South Ste 8 · Fargo, ND 58104 · Phone: 701-364-0676

www.ndfa.org · admin@ndfa.org

We agree in concept with a well thought out plan to provide victims treatment and support services to the victims as found in SB 2199. We agree in concept with an immunity clause for the minor as found here in SB 2107, as long as the clause would not in effect be used to the advantage of the perpetrators.

The sad reality is sex trafficking wouldn't exist if there was no demand. Prostitution, which often involves human trafficking, is fueled by the proliferation of pornography, both legal and illegal.

The following information from Shared Hope International helps shed some light on the problem of domestic sex trafficking:

- Human Trafficking in the U.S. is a 9.8 billion dollar industry.
- Over 1.68 million American children run away each year
- Up to 90% of victims are under the control of a pimp
- Pimps commonly sell girls for \$400 an hour or more
- Kids are especially susceptible to the deception and manipulation of traffickers. Traffickers recruit at locations that commonly attract youth; like schools, malls, parks, even protective shelters and group homes.

Human/sex trafficking is major issue—a big, big problem. It will need a well thought out strategic solution. We believe SB 2107 in conjunction with other introduced legislation can serve as basis for that solution.

NDA supports SB 2107 (pending more study and discussion on the immunity clause)

**Testimony**  
**Senate Bill 2107– Department of Human Services**  
**Senate Judiciary Committee**  
**Senator David Hogue, Chairman**  
**January 28, 2015**

Mr. Chairman, Members of the Senate Judiciary Committee, my name is Julie Leer and I am an attorney with the Department of Human Services (Department). The Department is not taking a position on Senate Bill No. 2107; however, the Department is proposing an amendment to the bill and is providing comments on how we see this bill working in conjunction with our programs and services. We appreciate the opportunity to share this information with the Committee.

On page 7, under proposed section 12.1-41-10, Victim Confidentiality, the Department reads subsection 3 as allowing law enforcement and state's attorneys to share information with the counties or the state as necessary. Based on feedback we received from some members of the Uniform Laws Commission, we understand our interpretation to be correct; this subsection intends that child welfare agencies (county social services offices, DHS Child Protection Services, foster care programs, etc.) will be able to access the information identified in 12.1-41-10 by virtue of subsection 3.

Also on page 7, under proposed section 12.1-41-12, Immunity of Minor, subsection 3 creates a presumption that a minor is a "child in need of services under chapter 50-25.1." While chapter 50-25.1, does not contain a definition of "child in need of services under chapter 50-25.1," the Department would consider "a child in need of services under 50-25.1" to be an "abused child," a "neglected child," or a "sexually abused child," all of which are defined for purposes of

chapter 50-25.1 and all of whom are eligible for "protective services" as defined under that chapter.

Under that same section, the Department envisions a scenario where a child would be too old to receive child welfare services under chapter 50-25.1; i.e., a situation where a child is 17 years and 11 months old when arrested or otherwise discovered, and is over 18 by the time the processes of the proposed subsections 1 and 2 to section 12.1-41-12 are complete. If this were to occur, the Department would refer those young adults who are legally their own decision maker upon reaching the age of 18, to a private provider or one of the human service centers for services.

On page 9, under proposed section 12.1-41-17, Eligibility for Benefit or Service, the Department is proposing an amendment to clarify what is meant by a "benefit or service available through the state." The Department administers a number of programs that provide benefits or services that are funded by federal funds. A number of those programs have citizenship requirements and other eligibility requirements. Failure to follow those requirements could jeopardize the receipt of future federal funding. The Department proposes the attached amendment to ensure that "eligibility for a benefit or service available through the state...regardless of immigration status" will not preclude the Department from following the federal statutes and regulations governing program eligibility. The proposed amendment is specific to the Department, but we would not object to it being more generic if other state agencies have a similar concern with the wording of the proposed section 12.1-41-17.

Thank you. I will answer any questions you have.

SB 2107  
4/28/15

PROPOSED AMENDMENTS TO SENATE BILL NO. 2107

Page 10, after line 5, insert:

"4. For purposes of this section, "a benefit or service available through the state" does not include a benefit or service of a program administered by the department of human services if the victim or minor does not meet other program eligibility requirements or if the program's eligibility requirements are based, in part, on immigration status."

Renumber accordingly

Heather Ingman – Advocate and Direct Service Provider  
Domestic Violence and Rape Crisis Center – Dickinson, ND  
Testimony on SB 2107  
Senate Judiciary Committee  
January 28th, 2015

---

#### 12.1-41-09 Restitution

- Important that Traffickers and Johns are held financially responsible for the services that victims may need in order to move on. Victims are essentially robbed of many things throughout the life of being trafficked, and it is of the utmost importance that victims are able to receive every ounce of assistance that they need to move forward.
- Traffickers and Johns need to be held responsible for their actions regardless of if the victim can receive assistance
- Throughout the process of disclosure and prosecution, victims need many services including medical attention, counseling, advocacy and legal services. It is vital that the victim not have to pay any of those cost both current and those that may be reoccurring such as counseling and medical.

#### 12.1-41-10 Victim Confidentiality

- With the lethality victim's face while being trafficked, it is pertinent that victims be kept safe through confidentiality once they disclose.
- Victims' families are used as leverage by a trafficker, therefore making the confidentiality of a victim's family equally important to that of the victim.

#### 12.1-41-14 Motion to vacate and expunge conviction

- As a victim moves forward from being a victim of trafficking, it is important that they not have a prostitution charge connected with their name.
- The weight that a prostitution charge carries, hinders victims from advancing in their life in such areas as employment, education or volunteer work.

#### 12.1-41-17 Eligibility for benefit or service

- Reiterating the vast need for services that victims of trafficking need once breaking free from a trafficker are extensive. Non U.S citizens who are victims need to have the same access to those services in order to move forward regardless of their immigration status. Immigration is a lengthy process often taking many years.
- Victims should not have to wait several years in order to access services.
- Services need to be immediate and ongoing.

Testimony on SB 2107, 2199, 2219, 2232, 2250  
Senate Judiciary Committee  
January 28th, 2015

Heather Ingman-Direct Services Coordinator/Child Advocate. I have been employed with the Domestic Violence and Rape Crisis Center in Dickinson, ND for over five years. I directly work with clients through case management both of those clients who reside in the shelter and those who do not. As a child advocate I am a liaison with the schools to provide the best victim centered services for the children who reside in and out of the shelter.

Presence of victims in DV/SA programs

- In the past two years the Domestic Violence and Rape Crisis Center in Dickinson has seen at least 13 victims of trafficking utilize services.
- These victims did not always come forward for help, nor disclose that they were being trafficked. DVRCC staff was able to make educated guesses through case management and one on one advocacy with the clients.
- In the past two years the Domestic Violence and Rape Crisis Center has suspected at least 3 clients who resided in the shelter were trafficking out other shelter residents. These suspicions were made aware to shelter staff through case management of the clients they were trafficking.
- Of the three suspected traffickers, one was a mother trafficking out her underage daughter while they resided in the shelter.
- In the last year DVRCC has worked with two international clients who disclosed they were trafficking by a United States Citizen from their home country.

Demands of serving Human Trafficking victims

- The demand of serving Human Trafficking victims has greatly increased over the last year.
- As the population increases so do the demands of human trafficking. The money involved in trafficking is extensive. It is no secret that North Dakota has money to be made.
- The women and children we are seeing being trafficked are being trafficked from all over the world.
- Trafficking victims are often times vulnerable and have already experienced some form traumatic abuse in their life. The victims we have seen have been trafficked via the internet with the promise of something better, only to arrive in North Dakota and realize that it is nothing like what was promised.
- Again, with the growing population as well as the massive amount of money that is being distrusted daily, the increase and demand of services for victims of human trafficking increases at a rapid rate.

Serving Human Trafficking victims vs. Domestic Violence/Sexual Assault

- In looking at the trafficking cases we have worked with at DVRCC, it is safe to say that the lethality is significantly higher than that of most domestic violence cases.
- Despite the many similarities in domestic violence and human trafficking victims; domestic violence victims typically (not always) have only one perpetrator. Whereas,

victims of human trafficking typically have a trafficker with a wide network of people which poses a high risk for a victim to never feel or be safe.

- There is still a large stigma around human trafficking victims being considered prostitutes rather than victims of a malicious crime. Along with other factors, victims of human trafficking rarely come forward to disclose even within the context of a safe shelter. Victims often times are not aware of laws that may protect them.
- When looking at housing victims of human trafficking in a domestic violence shelter, the overall consensus is that it is not conducive.
  - Prosecution needs a victim of trafficking to move forward with a case, whereas prosecution of a domestic violence crime could potentially move forward without a victim. Staff managing a shelter cannot force a victim of any type to remain in the shelter.
- Due to the lack of services specific to victims of human trafficking, victims often times fail to remain in the shelter as a result of no help. Leaving them back in the hands of a trafficker.
- Serving victims of human trafficking must be a multidisciplinary approach as one agency cannot do it alone. Victims of human trafficking need a vast variety of services that includes collaboration of many agencies. This collaboration is VITAL as a victim will have to walk through a long process of healing and prosecution and the less the victim has to repeat the less the victim has to be traumatized.

#### Need for increased human resources for service

- Resources for victims of human trafficking are few and far between. These resources lack state wide.
- There is a great need for shelters that specifically house victims of human trafficking.
- Counselors specifically trained in working with victims of human trafficking is greatly needed, as the trauma these victims have endured is extensive and complex.

#### Need for increased funding

- Given the fact that human trafficking across the state has really only surfaced in the last couple of years, there is still a great need for funding.
- Funding that is needed includes but is not limited too; trained medical and mental health professionals, shelters specific to human trafficking, training for legal representatives to better understand prosecution of traffickers and johns.

Sen. Hogue  
2/9/15  
#1-1

**PROPOSED SB 2107**

1 A BILL for an Act to create and enact chapter 12.1-41 of the North Dakota Century  
2 Code, relating to the Uniform Act on Prevention of and Remedies for Human  
3 Trafficking; to amend and reenact subsection 1 of section 12.1-32-15 of the North  
4 Dakota Century Code, relating to definitions; to repeal chapter 12.1-40 of the North  
5 Dakota Century Code, relating to human trafficking; and to provide a penalty.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT. Subsection 1 of section 12.1-32-15 of the North**  
8 **Dakota Century Code is amended and reenacted as follows:**

- 9 1. As used in this section:
- 10 a. "A crime against a child" means a violation of chapter 12.1-16,  
11 Section 12.1-17-01.1 if the victim is under the age of twelve, 12.1-  
12 17-02, 12.1-17-04, subdivision a of subsection 6 of section 12.1-  
13 17-07.1, section 12.1-18-01, 12.1-18-02, 12.1-18-05, chapter 12.1-  
14 29, or subdivision a of subsection 1 or subsection 2 of section 14-  
15 09-22, ~~labor trafficking in violation of chapter~~  
16 ~~12.1-40-subsection 3 of section 12.1 - 41 - 02, subsection 3 of~~  
17 ~~section 12.1 - 41-03~~ , or an equivalent offense from another court  
18 in the United States, a tribal court, or court of another country, in  
19 which the victim is a minor or is otherwise of the age required for  
20 the act to be a crime or an attempt or conspiracy to commit these  
21 offenses.
- 22 b. "Department" means the department of corrections and  
23 rehabilitation.
- 24 c. "Mental abnormality" means a congenital or acquired condition of  
25 an individual that affects the emotional or volitional capacity of the  
26 individual in a manner that predisposes that individual to the  
27 commission of criminal sexual acts to a degree that makes the  
28 individual a menace to the health and safety of other individuals.
- 29 d. "Predatory" means an act directed at a stranger or at an individual  
30 with whom a relationship has been established or promoted for  
31 the primary purpose of victimization.

SB 2107  
2/9/15

12

- 1 e. "Sexual offender" means a person who has pled guilty to or been
- 2 found guilty, including juvenile delinquent adjudications, of a
- 3 violation of section 12.1-20-03, 12.1-20-03.1, 12.1-20-04, 12.1-20-
- 4 05, 12.1-20-05.1, 12.1-20-06, 12.1-20-06.1, 12.1-20-07 except for
- 5 subdivision a, 12.1-20-11, 12.1-20-12.1, or 12.1-20-12.2, chapter
- 6 12.1-27.2, or subsection 2 of section 12.1-22-03.1, ~~sex trafficking~~
- 7 ~~in violation of chapter 12.1-40~~ subdivision b of section 12.1 - 41 -
- 8 02, section 12.1 - 41 - 04, 12.1 - 41 - 05, or 12.1 - 41 - 06, or an
- 9 equivalent offense from another court in the United States, a tribal
- 10 court, or court of another country, or an attempt or conspiracy to
- 11 commit these offenses.
- 12 f. "Sexually dangerous individual" means an individual who meets
- 13 the definition specified in section 25-03.3-01.
- 14 g. "Temporarily domiciled" means staying or being physically present
- 15 in this state for more than thirty days in a calendar year or at a
- 16 location for longer than ten consecutive days, attending school for
- 17 longer than ten days, or maintaining employment in the jurisdiction
- 18 for longer than ten days, regardless of the state of the residence.

19 **SECTION 2.** Chapter 12.1-41 of the North Dakota Century Code is created and  
 20 enacted as follows:

21 **12.1 - 41 - 01. Definitions .**

22 In this chapter:

- 23 1. "Adult" means an individual eighteen years of age or older.
- 24 2. "Coercion" means:
  - 25 a. The use or threat of force against, abduction of, serious harm to,
  - 26 or physical restraint of, an individual;
  - 27 b. The use of a plan, pattern, or statement with intent to cause an
  - 28 individual to believe that failure to perform an act will result in the
  - 29 use of force against, abduction of, serious harm to, or physical
  - 30 restraint of, an individual;
  - 31 c. The abuse or threatened abuse of law or legal process;
  - 32 d. Controlling or threatening to control an individual's access to a
  - 33 controlled substance as defined in section 19 - 03.1 - 01 ;
  - 34 e. The destruction or taking of or the threatened destruction or taking

SB 2107  
 2/9/15



1-4

1        11. "State" means a state of the United States, the District of Columbia,  
2                    Puerto Rico, the United States Virgin Islands, or any territory or insular  
3                    possession subject to the jurisdiction of the United States. The term  
4                    includes an Indian tribe or band recognized by federal law or formally  
5                    acknowledged by a state.

6        12. "Victim" means an individual who is subjected to human trafficking or to  
7                    conduct that would have constituted human trafficking had this chapter  
8                    been in effect when the conduct occurred, regardless of whether a  
9                    perpetrator is identified, apprehended, prosecuted, or convicted.

10        **12.1 - 41 - 02. Trafficking an individual .**

11        1. A person commits the offense of trafficking an individual if the person  
12                    knowingly recruits, transports, transfers, harbors, receives, provides,  
13                    obtains, isolates, maintains, or entices an individual in furtherance of:

14                    a. Forced labor in violation of section 12.1 - 41 - 03 ; or

15                    b. Sexual servitude in violation of section 12.1 - 41 - 04 .

16        2. Trafficking an individual who is an adult is a class B felony .

17        3. Trafficking an individual who is a minor is a class A felony .

18        **12.1 - 41 - 03. Forced labor .**

19        1. A person commits the offense of forced labor if the person knowingly  
20                    uses coercion to compel an individual to provide labor or services, except  
21                    when that conduct is permissible under federal law or law of this state  
22                    other than this chapter.

23        2. Forced labor of an individual who is an adult is a class B felony.

24        3. Forced labor of an individual who is a minor is a class A felony.

25        **12.1 - 41 - 04. Sexual servitude .**

26        1. A person commits the offense of sexual servitude if the person knowingly:

27                    a. Maintains or makes available a minor for the purpose of engaging  
28                    the minor in commercial sexual activity; or

29                    b. Uses coercion or deception to compel an adult to engage in  
30                    commercial sexual activity.

31        2. It is not a defense in a prosecution under subdivision a of subsection 1  
32                    that the minor consented to engage in commercial sexual activity or that  
33                    the defendant believed the minor was an adult.

34        3. Sexual servitude under subdivision a of subsection 1 is a class A

SB 2107  
2/9/15

1 felony .

2 4. Sexual servitude under subdivision b of subsection 1 is a class B felony.

3 **12.1 - 41 - 05. Patronizing a victim of sexual servitude .**

4 1. A person commits the offense of patronizing a victim of sexual servitude if  
5 the person knowingly gives, agrees to give, or offers to give anything of  
6 value so that an individual may engage in commercial sexual activity with  
7 another individual and the person knows that the other individual is a  
8 victim of sexual servitude.

9 2. Patronizing a victim of sexual servitude who is an adult is a class C  
10 felony .

11 3. Patronizing a victim of sexual servitude who is a minor is a class B  
12 felony.

13 **12.1 - 41 - 06. Patronizing a minor for commercial sexual activity .**

14 1. A person commits the offense of patronizing a minor for commercial  
15 sexual activity if:

16 a. With the intent that an individual engage in commercial sexual  
17 activity with a minor, the person gives, agrees to give, or offers to  
18 give anything of value to a minor or another person so that the  
19 individual may engage in commercial sexual activity with a minor;  
20 or

21 b. The person gives, agrees to give, or offers to give anything of  
22 value to a minor or another person so that an individual may  
23 engage in commercial sexual activity with a minor.

24 2. Patronizing a minor for commercial sexual activity under subdivision a of  
25 subsection 1 is a class A felony .

26 3. Patronizing a minor for commercial sexual activity under subdivision b of  
27 subsection 1 is a class B felony.

28 **12.1 - 41 - 07. Business entity liability .**

29 1. A person that is a business entity may be prosecuted for an offense under  
30 sections 12.1 - 41 - 02 through 12.1 - 41 - 06 only if :

31 a. The entity knowingly engages in conduct that constitutes human  
32 trafficking; or

33 b. An employee or nonemployee agent of the entity engages in  
1 conduct that constitutes human trafficking and the conduct is part

SB 2107  
2/9/15

1-6

2 of a pattern of activity in violation of this chapter for the benefit of  
3 the entity, which the entity knew was occurring and failed to take  
4 effective action to stop.

- 5 2. When a person that is a business entity is prosecuted for an offense
- 6 under sections 12.1 - 41 - 02 through 12.1 - 41 - 06 , the court may
- 7 consider the severity of the entity's conduct and order penalties in
- 8 addition to those otherwise provided for the offense, including:
  - 9 a. A fine of not more than one million dollars per offense;
  - 10 b. Disgorgement of profit from activity in violation of this chapter; and
  - 11 c. Debarment from state and local government contracts.

12 **12.1 - 41 - 08. Aggravating circumstance .**

- 13 1. An aggravating circumstance during the commission of an offense under
- 14 section 12.1 - 41 - 02, 12.1 - 41 - 03, or 12.1 - 41 - 04 occurs when the
- 15 defendant recruited, enticed ,or obtained the victim of the offense from a
- 16 shelter that serves individuals subjected to human trafficking, domestic
- 17 violence, or sexual assault, runaway youth, foster children, or the
- 18 homeless.
- 19 2. If the trier of fact finds that an aggravating circumstance occurred during
- 20 the commission of an offense under section 12.1 - 41 - 02, 12.1 - 41 - 03,
- 21 or 12.1 - 41 - 04 , the defendant may be imprisoned for up to five years in
- 22 addition to the period of imprisonment prescribed for the offense.

23 **12.1 - 41 - 09. Restitution .**

- 24 1. The court shall order a person convicted of an offense under section 12.1
- 25 - 41 - 02 ,12.1 - 41 - 03, or 12.1 - 41 - 04 to pay restitution to the victim of
- 26 the offense for :
  - 27 a. Expenses incurred or reasonably certain to be incurred by the
  - 28 victim as a result of the offense, including reasonable attorney's
  - 29 fees and costs; and
  - 30 b. An amount equal to the greatest of the following, with no reduction
  - 31 for expenses the defendant incurred to maintain the victim:
    - 32 (1) The gross income to the defendant for, or the value to the
    - 33 defendant of, the victim's labor or services or sexual
    - 34 activity;
    - 35 (2) The amount the defendant contracted to pay the victim; or

SB 2107  
2/9/15

1 (3) The value of the victim's labor or services or sexual  
2 activity, calculated under the minimum wage and overtime  
3 provisions of the Fair Labor Standards Act, 29 U.S.C. 201  
4 et seq. or section 34 - 06 - 22, whichever is higher, even if  
5 the provisions do not apply to the victim's labor or services  
6 or sexual activity.

7 2. The court shall order restitution under subsection 1 even if the victim is  
8 unavailable to accept payment of restitution.

9 3. If the victim does not claim restitution ordered under subsection 1 for five  
10 years after entry of the order, the restitution must be paid to the crime  
11 victims restitution and gift fund under section 54 - 23.4 - 05 .

12 **12.1 - 41 - 10. Victim confidentiality .**

13 In an investigation of or a prosecution for an offense under this chapter, a law  
14 enforcement agency and state's attorney shall keep confidential the identity, pictures,  
15 and images of the alleged victim and the family of the alleged victim, except to the  
16 extent that disclosure is:

- 17 1. Necessary for the purpose of investigation or prosecution;
- 18 2. Required by law or court order; or
- 19 3. Necessary to ensure provision of services or benefits for the victim or the  
20 victim's family.

21 **12.1 - 41 - 11. Past sexual behavior of victim .**

22 In a prosecution for an offense under this chapter or a civil action under section  
23 12.1 - 41 - 15 , evidence of a specific instance of the alleged victim's past sexual  
24 behavior or reputation or opinion evidence of past sexual behavior of the alleged  
25 victim is not admissible unless the evidence is:

- 26 1. Admitted in accordance with the North Dakota Rules of Evidence ; or
- 27 2. Offered by the prosecution to prove a pattern of human trafficking by the  
28 defendant.

29 **12.1 - 41 - 12. Immunity of minor .**

30 1. If the individual was a minor at the time of the offense and committed the  
31 offense as a direct result of being a victim, the individual is not criminally  
32 liable or subject to a juvenile delinquency proceeding under chapter 27 -  
33 20 for :

- 34 a. Prostitution under section 12.1 - 29 - 03 ;

Proposed by:  
Sen.  
Armstrong

SB 2107  
2/9/15

1-8

- 1            b. Misdemeanor Forgery under section 12.1 - 24 - 01 ;
- 2            c. Misdemeanor Theft offenses under chapter 12.1 - 23; and
- 3            d. Insufficient funds or credit offenses under section 6 - 08 - 16 ;
- 4            e. Manufacture or possession of a controlled or counterfeit
- 5            substance offenses under section 19-03.1-23; and
- 6            f. Drug paraphernalia offenses under section 19-03.4.

35        2. If the individual was a minor at the time misdemeanor forgery or  
 36        misdemeanor theft offenses occurred and committed the offense as a  
 37        direct result of being a victim, the individual has immunity from  
 38        prosecution.

39        3. It is an affirmative defense to felony forgery, felony theft, and felony drug  
 40        distribution that the individual was a minor at the time of the offense and  
 41        committed the offense as a direct result of being a victim as defined in  
 42        this chapter.

7         2-3. An individual who has engaged in commercial sexual activity is not  
 8         criminally liable or subject to a juvenile delinquency proceeding under  
 9         chapter 27 - 20 for prostitution if the individual was a minor at the time of  
 10        the offense.

11        3-4. A minor who under subsection 1 or 2 is not subject to criminal liability or a  
 12        juvenile delinquency proceeding is presumed to be a child in need of  
 13        services under chapter 50 - 25.1 .

14        4-5. This section does not apply in a prosecution or a juvenile delinquency  
 15        proceeding for patronizing a prostitute.

16        **12.1 - 41 - 13. Affirmative defense of victim .**

17        An individual charged with prostitution or an offense listed in subsection 1 of  
 18        section 12.1 - 41 - 12 which was committed as a direct result of being a victim may  
 19        assert an affirmative defense that the individual is a victim.

20        **12.1 - 41 - 14. Motion to vacate and expunge conviction .**

21        1. An individual convicted of prostitution or an offense listed in subsection 1  
 22        of section 12.1 - 41 - 12 which was committed as a direct result of being a  
 23        victim may apply by motion to the court to vacate the conviction and  
 24        expunge the record of conviction. The court may grant the motion on a  
 25        finding that the individual's participation in the offense was a direct result  
 26        of being a victim.

SB 2107  
2/9/15

- 27        2. Official determination or documentation is not required to grant a motion
- 28        by an individual under subsection 1, but an official determination or
- 29        documentation from a federal, state, local, or tribal agency that the
- 30        individual was a victim at the time of the offense creates a presumption
- 31        that the individual's participation was a direct result of being a victim.
- 32        3. A motion filed under subsection 1, any hearing conducted on the motion,
- 33        and any relief granted are governed by chapter 29 - 32.1 .

1        **12.1 - 41 - 15. Civil action .**

- 2        1. A victim may bring a civil action against a person that commits an offense
- 3        against the victim under section 12.1 - 41 - 02, 12.1 - 41 - 03, or 12.1 - 41
- 4        - 04 for compensatory damages, exemplary or punitive damages,
- 5        injunctive relief, and any other appropriate relief.
- 6        2. If a victim prevails in an action under this section, the court shall award
- 7        the victim reasonable attorney's fees and costs.
- 8        3. An action under this section must be commenced not later than ten years
- 9        after the later of the date on which the victim:
- 10       a. No longer was subject to human trafficking; or
- 11       b. Attained eighteen years of age.
- 12       4. Damages awarded to a victim under this section for an item must be
- 13       offset by any restitution paid to the victim pursuant to 12.1 - 41 - 09 for the
- 14       same item .
- 15       5. This section does not preclude any other remedy available to a victim
- 16       under federal law or law of this state other than this chapter.

17       **12.1 - 41 - 16. Display of public-awareness sign - Penalty for failure to display .**

- 18       ~~1. The department of transportation shall display in every transportation~~
- 19       ~~station, rest area, and welcome center in the state which is open to the~~
- 20       ~~public a public-awareness sign that contains any state or local human~~
- 21       ~~trafficking resource information and the National Human Trafficking~~
- 22       ~~Resource Center hotline information.~~
- 23       ~~2. An employer shall display the public-awareness sign~~
- 24       ~~described in subsection 1 in a place that is clearly conspicuous and~~
- 25       ~~visible to employees and the public at each of the following locations in~~
- 26       ~~this state at which the employer has employees:.~~
- 27       ~~a. A hospital; or~~

SB 2107  
2/9/15

1-10

- 28 ~~\_\_\_\_\_ b. \_\_\_\_\_ An emergency services provider.~~
- 29 ~~\_\_\_\_\_ 3. \_\_\_\_\_ The department of labor and human rights shall create and provide the~~
- 30 ~~\_\_\_\_\_ public awareness sign described in subsection 1. The department of labor~~
- 31 ~~\_\_\_\_\_ and human rights shall impose a fine of three hundred dollars per~~
- 32 ~~\_\_\_\_\_ violation on an employer that knowingly fails to comply with subsection 2.~~
- 33 ~~\_\_\_\_\_ The fine is the exclusive remedy for failure to comply.~~

**12.1 - 41 - 17. Eligibility for benefit or service .**

- 1       1.       A victim is eligible for a benefit or service available through the state,
- 2               including compensation under chapter 54 - 23.4, regardless of
- 3               immigration status .
- 4       2.       A minor who has engaged in commercial sexual activity is eligible for a
- 5               benefit or service available through the state, regardless of immigration
- 6               status.
- 7       3.       As soon as practicable after a first encounter with an individual who
- 8               reasonably appears to law enforcement to be a victim or a minor who has
- 9               engaged in commercial sexual activity, the law enforcement agency shall
- 10              notify the victim services division of the department of corrections and
- 11              rehabilitation that the individual may be eligible for a benefit or service
- 12              under the law of this state.
- 13       4.       For purposed of this section, "a benefit or service available through the
- 14              state" does not include a benefit or service of a program administered by
- 15              the department of human services if the victim or minor does not meet
- 16              other program eligibility requirements or if the program's eligibility
- 17              requirements are based, in part, on immigration status.

**12.1 - 41 - 18. Law enforcement protocol .**

- 19       1.       On request from an individual whom a law enforcement officer reasonably
- 20              believes is a victim who is or has been subjected to a severe form of
- 21              trafficking or criminal offense required for the individual to qualify for a
- 22              nonimmigrant T or U visa under 8 U.S.C. 1101(a)(15)(T) or 8 U.S.C.
- 23              1101(a)(15)(U), or for continued presence under 22 U.S.C. 7105(c)(3),
- 24              the law enforcement officer, as soon as practicable after receiving the
- 25              request, shall complete, sign, and give to the individual the form I-914B or
- 26              form I-918B provided by the United States citizenship and immigration
- 27              services on its internet website and ask a federal law enforcement officer

Proposed by:  
DHS

SB 2107  
2/9/15

28 to request continued presence.  
 29 2. If the law enforcement agency determines that an individual does not  
 30 meet the requirements for the law enforcement agency to comply with  
 31 subsection 1, the law enforcement agency shall inform the individual of  
 32 the reason and that the individual may make another request under  
 1 subsection 1 and submit additional evidence satisfying the requirements.

2 **12.1 - 41 - 19. Grant to or contract with service provider .**

3 1. The department of corrections and rehabilitation may make a grant to or  
 4 contract with a unit of state or local government, tribal government, or  
 5 nongovernmental victims service organization to develop or expand  
 6 service programs for victims. *Except as required by federal law, no funds*  
 7 *from the grant or contract may be used to refer for or, counsel in favor of,*  
 8 *abortion.*  
 9 2. A recipient of a grant or contract under subsection 1 shall report annually  
 10 to department of corrections and rehabilitation the number and  
 11 demographic information of all victims receiving services under the grant  
 12 or contract.

13 **SECTION 3. REPEAL.** Chapter 12.1-40 of the North Dakota Century Code is repealed.

Proposed by:  
**Catholic  
 Conference**

SB 2107  
 2/9/15

Comprehensive  
# 2-1  
Sen. Hogue  
2/9/15

**PROPOSED SB 2107**

1 A BILL for an Act to create and enact chapter 12.1-41 of the North Dakota Century  
2 Code, relating to the Uniform Act on Prevention of and Remedies for Human  
3 Trafficking; to amend and reenact subsection 1 of section 12.1-32-15 of the North  
4 Dakota Century Code, relating to definitions; to repeal chapter 12.1-40 of the North  
5 Dakota Century Code, relating to human trafficking; and to provide a penalty.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT. Subsection 1 of section 12.1-32-15 of the North**  
8 **Dakota Century Code is amended and reenacted as follows:**

- 9 1. As used in this section:
- 10 a. "A crime against a child" means a violation of chapter 12.1-16,  
11 Section 12.1-17-01.1 if the victim is under the age of twelve, 12.1-  
12 17-02, 12.1-17-04, subdivision a of subsection 6 of section 12.1-  
13 17-07.1, section 12.1-18-01, 12.1-18-02, 12.1-18-05, chapter 12.1-  
14 29, or subdivision a of subsection 1 or subsection 2 of section 14-  
15 09-22, ~~labor trafficking in violation of chapter~~  
16 12.1-40-subsection 3 of section 12.1 - 41 - 02, subsection 3 of  
17 section 12.1 - 41-03 , or an equivalent offense from another court  
18 in the United States, a tribal court, or court of another country, in  
19 which the victim is a minor or is otherwise of the age required for  
20 the act to be a crime or an attempt or conspiracy to commit these  
21 offenses.
  - 22 b. "Department" means the department of corrections and  
23 rehabilitation.
  - 24 c. "Mental abnormality" means a congenital or acquired condition of  
25 an individual that affects the emotional or volitional capacity of the  
26 individual in a manner that predisposes that individual to the  
27 commission of criminal sexual acts to a degree that makes the  
28 individual a menace to the health and safety of other individuals.
  - 29 d. "Predatory" means an act directed at a stranger or at an individual  
30 with whom a relationship has been established or promoted for  
31 the primary purpose of victimization.

- 1 e. "Sexual offender" means a person who has pled guilty to or been
- 2 found guilty, including juvenile delinquent adjudications, of a
- 3 violation of section 12.1-20-03, 12.1-20-03.1, 12.1-20-04, 12.1-20-
- 4 05, 12.1-20-05.1, 12.1-20-06, 12.1-20-06.1, 12.1-20-07 except for
- 5 subdivision a, 12.1-20-11, 12.1-20-12.1, or 12.1-20-12.2, chapter
- 6 12.1-27.2, or subsection 2 of section 12.1-22-03.1, ~~sex trafficking~~
- 7 ~~in violation of chapter 12.1-40~~ subdivision b of section 12.1 - 41 -
- 8 02, section 12.1 - 41 - 04, 12.1 - 41 - 05, or 12.1 - 41 - 06 , or an
- 9 equivalent offense from another court in the United States, a tribal
- 10 court, or court of another country, or an attempt or conspiracy to
- 11 commit these offenses.
- 12 f. "Sexually dangerous individual" means an individual who meets
- 13 the definition specified in section 25-03.3-01.
- 14 g. "Temporarily domiciled" means staying or being physically present
- 15 in this state for more than thirty days in a calendar year or at a
- 16 location for longer than ten consecutive days, attending school for
- 17 longer than ten days, or maintaining employment in the jurisdiction
- 18 for longer than ten days, regardless of the state of the residence.

19 **SECTION 2.** Chapter 12.1-41 of the North Dakota Century Code is created and  
 20 enacted as follows:

21 **12.1 - 41 - 01. Definitions .**

22 In this chapter:

- 23 1. "Adult" means an individual eighteen years of age or older.
- 24 2. "Coercion" means:
  - 25 a. The use or threat of force against, abduction of, serious harm to,
  - 26 or physical restraint of, an individual;
  - 27 b. The use of a plan, pattern, or statement with intent to cause an
  - 28 individual to believe that failure to perform an act will result in the
  - 29 use of force against, abduction of, serious harm to, or physical
  - 30 restraint of, an individual;
  - 31 c. The abuse or threatened abuse of law or legal process;
  - 32 d. Controlling or threatening to control an individual's access to a
  - 33 controlled substance as defined in section 19 - 03.1 - 01 ;
  - 34 e. The destruction or taking of or the threatened destruction or taking

- 1                                    of an individual's identification document or other property;
- 2                    f. The use of debt bondage;
- 3                    g. The use of an individual's physical or mental impairment when the
- 4                                    impairment has a substantial adverse effect on the individual's
- 5                                    cognitive or volitional function; or
- 6                    h. The commission of civil or criminal fraud.
- 7                    3. "Commercial sexual activity" means sexual activity for which anything of
- 8                                    value is given to, promised to, or received, by a person.
- 9                    4. "Debt bondage" means inducing an individual to provide:
- 10                                  a. Commercial sexual activity in payment toward or satisfaction of a
- 11                                    real or purported debt; or
- 12                                  b. Labor or services in payment toward or satisfaction of a real or
- 13                                    purported debt if:
- 14                                    (1) The reasonable value of the labor or services is not
- 15                                    applied toward the liquidation of the debt; or
- 16                                    (2) The length of the labor or services is not limited and the
- 17                                    nature of the labor or services is not defined.
- 18                                  c. Debt bondage does not include an effort by a creditor to collect an
- 19                                    enforceable obligation by means that are permitted under state or
- 20                                    federal laws on the effective date of this Act.
- 21                    5. "Human trafficking" means the commission of an offense created by
- 22                                    sections 12.1 - 41 - 02 through 12.1 - 41 - 06 .
- 23                    6. "Identification document" means a passport, driver's license, immigration
- 24                                    document, travel document, or other government-issued identification document,
- 25                                    including a document issued by a foreign government.
- 26                    7. "Labor or services" means activity having economic value.
- 27                    8. "Minor" means an individual less than eighteen years of age.
- 28                    9. "Serious harm" means harm, whether physical or nonphysical, including
- 29                                    psychological, economic, or reputational, to an individual which would
- 30                                    compel a reasonable individual of the same background and in the same
- 31                                    circumstances to perform or continue to perform labor or services or
- 32                                    sexual activity to avoid incurring the harm.
- 33                    10. "Sexual activity" means "sexual act" as defined in section 12.1 - 20 - 02.
- 34                                    The term includes a sexually explicit performance.

Proposed by:  
**Bankers  
Association**

SB 2107  
2/9/15

2-4

Proposed by:  
FUSE

1 11. "State" means a state of the United States, the District of Columbia,  
2 Puerto Rico, the United States Virgin Islands, or any territory or insular  
3 possession subject to the jurisdiction of the United States. The term  
4 includes an Indian tribe or band recognized by federal law or formally  
5 acknowledged by a state.

6 12. "Victim" means an individual who is subjected to human trafficking or to  
7 conduct that would have constituted human trafficking had this chapter  
8 been in effect when the conduct occurred, regardless of whether a  
9 perpetrator is identified, apprehended, prosecuted, or convicted.

10 **12.1 - 41 - 02. Trafficking an individual .**

11 1. A person commits the offense of trafficking an individual if the person  
12 knowingly recruits, transports, transfers, harbors, receives, provides,  
13 obtains, isolates, maintains, or entices an individual in furtherance of:

- 14 a. Forced labor in violation of section 12.1 - 41 - 03 ; or
- 15 b. Sexual servitude in violation of section 12.1 - 41 - 04 .

16 2. Trafficking an individual who is an adult is a class BA felony .

17 3. Trafficking an individual who is a minor is a class AAA felony .

18 **12.1 - 41 - 03. Forced labor .**

19 1. A person commits the offense of forced labor if the person knowingly  
20 uses coercion to compel an individual to provide labor or services, except  
21 when that conduct is permissible under federal law or law of this state  
22 other than this chapter.

23 2. Forced labor of an individual who is an adult is a class BA felony.

24 3. Forced labor of an individual who is a minor is a class AAA felony.

25 **12.1 - 41 - 04. Sexual servitude .**

26 1. A person commits the offense of sexual servitude if the person knowingly:  
27 a. Maintains or makes available a minor for the purpose of engaging  
28 the minor in commercial sexual activity; or

- 29 b. Uses coercion or deception to compel an adult to engage in  
30 commercial sexual activity.

31 2. It is not a defense in a prosecution under subdivision a of subsection 1  
32 that the minor consented to engage in commercial sexual activity or that  
33 the defendant believed the minor was an adult.

34 3. Sexual servitude under subdivision a of subsection 1 is a class AAA

SB 2107  
2/9/15

Proposed by:  
FUSE

1 felony .  
2 4. Sexual servitude under subdivision b of subsection 1 is a class ~~BA~~ felony.

3 **12.1 - 41 - 05. Patronizing a victim of sexual servitude .**

4 1. A person commits the offense of patronizing a victim of sexual servitude if  
5 the person knowingly gives, agrees to give, or offers to give anything of  
6 value so that an individual may engage in commercial sexual activity with  
7 another individual and the person knows that the other individual is a  
8 victim of sexual servitude.

9 2. Patronizing a victim of sexual servitude who is an adult is a class ~~GB~~  
10 felony .

11 3. Patronizing a victim of sexual servitude who is a minor is a class ~~BA~~  
12 felony.

13 **12.1 - 41 - 06. Patronizing a minor for commercial sexual activity .**

14 1. A person commits the offense of patronizing a minor for commercial  
15 sexual activity if:

16 a. With the intent that an individual engage in commercial sexual  
17 activity with a minor, the person gives, agrees to give, or offers to  
18 give anything of value to a minor or another person so that the  
19 individual may engage in commercial sexual activity with a minor;

20 or

21 b. The person gives, agrees to give, or offers to give anything of  
22 value to a minor or another person so that an individual may  
23 engage in commercial sexual activity with a minor.

24 2. Patronizing a minor for commercial sexual activity under subdivision a of  
25 subsection 1 is a class A felony .

26 3. Patronizing a minor for commercial sexual activity under subdivision b of  
27 subsection 1 is a class B felony.

28 **12.1 - 41 - 07. Business entity liability .**

29 1. A person that is a business entity may be prosecuted for an offense under  
30 sections 12.1 - 41 - 02 through 12.1 - 41 - 06 ~~only if~~ as provided by  
31 ~~chapter 12.1-03.~~

32 ~~a. The entity knowingly engages in conduct that constitutes human~~  
33 ~~trafficking; or~~

34 ~~b. An employee or nonemployee agent of the entity engages in~~

Proposed by:  
Bankers  
Association

SB 2107  
2/9/15

Proposed by:  
Bankers  
Association

~~conduct that constitutes human trafficking and the conduct is part of a pattern of activity in violation of this chapter for the benefit of the entity, which the entity knew was occurring and failed to take effective action to stop.~~

- 2. When a person that is a business entity is prosecuted for an offense under sections 12.1 - 41 - 02 through 12.1 - 41 - 06 , the court may consider the severity of the entity's conduct and order penalties in addition to those otherwise provided for the offense, including:
  - a. A fine of not more than one million dollars per offense;
  - b. Disgorgement of profit from activity in violation of this chapter; and
  - c. Debarment from state and local government contracts.

**12.1 - 41 - 08. Aggravating circumstance .**

- 1. An aggravating circumstance during the commission of an offense under section 12.1 - 41 - 02, 12.1 - 41 - 03, or 12.1 - 41 - 04 occurs when the defendant recruited, enticed ,or obtained the victim of the offense from a shelter that serves individuals subjected to human trafficking, domestic violence, or sexual assault, runaway youth, foster children, or the homeless.
- 2. If the trier of fact finds that an aggravating circumstance occurred during the commission of an offense under section 12.1 - 41 - 02, 12.1 - 41 - 03, or 12.1 - 41 - 04 , the defendant may be imprisoned for up to five years in addition to the period of imprisonment prescribed for the offense.

**12.1 - 41 - 09. Restitution .**

- 1. The court shall order a person convicted of an offense under section 12.1 - 41 - 02 , 12.1 - 41 - 03, or 12.1 - 41 - 04 to pay restitution to the victim of the offense for :
  - a. Expenses incurred or reasonably certain to be incurred by the victim as a result of the offense, including reasonable attorney's fees and costs; and
  - b. An amount equal to the greatest of the following, with no reduction for expenses the defendant incurred to maintain the victim:
    - (1) The gross income to the defendant for, or the value to the defendant of, the victim's labor or services or sexual activity;

SB 2107  
2/9/15

- 1                   (2) The amount the defendant contracted to pay the victim; or
- 2                   (3) The value of the victim's labor or services or sexual
- 3                               activity, calculated under the minimum wage and overtime
- 4                               provisions of the Fair Labor Standards Act, 29 U.S.C. 201
- 5                               et seq. or section 34 - 06 - 22, whichever is higher, even if
- 6                               the provisions do not apply to the victim's labor or services
- 7                               or sexual activity.

8           2. The court shall order restitution under subsection 1 even if the victim is

9                       unavailable to accept payment of restitution.

10          3. If the victim does not claim restitution ordered under subsection 1 for five

11                       years after entry of the order, the restitution must be paid to the crime

12                       victims restitution and gift fund under section 54 - 23.4 - 05 .

13    **12.1 - 41 - 10. Victim confidentiality .**

14           In an investigation of or a prosecution for an offense under this chapter, a law

15           enforcement agency and state's attorney shall keep confidential the identity, pictures,

16           and images of the alleged victim and the family of the alleged victim, except to the

17           extent that disclosure is:

- 18           1. Necessary for the purpose of investigation or prosecution;
- 19           2. Required by law or court order; or
- 20           3. Necessary to ensure provision of services or benefits for the victim or the
- 21                       victim's family.

22    **12.1 - 41 - 11. Past sexual behavior of victim .**

23           In a prosecution for an offense under this chapter or a civil action under section

24           12.1 - 41 - 15 , evidence of a specific instance of the alleged victim's past sexual

25           behavior or reputation or opinion evidence of past sexual behavior of the alleged

26           victim is not admissible unless the evidence is:

- 27           1. Admitted in accordance with the North Dakota Rules of Evidence ; or
- 28           2. Offered by the prosecution to prove a pattern of human trafficking by the
- 29                       defendant.

30    **12.1 - 41 - 12. Immunity of minor .**

31           1. If the individual was a minor at the time of the offense and committed the

32                       offense as a direct result of being a victim, the individual is not criminally

33                       liable or subject to a juvenile delinquency proceeding under chapter 27 -

34                       20 for :

SB 2107  
2/9/15

Proposed by:  
Sen.  
Armstrong  
(In Progress)

- 1 a. Prostitution under section 12.1 - 29 - 03 ;
- 2 b. Forgery under section 12.1 - 24 - 01 ;
- 3 c. Theft offenses under chapter 12.1 - 23; and
- 4 d. Insufficient funds or credit offenses under section 6 - 08 - 16 ; and
- 5 e. *Drug use and possession (not dealing) offenses under chapter 19.*
- 6 2. *Misdemeanor forgery and theft offenses have immunity. Felony forgery,*
- 7 *theft, and drug dealing offenses can use human trafficking as an*
- 8 *affirmative defense.*
- 9 ~~2.3.~~ An individual who has engaged in commercial sexual activity is not
- 10 criminally liable or subject to a juvenile delinquency proceeding under
- 11 chapter 27 - 20 for prostitution if the individual was a minor at the time of
- 12 the offense.
- 13 ~~3.4.~~ A minor who under subsection 1 or 2 is not subject to criminal liability or a
- 14 juvenile delinquency proceeding is presumed to be a child in need of
- 15 services under chapter 50 - 25.1 .
- 16 ~~4.5.~~ This section does not apply in a prosecution or a juvenile delinquency
- 17 proceeding for patronizing a prostitute.

**12.1 - 41 - 13. Affirmative defense of victim .**

An individual charged with prostitution or an offense listed in subsection 1 of section 12.1 - 41 - 12 which was committed as a direct result of being a victim may assert an affirmative defense that the individual is a victim.

**12.1 - 41 - 14. Motion to vacate and expunge conviction .**

- 1. An individual convicted of prostitution or an offense listed in subsection 1 of section 12.1 - 41 - 12 which was committed as a direct result of being a victim may apply by motion to the court to vacate the conviction and expunge the record of conviction. The court may grant the motion on a finding that the individual's participation in the offense was a direct result of being a victim.
- 2. Official determination or documentation is not required to grant a motion by an individual under subsection 1, but an official determination or documentation from a federal, state, local, or tribal agency that the individual was a victim at the time of the offense creates a presumption that the individual's participation was a direct result of being a victim.
- 3. A motion filed under subsection 1, any hearing conducted on the motion,

SB 2107  
2/9/15

35 and any relief granted are governed by chapter 29 - 32.1 .

1 **12.1 - 41 - 15. Civil action .**

2 1. A victim may bring a civil action against a person that commits an offense  
3 against the victim under section 12.1 - 41 - 02, 12.1 - 41 - 03, or 12.1 - 41  
4 - 04 for compensatory damages, exemplary or punitive damages,  
5 injunctive relief, and any other appropriate relief.

6 2. If a victim prevails in an action under this section, the court shall award  
7 the victim reasonable attorney's fees and costs.

8 3. An action under this section must be commenced not later than ten years  
9 after the later of the date on which the victim:

10 a. No longer was subject to human trafficking; or

11 b. Attained eighteen years of age.

12 4. Damages awarded to a victim under this section for an item must be  
13 offset by any restitution paid to the victim pursuant to 12.1 - 41 - 09 for the  
14 same item .

15 5. This section does not preclude any other remedy available to a victim  
16 under federal law or law of this state other than this chapter.

17 **12.1 - 41 - 16. Display of public-awareness sign - Penalty for failure to display .**

18 1. The department of transportation shall display in every transportation  
19 station, rest area, and welcome center in the state which is open to the  
20 public a public-awareness sign that contains any state or local human  
21 trafficking resource information and the National Human Trafficking  
22 Resource Center hotline information.

23 2. An employer shall display the public-awareness sign described in  
24 subsection 1 in a place that is clearly conspicuous and visible to  
25 employees and the public at each of the following locations in this state at  
26 which the employer has employees:

27 a. A hospital; ~~or~~

28 b. exotic dancing establishments;

29 c. public health facility; or

30 ~~b. d.~~ An emergency services provider.

31 3. The department of labor and human rights shall create and provide the  
32 public awareness sign described in subsection 1. The department of labor  
33 and human rights shall impose a fine of three hundred dollars per

Proposed by:  
FUSE

SB 2107  
2/9/15

34 violation on an employer that knowingly fails to comply with subsection 2.  
1 The fine is the exclusive remedy for failure to comply.

2 **12.1 - 41 - 17. Eligibility for benefit or service .**

- 3 1. A victim is eligible for a benefit or service available through the state,
- 4 including compensation under chapter 54 - 23.4, regardless of
- 5 immigration status .
- 6 2. A minor who has engaged in commercial sexual activity is eligible for a
- 7 benefit or service available through the state, regardless of immigration
- 8 status.
- 9 3. As soon as practicable after a first encounter with an individual who
- 10 reasonably appears to law enforcement to be a victim or a minor who has
- 11 engaged in commercial sexual activity, the law enforcement agency shall
- 12 notify the victim services division of the department of corrections and
- 13 rehabilitation that the individual may be eligible for a benefit or service
- 14 under the law of this state.
- 15 4. For purposes of this section, "a benefit or service available through the
- 16 state" does not include a benefit or service of a program administered by
- 17 the department of human services if the victim or minor does not meet
- 18 other program eligibility requirements or if the program's eligibility
- 19 requirements are based, in part, on immigration status.

20 **12.1 - 41 - 18. Law enforcement protocol .**

- 21 1. On request from an individual whom a law enforcement officer reasonably
- 22 believes is a victim who is or has been subjected to a severe form of
- 23 trafficking or criminal offense required for the individual to qualify for a
- 24 nonimmigrant T or U visa under 8 U.S.C. 1101(a)(15)(T) or 8 U.S.C.
- 25 1101(a)(15)(U), or for continued presence under 22 U.S.C. 7105(c)(3),
- 26 the law enforcement officer, as soon as practicable after receiving the
- 27 request, shall complete, sign, and give to the individual the form I-914B or
- 28 form I-918B provided by the United States citizenship and immigration
- 29 services on its internet website and ask a federal law enforcement officer
- 30 to request continued presence.
- 31 2. If the law enforcement agency determines that an individual does not
- 32 meet the requirements for the law enforcement agency to comply with
- 33 subsection 1, the law enforcement agency shall inform the individual of

Proposed by:  
DHS

SB 2107  
2/9/15

34 the reason and that the individual may make another request under  
1 subsection 1 and submit additional evidence satisfying the requirements.

2 **12.1 - 41 - 19. Grant to or contract with service provider .**

- 3 1. The department of corrections and rehabilitation may make a grant to or
- 4 contract with a unit of state or local government, tribal government, or
- 5 nongovernmental victims service organization to develop or expand
- 6 service programs for victims. Except as required by federal law, no funds
- 7 from the grant or contract may be used to refer for or, counsel in favor of,
- 8 abortion.
- 9 2. A recipient of a grant or contract under subsection 1 shall report annually
- 10 to department of corrections and rehabilitation the number and
- 11 demographic information of all victims receiving services under the grant
- 12 or contract.

13 **SECTION 3. REPEAL.** Chapter 12.1-40 of the North Dakota Century Code is repealed.

Proposed by:  
Catholic  
Conference

SB 2107  
2/9/15

DHS

#3-1  
2/9/15

PROPOSED AMENDMENTS TO SENATE BILL NO. 2107

Page 10, after line 5, insert:

- "4. For purposes of this section, "a benefit or service available through the state" does not include a benefit or service of a program that is administered by the department of human services using federal or special funds, if the victim or minor does not meet program eligibility requirements including an eligibility requirement that is based on immigration status."

Renumber accordingly

PROPOSED AMENDMENTS TO SENATE BILL NO. 2107

Page 10, line 27, insert:

(§4: Repeal)

<sup>3</sup>  
"Section 4. A new section to the North Dakota Century Code is created and enacted as follows:

**Use of public funds for treatment and support services for victims of human trafficking - Use for referral, counseling in favor of abortion prohibited.**

Except as required by federal law, no funds of this state or any agency, county, municipality, or any other subdivision thereof and no federal funds passing through the state treasury or a state agency to provide treatment and support services for victims of human trafficking may be used to refer for, or counsel in favor of, abortion."

Renumber accordingly

**PROPOSED SB 2107**

1 A BILL for an Act to create and enact chapter 12.1-41 of the North Dakota Century  
2 Code, relating to the Uniform Act on Prevention of and Remedies for Human  
3 Trafficking; to amend and reenact subsection 1 of section 12.1-32-15 of the North  
4 Dakota Century Code, relating to definitions; to repeal chapter 12.1-40 of the North  
5 Dakota Century Code, relating to human trafficking; and to provide a penalty.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT. Subsection 1 of section 12.1-32-15 of the North**  
8 **Dakota Century Code is amended and reenacted as follows:**

- 9 1. As used in this section:
  - 10 a. "A crime against a child" means a violation of chapter 12.1-16,
  - 11 Section 12.1-17-01.1 if the victim is under the age of twelve, 12.1-
  - 12 17-02, 12.1-17-04, subdivision a of subsection 6 of section 12.1-
  - 13 17-07.1, section 12.1-18-01, 12.1-18-02, 12.1-18-05, chapter 12.1-
  - 14 29, or subdivision a of subsection 1 or subsection 2 of section 14-
  - 15 09-22, ~~labor trafficking in violation of chapter~~
  - 16 ~~12.1-40 subsection 3 of section 12.1 - 41 - 02, subsection 3 of~~
  - 17 section 12.1 - 41-03 , or an equivalent offense from another court
  - 18 in the United States, a tribal court, or court of another country, in
  - 19 which the victim is a minor or is otherwise of the age required for
  - 20 the act to be a crime or an attempt or conspiracy to commit these
  - 21 offenses.
  - 22 b. "Department" means the department of corrections and
  - 23 rehabilitation.
  - 24 c. "Mental abnormality" means a congenital or acquired condition of
  - 25 an individual that affects the emotional or volitional capacity of the
  - 26 individual in a manner that predisposes that individual to the
  - 27 commission of criminal sexual acts to a degree that makes the
  - 28 individual a menace to the health and safety of other individuals.
  - 29 d. "Predatory" means an act directed at a stranger or at an individual
  - 30 with whom a relationship has been established or promoted for
  - 31 the primary purpose of victimization.

SB 2107  
2/9/15

- 1 e. "Sexual offender" means a person who has pled guilty to or been
- 2 found guilty, including juvenile delinquent adjudications, of a
- 3 violation of section 12.1-20-03, 12.1-20-03.1, 12.1-20-04, 12.1-20-
- 4 05, 12.1-20-05.1, 12.1-20-06, 12.1-20-06.1, 12.1-20-07 except for
- 5 subdivision a, 12.1-20-11, 12.1-20-12.1, or 12.1-20-12.2, chapter
- 6 12.1-27.2, or subsection 2 of section 12.1-22-03.1, ~~sex trafficking~~
- 7 ~~in violation of chapter 12.1-40~~ subdivision b of section 12.1 - 41 -
- 8 02, section 12.1 - 41 - 04, 12.1 - 41 - 05, or 12.1 - 41 - 06 , or an
- 9 equivalent offense from another court in the United States, a tribal
- 10 court, or court of another country, or an attempt or conspiracy to
- 11 commit these offenses.
- 12 f. "Sexually dangerous individual" means an individual who meets
- 13 the definition specified in section 25-03.3-01.
- 14 g. "Temporarily domiciled" means staying or being physically present
- 15 in this state for more than thirty days in a calendar year or at a
- 16 location for longer than ten consecutive days, attending school for
- 17 longer than ten days, or maintaining employment in the jurisdiction
- 18 for longer than ten days, regardless of the state of the residence.

19 **SECTION 2.** Chapter 12.1-41 of the North Dakota Century Code is created and  
 20 enacted as follows:

21 **12.1 - 41 - 01. Definitions .**

22 In this chapter:

- 23 1. "Adult" means an individual eighteen years of age or older.
- 24 2. "Coercion" means:
  - 25 a. The use or threat of force against, abduction of, serious harm to,
  - 26 or physical restraint of, an individual;
  - 27 b. The use of a plan, pattern, or statement with intent to cause an
  - 28 individual to believe that failure to perform an act will result in the
  - 29 use of force against, abduction of, serious harm to, or physical
  - 30 restraint of, an individual;
  - 31 c. The abuse or threatened abuse of law or legal process;
  - 32 d. Controlling or threatening to control an individual's access to a
  - 33 controlled substance as defined in section 19 - 03.1 - 01 ;
  - 34 e. The destruction or taking of or the threatened destruction or taking

- 1 of an individual's identification document or other property;
- 2 f. The use of debt bondage;
- 3 g. The use of an individual's physical or mental impairment when the
- 4 impairment has a substantial adverse effect on the individual's
- 5 cognitive or volitional function; or
- 6 h. The commission of civil or criminal fraud.

7 3. "Commercial sexual activity" means sexual activity for which anything of  
 8 value is given to, promised to, or received, by a person.

9 a. "Debt bondage" means inducing an individual to provide:

10 (1) Commercial sexual activity in payment toward or  
 11 satisfaction of a real or purported debt; or

12 (2) Labor or services in payment toward or satisfaction of a  
 13 real or purported debt if:

14 (a) The reasonable value of the labor or services is not  
 15 applied toward the liquidation of the debt; or

16 (b) The length of the labor or services is not limited and  
 17 the nature of the labor or services is not defined.

18 b. Debt bondage does not include an effort by a creditor to collect an  
 19 enforceable obligation by means that are permitted under state or  
 20 federal laws on the effective date of this Act.

21 5. "Human trafficking" means the commission of an offense created by  
 22 sections 12.1 - 41 - 02 through 12.1 - 41 - 06 .

23 6. "Identification document" means a passport, driver's license, immigration  
 24 document, travel document, or other government-issued identification document,  
 25 including a document issued by a foreign government.

26 7. "Labor or services" means activity having economic value.

27 8. "Minor" means an individual less than eighteen years of age.

28 9. "Serious harm" means harm, whether physical or nonphysical, including  
 29 psychological, economic, or reputational, to an individual which would  
 30 compel a reasonable individual of the same background and in the same  
 31 circumstances to perform or continue to perform labor or services or  
 32 sexual activity to avoid incurring the harm.

33 10. "Sexual activity" means "sexual act" as defined in section 12.1 - 20 - 02.  
 34 The term includes a sexually explicit performance.

Amendment  
#1

SB 2107  
2/9/15

11. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band recognized by federal law or formally acknowledged by a state.

12. "Victim" means an individual who is subjected to human trafficking or to conduct that would have constituted human trafficking had this chapter been in effect when the conduct occurred, regardless of whether a perpetrator is identified, apprehended, prosecuted, or convicted.

**12.1 - 41 - 02. Trafficking an individual .**

1. A person commits the offense of trafficking an individual if the person knowingly recruits, transports, transfers, harbors, receives, provides, obtains, isolates, maintains, or entices an individual in furtherance of:  
a. Forced labor in violation of section 12.1 - 41 - 03 ; or  
b. Sexual servitude in violation of section 12.1 - 41 - 04 .

2. Trafficking an individual who is an adult is a class BA felony .

3. Trafficking an individual who is a minor is a class AAA felony .

**12.1 - 41 - 03. Forced labor .**

1. A person commits the offense of forced labor if the person knowingly uses coercion to compel an individual to provide labor or services, except when that conduct is permissible under federal law or law of this state other than this chapter.

2. Forced labor of an individual who is an adult is a class BA felony.

3. Forced labor of an individual who is a minor is a class AAA felony.

**12.1 - 41 - 04. Sexual servitude .**

1. A person commits the offense of sexual servitude if the person knowingly:  
a. Maintains or makes available a minor for the purpose of engaging the minor in commercial sexual activity; or  
b. Uses coercion or deception to compel an adult to engage in commercial sexual activity.

2. It is not a defense in a prosecution under subdivision a of subsection 1 that the minor consented to engage in commercial sexual activity or that the defendant believed the minor was an adult.

3. Sexual servitude under subdivision a of subsection 1 is a class AAA

Amendment #2

1 felony .  
2 4. Sexual servitude under subdivision b of subsection 1 is a class BA felony.

3 **12.1 - 41 - 05. Patronizing a victim of sexual servitude .**

4 1. A person commits the offense of patronizing a victim of sexual servitude if  
5 the person knowingly gives, agrees to give, or offers to give anything of  
6 value so that an individual may engage in commercial sexual activity with  
7 another individual and the person knows that the other individual is a  
8 victim of sexual servitude.

9 2. Patronizing a victim of sexual servitude who is an adult is a class GB  
10 felony .

11 3. Patronizing a victim of sexual servitude who is a minor is a class BA  
12 felony.

13 **12.1 - 41 - 06. Patronizing a minor for commercial sexual activity .**

14 1. A person commits the offense of patronizing a minor for commercial  
15 sexual activity if:

16 a. With the intent that an individual engage in commercial sexual  
17 activity with a minor, the person gives, agrees to give, or offers to  
18 give anything of value to a minor or another person so that the  
19 individual may engage in commercial sexual activity with a minor;  
20 or

21 b. The person gives, agrees to give, or offers to give anything of  
22 value to a minor or another person so that an individual may  
23 engage in commercial sexual activity with a minor.

24 2. Patronizing a minor for commercial sexual activity under subdivision a of  
25 subsection 1 is a class A felony .

26 3. Patronizing a minor for commercial sexual activity under subdivision b of  
27 subsection 1 is a class B felony.

28 **12.1 - 41 - 07. Business entity liability .**

29 1. A person that is a business entity may be prosecuted for an offense under  
30 sections 12.1 - 41 - 02 through 12.1 - 41 - 06 ~~only if~~ as provided by  
31 chapter 12.1-03.:

32 a. ~~The entity knowingly engages in conduct that constitutes human~~  
33 ~~trafficking; or~~

34 b. ~~An employee or nonemployee agent of the entity engages in~~

Amendment #3

SB 2107  
2/9/15

1 conduct that constitutes human trafficking and the conduct is part  
2 of a pattern of activity in violation of this chapter for the benefit of  
3 the entity, which the entity knew was occurring and failed to take  
4 effective action to stop.

- 5 2. When a person that is a business entity is prosecuted for an offense
- 6 under sections 12.1 - 41 - 02 through 12.1 - 41 - 06 , the court may
- 7 consider the severity of the entity's conduct and order penalties in
- 8 addition to those otherwise provided for the offense, including:
  - 9 a. A fine of not more than one million dollars per offense;
  - 10 b. Disgorgement of profit from activity in violation of this chapter; and
  - 11 c. Debarment from state and local government contracts.

12 **12.1 - 41 - 08. Aggravating circumstance .**

- 13 1. An aggravating circumstance during the commission of an offense under
- 14 section 12.1 - 41 - 02, 12.1 - 41 - 03, or 12.1 - 41 - 04 occurs when the
- 15 defendant recruited, enticed ,or obtained the victim of the offense from a
- 16 shelter that serves individuals subjected to human trafficking, domestic
- 17 violence, or sexual assault, runaway youth, foster children, or the
- 18 homeless.
- 19 2. If the trier of fact finds that an aggravating circumstance occurred during
- 20 the commission of an offense under section 12.1 - 41 - 02, 12.1 - 41 - 03,
- 21 or 12.1 - 41 - 04 , the defendant may be imprisoned for up to five years in
- 22 addition to the period of imprisonment prescribed for the offense.

23 **12.1 - 41 - 09. Restitution .**

- 24 1. The court shall order a person convicted of an offense under section 12.1
- 25 - 41 - 02 ,12.1 - 41 - 03, or 12.1 - 41 - 04 to pay restitution to the victim of
- 26 the offense for :
  - 27 a. Expenses incurred or reasonably certain to be incurred by the
  - 28 victim as a result of the offense, including reasonable attorney's
  - 29 fees and costs; and
  - 30 b. An amount equal to the greatest of the following, with no reduction
  - 31 for expenses the defendant incurred to maintain the victim:
    - 32 (1) The gross income to the defendant for, or the value to the
    - 33 defendant of, the victim's labor or services or sexual
    - 34 activity;

- 1                   (2) The amount the defendant contracted to pay the victim; or
- 2                   (3) The value of the victim's labor or services or sexual
- 3                                   activity, calculated under the minimum wage and overtime
- 4                                   provisions of the Fair Labor Standards Act, 29 U.S.C. 201
- 5                                   et seq. or section 34 - 06 - 22, whichever is higher, even if
- 6                                   the provisions do not apply to the victim's labor or services
- 7                                   or sexual activity.

8           2. The court shall order restitution under subsection 1 even if the victim is  
 9                   unavailable to accept payment of restitution.

10          3. If the victim does not claim restitution ordered under subsection 1 for five  
 11                   years after entry of the order, the restitution must be paid to the crime  
 12                   victims restitution and gift fund under section 54 - 23.4 - 05 .

13    **12.1 - 41 - 10. Victim confidentiality .**

14           In an investigation of or a prosecution for an offense under this chapter, a law  
 15           enforcement agency and state's attorney shall keep confidential the identity, pictures,  
 16           and images of the alleged victim and the family of the alleged victim, except to the  
 17           extent that disclosure is:

- 18           1. Necessary for the purpose of investigation or prosecution;
- 19           2. Required by law or court order; or
- 20           3. Necessary to ensure provision of services or benefits for the victim or the  
 21                   victim's family.

22    **12.1 - 41 - 11. Past sexual behavior of victim .**

23           In a prosecution for an offense under this chapter or a civil action under section  
 24           12.1 - 41 - 15 , evidence of a specific instance of the alleged victim's past sexual  
 25           behavior or reputation or opinion evidence of past sexual behavior of the alleged  
 26           victim is not admissible unless the evidence is:

- 27           1. Admitted in accordance with the North Dakota Rules of Evidence ; or
- 28           2. Offered by the prosecution to prove a pattern of human trafficking by the  
 29                   defendant.

30    **12.1 - 41 - 12. Immunity of minor .**

31           1. If the individual was a minor at the time of the offense and committed the  
 32                   offense as a direct result of being a victim, the individual is not criminally  
 33                   liable or subject to a juvenile delinquency proceeding under chapter 27 -  
 34                   20 for :

SB 2107  
 2/9/15

Amendment

# 4

- 1 a. Prostitution under section 12.1 - 29 - 03 ;
- 2 b. Misdemeanor Forgery under section 12.1 - 24 - 01 ;
- 3 c. Misdemeanor Theft offenses under chapter 12.1 - 23; and
- 4 d. Insufficient funds or credit offenses under section 6 - 08 - 16 .;
- 5 e. Manufacture or possession of a controlled or counterfeit
- 6 substance offenses under section 19-03.1-23; and
- 7 f. Drug paraphernalia offenses under section 19-03.4.

*delete*

2. If the individual was a minor at the time misdemeanor forgery or  
misdemeanor theft offenses occurred and committed the offense as a  
direct result of being a victim, the individual has immunity from  
prosecution.

*2*

It is an affirmative defense to felony forgery, felony theft, and felony drug  
distribution that the individual was a minor at the time of the offense and  
committed the offense as a direct result of being a victim as defined in  
this chapter.

2.3. An individual who has engaged in commercial sexual activity is not  
criminally liable or subject to a juvenile delinquency proceeding under  
chapter 27 - 20 for prostitution if the individual was a minor at the time of  
the offense.

3.4. A minor who under subsection 1 or 2 is not subject to criminal liability or a  
juvenile delinquency proceeding is presumed to be a child in need of  
services under chapter 50 - 25.1 .

4.5. This section does not apply in a prosecution or a juvenile delinquency  
proceeding for patronizing a prostitute.

**12.1 - 41 - 13. Affirmative defense of victim .**

An individual charged with prostitution or an offense listed in subsection 1 of  
section 12.1 - 41 - 12 which was committed as a direct result of being a victim may  
assert an affirmative defense that the individual is a victim.

**12.1 - 41 - 14. Motion to vacate and expunge conviction .**

1. An individual convicted of prostitution or an offense listed in subsection 1  
of section 12.1 - 41 - 12 which was committed as a direct result of being a  
victim may apply by motion to the court to vacate the conviction and  
expunge the record of conviction. The court may grant the motion on a  
finding that the individual's participation in the offense was a direct result

SB 2107  
2/9/15

- 1 of being a victim.
- 2 2. Official determination or documentation is not required to grant a motion
- 3 by an individual under subsection 1, but an official determination or
- 4 documentation from a federal, state, local, or tribal agency that the
- 5 individual was a victim at the time of the offense creates a presumption
- 6 that the individual's participation was a direct result of being a victim.
- 7 3. A motion filed under subsection 1, any hearing conducted on the motion,
- 8 and any relief granted are governed by chapter 29 - 32.1 .

**12.1 - 41 - 15. Civil action .**

- 10 1. A victim may bring a civil action against a person that commits an offense
- 11 against the victim under section 12.1 - 41 - 02, 12.1 - 41 - 03, or 12.1 - 41
- 12 - 04 for compensatory damages, exemplary or punitive damages,
- 13 injunctive relief, and any other appropriate relief.
- 14 2. If a victim prevails in an action under this section, the court shall award
- 15 the victim reasonable attorney's fees and costs.
- 16 3. An action under this section must be commenced not later than ten years
- 17 after the later of the date on which the victim:
- 18 a. No longer was subject to human trafficking; or
- 19 b. Attained eighteen years of age.
- 20 4. Damages awarded to a victim under this section for an item must be
- 21 offset by any restitution paid to the victim pursuant to 12.1 - 41 - 09 for the
- 22 same item .
- 23 5. This section does not preclude any other remedy available to a victim
- 24 under federal law or law of this state other than this chapter.

**12.1 - 41 - 16. Display of public-awareness sign -Penalty for failure to display-**

- 26 ~~1.~~ The department of transportation shall display in every transportation
- 27 station, rest area, and welcome center in the state which is open to the
- 28 public a public-awareness sign that contains any state or local human
- 29 trafficking resource information and the National Human Trafficking
- 30 Resource Center hotline information.
- 31 ~~2.~~ An employer shall display the public-awareness sign
- 32 ~~described in subsection 1 in a place that is clearly conspicuous and~~
- 33 ~~visible to employees and the public at each of the following locations in~~
- 34 ~~this state at which the employer has employees:.~~

Amendment #5

SB 2107  
2/9/15

- 1 ~~a. A hospital; or~~
- 2 ~~b. An emergency services provider;~~
- 3 ~~3. The department of labor and human rights shall create and provide the~~
- 4 ~~public awareness sign described in subsection 1. The department of labor~~
- 5 ~~and human rights shall impose a fine of three hundred dollars per~~
- 6 ~~violation on an employer that knowingly fails to comply with subsection 2.~~
- 7 ~~The fine is the exclusive remedy for failure to comply.~~

**12.1 - 41 - 17. Eligibility for benefit or service .**

- 9 1. A victim is eligible for a benefit or service available through the state,
- 10 including compensation under chapter 54 - 23.4, regardless of
- 11 immigration status .
- 12 2. A minor who has engaged in commercial sexual activity is eligible for a
- 13 benefit or service available through the state, regardless of immigration
- 14 status.
- 15 3. As soon as practicable after a first encounter with an individual who
- 16 reasonably appears to law enforcement to be a victim or a minor who has
- 17 engaged in commercial sexual activity, the law enforcement agency shall
- 18 notify the victim services division of the department of corrections and
- 19 rehabilitation that the individual may be eligible for a benefit or service
- 20 under the law of this state.

21 4. For purposes of this section, "a benefit or service available through the

22 state" does not include a benefit or service of a program administered by

23 the department of human services using federal or special funds, if the

24 victim or minor does not meet program eligibility requirements including

25 an eligibility requirement that is are based on immigration status.

**12.1 - 41 - 18. Law enforcement protocol .**

- 27 1. On request from an individual whom a law enforcement officer reasonably
- 28 believes is a victim who is or has been subjected to a severe form of
- 29 trafficking or criminal offense required for the individual to qualify for a
- 30 nonimmigrant T or U visa under 8 U.S.C. 1101(a)(15)(T) or 8 U.S.C.
- 31 1101(a)(15)(U), or for continued presence under 22 U.S.C. 7105(c)(3),
- 32 the law enforcement officer, as soon as practicable after receiving the
- 33 request, shall complete, sign, and give to the individual the form I-914B or
- 34 form I-918B provided by the United States citizenship and immigration

Amendment

# 6

1 services on its internet website and ask a federal law enforcement officer  
2 to request continued presence.

3 2. If the law enforcement agency determines that an individual does not  
4 meet the requirements for the law enforcement agency to comply with  
5 subsection 1, the law enforcement agency shall inform the individual of  
6 the reason and that the individual may make another request under  
7 subsection 1 and submit additional evidence satisfying the requirements.

8 **12.1 - 41 - 19. Grant to or contract with service provider .**

9 1. The department of corrections and rehabilitation may make a grant to or  
10 contract with a unit of state or local government, tribal government, or  
11 nongovernmental victims service organization to develop or expand  
12 service programs for victims.

13 2. A recipient of a grant or contract under subsection 1 shall report annually  
14 to department of corrections and rehabilitation the number and  
15 demographic information of all victims receiving services under the grant  
16 or contract.

17 **SECTION 4. Use of public funds for treatment and support services for**  
18 **victims of human trafficking - Use for referral, counseling in favor of abortion**  
19 **prohibited.**

20 Except as required by federal law, no funds of this state or any agency, county,  
21 municipality, or any other subdivision thereof and no federal funds passing through  
22 the state treasury or a state agency to provide treatment and support services for  
23 victims of human trafficking may be used to refer for or counsel in favor of abortion.

24 **SECTION 3. REPEAL.** Chapter 12.1-40 of the North Dakota Century Code is  
repealed.

ndment  
# 7

#1  
SB2107  
3-18-15

## Senate Bill 2107

# Uniform Act on Prevention of and Remedies for Human Trafficking

### Testimony Before House Judiciary Committee by Uniform Law Commissioner Gail Hagerty March 18, 2015

Chair Koppelman and Members of the House Judiciary Committee:

I am Gail Hagerty, one of North Dakota's Uniform Law Commissioners. I'm here today to give an overview of the Uniform Act on Prevention of and Remedies for Human Trafficking. North Dakota's Uniform Law Commissioners have tried to get the word out about the Act and to engage those who are advocates for victims of human trafficking. We sponsored a well-publicized free continuing legal education session in August, and had Terry Morrow, Legislative Director of the Uniform Law Commission, on hand to discuss the Act. We had the co-chair of the drafting committee, Steve Wilborn, in North Dakota when a summit on human trafficking was held in November. We've worked with the Attorney General's Office and Project Fuse as they have considered how the Act may need to be amended to be most effective in North Dakota and as they have worked on legislation which will supplement the Act.

I am not an expert in the area of human trafficking legislation. You probably know that district judges are general practitioners, not specialists. We have an ongoing need to educate ourselves and learn from people who have specialized in specific areas of the law. What I'm suggesting is that there will probably be people better equipped than I am to answer questions. The Attorney General has been a leader in addressing the scourge of human trafficking, and Christina Sambor and Project Fuse have provided valuable input on this legislation. But that's not to say I won't give it a shot if you have questions!

The Act presents a three-pronged approach to combating human trafficking. The Act seeks to prevent and to penalize the criminal conduct – trafficking, forced labor, and sexual servitude. Clear offenses are created that reflect the ways in which human traffickers operate. The second prong of the act provides essential protections for human trafficking victims. The identity and images of the victim and the victim's family must be kept confidential unless required for investigation or prosecution. Just as rape shield laws do, the Act prohibits evidence of the alleged victim's past sexual behavior. The third prong promotes partnerships in the fight against human trafficking and elevates public awareness.

During the drafting process, the Uniform Law Commission worked with the American Bar Association (ABA) Center for Human Rights, the ABA Task Force on Human Trafficking, the ABA Section on Business Law, the Polaris Project, the National Association of Attorneys General, the National Violence Against Women Project, the U.S. Department of State Office to Monitor & Combat Trafficking in Persons, Shared Hope International, the Global Freedom Center, LexisNexis, and representatives from a number of state and local prosecutors' offices.

On Page 2 of Senate Bill 2107, you will find the definitions used throughout the Act. Key definitions are the definitions of terms associated with human trafficking, including coercion, commercial sexual activity, and debt bondage.

On Page 4, Section 12.1-41-02 offers a comprehensive definition tied to the Act's provisions on forced labor (Section 12.1-41-03) and sexual servitude (Section 12.1-41-04). Trafficking occurs when a person "knowingly recruits, transports, transfers, harbors, receives, provides, obtains, isolates, maintains, or entices an individual." The crime of forced labor occurs when a person knowingly uses coercion to compel an individual to provide labor of services. There are enhanced penalties if the individual is a minor. Sexual servitude also involves an enhanced penalty when a minor is made available or maintained for the purposes of

commercial sexual activity.

Sections 12.1-41-05 and 12.1-41-06 augment existing criminal penalties for patrons of commercial sexual activity.

Section 12.1-41-07, at the bottom of page 5, deals with business entity liability. That section refers to current criminal statutes which deal with business entity liability.

Section 12.1-41-09 provides for restitution which can be ordered paid to victims of human trafficking. Section 12.1-41-10 provides for victim confidentiality, except for when disclosure is necessary for investigation or prosecution, required by a court order, or necessary to ensure that a victim or a victim's family receives benefits.

Section 12.1-41-11 limits evidence of a victim's past sexual behavior, much as evidence of a rape victim's past sexual behavior is limited.

Section 12.1-41-12 gives minors immunity from prosecution for offenses if the offense was the direct result of being a victim. Section 12.1-41-13 provides an affirmative defense for an adult who is charged with an offense which was the direct result of being a victim. (Both sections refer to the same specific offenses.)

Section 12.1-41-14 allows for a motion to vacate and expunge a conviction under certain circumstances. Section 12.1-41-15 allows for a civil action against a person who has committed an offense under the Act, allowing a victim to recover damages

Section 12.1-41-16 deals with display of public-awareness signs.

Section 12.1-41-17 provides for eligibility for benefits or services. Of course that provision is meaningless if there isn't adequate funding of benefits or services.

Section 12.1-41-18 provides for a law enforcement protocol to assist victims in dealing with federal agencies. Section 12.1-41-19 allows the Department of Corrections and Rehabilitation to make grants to develop or expand service programs.

I urge you to recommend "Do Pass."

# 2  
SB 2107  
3-18-15

## SB 2107 – Uniform Act on Prevention of and Remedies For Human Trafficking

- Section 1
  - Amends existing definitions to reflect repeal of current human trafficking statute
- Section 2 – Enacts 12.1-41
  - 12.1-41-01
    - Defines key terms: “Adult,” “Coercion,” “Commercial Sexual Activity,” “Debt Bondage,” “Human Trafficking,” “Identification Document,” “Labor or Services,” “Minor,” “Serious Harm,” “Sexual Activity,” “State,” and “Victim”
  - 12.1-41-02
    - Defines Trafficking through forced labor or sexual servitude and provides a classification of offenses
    - Provides classification of offenses – higher penalty for minors
  - 12.1-41-03
    - Defines Forced Labor
    - Provides classification of offenses – higher penalty for minors
  - 12.1-41-04
    - Defines Sexual Servitude
      - For Minors – maintains or makes available for commercial sex
        - No defense that minor consented or that defendant believed minor was an adult
      - For Adults – Compels commercial sex through coercion or deception
    - Provides classification of offenses – higher penalty for minors
  - 12.1-41-05
    - Criminalizes patronizing a victim of sexual servitude if defendant knew the person was a victim
    - Provides classification of offenses – higher penalty for minors
  - 12.1-41-06
    - Adds an increased penalty if defendant *intentionally* engaged in commercial sex with a minor
  - 12.1-41-07
    - Makes a business entity criminally liable
      - Refers to existing statute
  - 12.1-41-08
    - Provides an additional five year imprisonment if trafficker recruited victim from a shelter
  - 12.1-41-09
    - Mandates restitution even if victim is unavailable to accept payment, and directs it to crime victims fund

- Provides options to calculate restitution based on income to defendant, amount contracted with victim or value of labor or services calculated under Fair Labor Standards Act
- 12.1-41-10
  - Mandates confidentiality of victim and victim's family unless necessary for prosecution, required by law or necessary for victim's services or benefits
- 12.1-41-11
  - Limits admission of victim's past sexual behavior
- 12.1-41-12
  - Creates immunity for a minor victim for the misdemeanor offenses of prostitution, forgery, theft, insufficient funds and drug possession if committed as a direct result of being trafficked, creates affirmative defense for felonies
  - Presumes minor victims as a child in need of services
  - Does not create immunity for a minor who patronizes a prostitute
- 12.1-41-13
  - Creates an affirmative defense for a person charged with prostitution if the charge was a direct result of being trafficked
- 12.1-41-14
  - Allows for a person convicted prostitution to move a court to expunge the conviction if a court finds that the charge was a direct result of being trafficked
- 12.1-41-15
  - Creates a civil right of action for a trafficking victim
- 12.1-41-16
  - Mandates the posting of human trafficking awareness signs that contain the national hotline number
- 12.1-41-17
  - Entitles victims of trafficking to services regardless of immigration status
  - Requires law enforcement to notify DOCR Victims Services division that victim has been identified that may be in need of services
- 12.1-41-18
  - Requires a police officer to fill out the appropriate immigration forms upon request from a victim who needs immigration assistance
- 12.1-41-19
  - Allows Attorney General to administer grant program for victims' services.
- 12.1-41-20
  - Prohibits use of state funds to refer for or counsel in favor of abortion
- Section 3 - Repeals 12.1-40

2

#2  
SB 2199  
3-18-15

SB 2199, (2107) 2250, 2232, 2266 and 2332

**Testimony Before House Judiciary Committee  
by Christina Sambor – Coordinator, FUSE – Statewide Anti-trafficking Coalition  
March 17<sup>th</sup> and 18<sup>th</sup>, 2015**

Chairman Koppelman and members of the Committee:

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 SB 2199, and the additional bills that will be considered by the committee tomorrow. These bills, 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.

During my work with FUSE, I have often encountered the question of whether or not sex trafficking is truly happening in North Dakota. Before I presented to a group of attorneys in December, I spent some time looking at ads on backpage.com, which is one of the most prominent internet websites where commercial sex is advertised. I counted approximately 170 ads placed in North Dakota on a Thursday. Of those ads, many of them advertised that the commercial sex worker was "back in town" or "only here for the weekend." At a recent training provided to prosecutors and law enforcement officers, the presence of that language in the ads was flagged as a strong indicator that the person in the ad was being "trafficked" or was under pimp control. This is because women who are being trafficked are typically moved from city to city, state to state, on a "track" in an effort to isolate the victims and evade law enforcement. Sadly, you need only take a digital "step" into this world to see the prevalence of trafficking in our state.

The statistics around the commercial sex industry are very troubling. We have long operated in this country under the impression that life for a commercial sex worker is like it was for Julia Roberts in the movie Pretty Woman. Plain and simple, it is not.

Researchers describe pimp control as follows:

“Pimps assume psychological, biological, social, and economic control over the lives of the women they sell to johns through the use of chronic terror, cunning use of various aspects of captivity, and isolation from others who might offer support and validation. In addition they employ starvation, sleep deprivation, protein deprivation, conditioned physiologic hyperarousal, unexpected sexual violence, and learned helplessness.”

In addition, consider the following statistics:

- 65% to 95% of those in prostitution were sexually assaulted as children.
- 70% to 95% were physically assaulted in prostitution
- 60% to 75% were raped in prostitution
- 75% of those in prostitution have been homeless at some point in their lives.
- 85% to 95% of those in prostitution want to escape it, but have no other options for survival.
- 68% of 854 people in strip club, massage, and street prostitution in 9 countries met criteria for posttraumatic stress disorder or PTSD

These statistics, and the prevalence of commercial sex in North Dakota, paint a picture of a crisis that must be addressed. We are here today in the hope that this legislation will begin the march toward eliminating this form of abuse from our state.

FUSE supports and joins in the testimony of the direct services providers and from Youthworks, and 4her North Dakota and urges a do pass recommendation on SB 2199 and the additional human trafficking bills package of bills to be considered tomorrow.

Respectfully submitted,

Christina Sambor



#3  
SB2107  
3-18-15

SB 2107, SB 2250  
North Dakota House Judiciary Committee  
Testimony from Windie Lazenko, Executive Director 4her North Dakota  
March 18<sup>th</sup>, 2015

Chairman Koppelman, Members of the Committee:

My name is Windie Lazenko, and as I mentioned yesterday, I am the Executive Director of 4her North Dakota, a private non-profit agency that conducts outreach for victims of commercial sexual exploitation and provides crisis care and referrals for victims to long term comprehensive treatment. I am also a member of the National Survivors' Network, which is a group of survivors of commercial sexual exploitation.

I am testifying today in support of SB 2107, the Uniform Act on Remedies For and Prevention of Human Trafficking. In particular, victims would benefit from the availability of expungement of previous prostitution convictions they received as a result of being trafficked. Survivors face huge challenges in rebuilding their lives, and having a prostitution conviction on their record makes job searches and housing incredibly difficult. We should not continue to punish survivors for having been trafficked by leaving them with the label of "prostitute." I also echo the support of the other witnesses on passing the "safe harbor" provision, which would treat minor victims as children in need of services, not as criminals.

I also urge a do pass vote on SB 2250, which would make all pimping offenses felonies. Traffickers are often charged with facilitating prostitution, especially if charged by law enforcement and prosecutors who may not have training or experience with trafficking cases. Pimps should be charged with felonies. They exploit vulnerable women, force them to have sex with dozens of customers per week, take the money and beat the women if they do not meet their nightly "quota" of required money. Pimps are not, and never have been nice "bosses" who help women earn money in the sex trade. They are vicious and they destroy their victims' lives. This type of horrific behavior occurs every day in North Dakota, I have seen it with my own eyes. Pimps should not be charged with merely a misdemeanor.

I thank the committee for your consideration today.

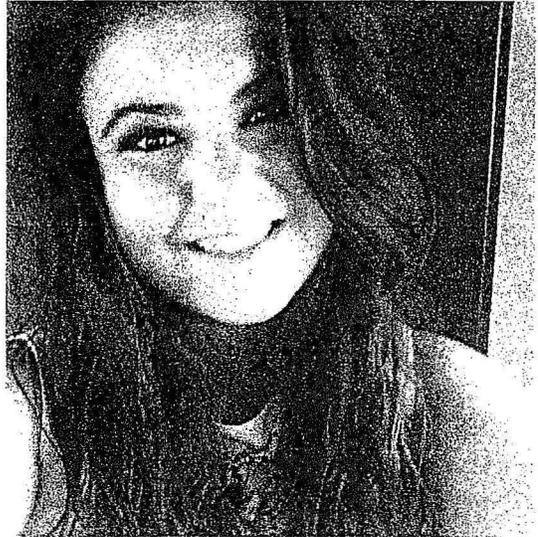
①

#24

I know for sure that I wouldn't be where I am today and doing as well as I am right now, so I'd just love to thank her and 4HerND for everything that she does and to keep up the AMAZING work! Stay Blessed in everything you do Windie!

582107

3-18-15



4her North Dakota would like to thank all of our supporters and partners that make serving girls like Jordan possible. We cannot do it without your generous donations.

To Continue Financially Supporting 4her ND  
Please Visit Our Website at [www.4hernd.org](http://www.4hernd.org)

or

Make Checks Payable to 4her ND

We are a 501©3 Non-Profit

Our Vision for 2015

“BREAK THE DEMAND”

①

*For I the LORD thy God will hold thy right hand, saying unto thee,  
Fear not: I will help thee.  
Isaiah 41:13*

It's all just a memory now. Much of it faded by drugs, some of it forgotten because that's what I've trained my mind to do, but most of it right at the top of my mind; all it takes is a movie scene, or a rap song and I remember. A trip to Harlem or the Bronx and it feels like those girls in the 6 inch heels and skimpy outfits is me, all over again. I wish I could walk up to them like Windie would and say all the right words to make them realize that they're worth so much more than that, but I'm not. I mean, I'm still getting over it; less than a year ago, that was my life too. It's difficult to put into words, I don't like to voluntarily remember the lowest point of my life, "rock bottom" some might call it. But basically, I was the girl that had everything going for me, talented, smart, pretty. It all started with a boyfriend back home in New York. Next thing I knew, I was in North Dakota, thousands of miles away from any friends or family with a boy that I once loved, turned into an abusive, drug addict monster. He came for a job on the oilfield, and ended up selling me when he lost his job. That's how it all started.

About two months in to "the life" was when I first met Windie. "Little one" she called me, not because I was little, but because of my young nativity. I didn't know how dangerous "the game" could be. After bouncing back and forth between "the life" and trying to leave it, three months in I finally broke down and couldn't do it anymore. Being used and treated like trash day in and day out had "taken my sparkle" as Windie stated with tears in the corners of her eyes and a waver in her voice. That's all I needed to hear. I gave her permission to do whatever it took (pepper spray may or may not have been involved in that deal) to keep me from going back. She did the unthinkable, she took me into her home and took care of me until I was accepted into a program in New York. At first, I just couldn't believe that someone could care so much about a random girl but through therapy and unconditional love, Windie helped me to realize my true potential. Along the way I learned about Jesus and my life and now I'm changed forever. The Lord does amazing work through his daughter Windie, through her, he saves lives and changes them for the better. If she wasn't doing the work that she does in North Dakota, I honestly don't know where I'd be today.

#5  
SB 2107  
3-18-15

Anna Frissell – Executive Director  
Red River Children’s Advocacy Center – Fargo, ND  
Testimony on SB 2107, 2199, 2232, 2250, 2266, 2332  
House Judiciary Committee  
March 18th, 2015

Chairman Koppelman and Members of the Committee:

Good morning. My name is Anna Frissell. I have been advocating for victims in North Dakota for 30 years, both as a volunteer and in my professional capacity. I am now the Executive Director of the Red River Children’s Advocacy Center, serving children, youth and families in the Red River Valley with offices in Fargo and Grand Forks. Likewise, I have served for 14 years on the Board of Youthworks and I am presently Chairing the Service Provider Committee of the Red River Human Trafficking Response Team. In each of these capacities, I have the opportunity to collaborate with multiple agencies for the purpose of serving victims of sexual exploitation.

The Red River Human Trafficking Response Team has been meeting since April 21, 2014. The Response Team is made up of first responders, including law enforcement and service providers. The Response Team formed initially to better coordinate efforts to identify and rescue victims of human trafficking, create a coordinated law enforcement system to investigate and prosecute human trafficking crimes, and to identify services and treatment to assist victims to regain control of their lives.

Shortly after forming the Response Team I had conversations with law enforcement, who told me that they could readily identify human trafficking victims in North Dakota on backpage.com and other online sites, but that they did not know whether the service provider community was prepared to respond to the needs of the victim, OR if we had the resources then Law enforcement did not know who to contact. These conversations made me realize that many of us in the service provider community were not adequately prepared for anti-trafficking work.

The work and mission of my organization and that of all of the first-responding-service-providers were challenged by these conversations with law enforcement because our missions mandate that we effectively serve human trafficking victims. I realized that we were not doing so in a way that supported law enforcement's desire to identify victims and stop traffickers.

Since that time we have worked toward developing appropriate responses from the service provider community. In doing so, it has underscored that no one agency in North Dakota could do this work on their own, and that we need to develop a coordinated response so that when a victim is identified, we all know how to work together to serve the victim's needs, as well as the needs of our system partners.

One of the primary issues identified by service providers on the Response Team was the need to improve the state of the law in North Dakota. As you have heard from Christina Sambor, the law in North Dakota requires change in order to allow human trafficking victims a comprehensive response to this horrific crime. In particular, our current law, while strong on criminal penalties, lacks substantial policies to help those victimized by the traffickers. The proposed package of legislation will not only penalize the criminal conduct and increase certain penalties, but will also provide critical support for victims, in the form of decriminalization of commercial sex for minors, expungement and affirmative defenses available to adult victims, mandatory restitution, creation of a civil cause of action, and improved ability to be granted a restraining order against traffickers. These legislative changes will make North Dakota a supportive environment for victims, and an unattractive forum for traffickers. These laws will definitely promote collaboration among law enforcement, prosecutors, non-profits, lawyers and other stakeholders.

Our Response team has made great strides toward our original goals of better coordinating our response. We have developed a draft response protocol that depends on strong collaborations among agencies and to make the most of the resources that we have available. We have scheduled trainings to enhance the skill sets of first responders. And arguably the most important accomplishment is that

we have collaborated to identify challenges in our response plan that we will try to meet by stretching resources and learning more about best practices.

The success of all of our plans to lend assistance to a trafficking victim depends on the victim trusting that the system's response can reliably provide safety and security. A very legitimate fear of the 10 victims that I have been involved with in the past year has been for their safety. The victim needs to believe that the laws protect them from the trafficker and that the victim will not be unduly punished. The passage of this legislation is an important step in our state's response.

In addition to policy changes, in order to execute these response protocols and provide safety and security for trafficking victims, we must secure funding for this important work. The Response Team developed a budget which illustrates the resources necessary to execute our response protocol. I have included the draft budget with my testimony, which gives the committee a sense of the services that the group would collaboratively provide to a victim.

We envision the availability of crisis housing and support for victims so that when they are identified and their trafficker is hopefully taken into custody, they are not left to fend for themselves with no assistance. We also have mapped out the various long term "continuum of care" services that would be provided, to serve the victims' longer term needs, such as mental health services, addiction counseling, job training, transportation and so on.

The Red River Human Trafficking Response Team stands willing and able, with appropriate policy and funding support to provide a reliable, stable and hopefully life changing response to trafficking victims in our state. I ask you today to stand with us, pass this important package of legislation, and enable us to fully do this important work.

Thank you for your time and attention today.

<b>72 Hour Response</b>		
<b>Navigator</b>		
FTE (.5)	35,000	\$33 X 20 hours/week/52 weeks/year
Employee Expenses	5,000	Supplies, Travel, Computer, etc.
<b>Direct Services</b>		
Victim Advocacy and Counseling Services	27,420	
Interpretive Services	2,000	30 hours
<b>Emergency Housing</b>		
Shelter - Adult Women	20,535	\$123/day at 3 days X 15 People + 15,000 for space for the year
Shelter - Youth	28,825	\$280/day at 3 days X 15 People + Supportive Services
<b>Medical</b>		
Emergency Medical	40,000	\$2000 X 20 people
Forensic Interviewing and Medical	40,000	\$2000 X 20 kids

<b>Past 72 Hour Response</b>		
<b>Direct Services</b>		
Victim Advocacy and Counseling Services	95,955	
<b>Temporary Housing</b>		
Shelter - Adult Women	71,955	Day 4 - Day 42 X \$123 X 15 People
Shelter - Youth	19,300	\$280/day at 4 days X 15 People + Supportive Services
Apartment - Young Adult	24,025	1 apartment/ 2 beds + Supportive Services
<b>Permanent Housing</b>		
Long Term Housing - Adult Women	125,000	housing for 1 year for 5 women and supportive services
Foster Homes - Youth	38,000	2 specialized foster homes and supportive services
<b>Misc. Costs</b>		
legal, visa, education, benefits, lifeskills	90,000	30 people X \$3000

<b>Grand Total:</b>	663,015	
---------------------	---------	--

4

#L  
SB 2107  
3-18-15

Testimony from Erin Prochnow, Executive Director, YWCA Cass Clay  
North Dakota House Judiciary Committee  
March 18, 2015  
Human Trafficking Related Bills, Specifically SB 2199

**Introduction:**

Good morning Chairman Koppelman and members of the committee, my name is Erin Prochnow, the Executive Director of the YWCA Cass Clay in Fargo. Our agency offers the largest Emergency Shelter serving women and children in the state of North Dakota and northwestern Minnesota. We have been providing services in our community for over 100 years, spending the past 40 years providing emergency shelter and housing services to women and their children escaping domestic violence and abusive situations.

In 2014 alone, the YWCA offered 23,579 nights of shelter to 1,426 women and children seeking safety and shelter, and operated at or above capacity more than 60% of the time. 91% of those we served in 2014 had been victims of abuse. The vast majority of women we serve, including those who are human trafficking victims, come from right here in ND and MN. Last year, 66% of the women we served came from Cass County and 97% of women came from ND or MN. Typically, women we serve grew up in poverty and have not been able to break the cycle of poverty for their families.

Our unique empowerment approach and comprehensive programs make our shelter the only resource of its kind in the region. Once basic needs such as food, personal hygiene, and clothing are met, we turn to empowerment. We offer each woman the support she needs to find peace and begin recovering physically, emotionally, and spiritually from the damaging effects of poverty and violence.

**Presence of Human Trafficking Victims in Shelters:**

Women from all walks of life come to our shelter for safety and support. Human trafficking victims, specifically sex trafficked victims are in our shelters seeking support and advocacy today.

)

National research shows traffickers often target vulnerable young women and a significant portion of trafficked minors had interacted with the child welfare system at some point. The victims we serve often had very little self-confidence when recruited to trafficking. Their traffickers were likely the first person in their life that appeared to care about them, make them feel special and provide things that many of the young girls never had - ranging from basic items like food and place to live, to more extravagant things like a new pair of designer jeans. Then, the first time women are asked to perform a sex act or the first time they are assaulted, women have reported to our Advocates, "How could I say no to him? He has given me everything and I know he loves me." And, the cycle begins.

Human trafficking victims have a different kind of connection to their abusers. By that I mean, they usually do not have one abuser but many that might include the other women being trafficked. Women have reported feeling ostracized by the other women being trafficked. They have been told what they are doing is illegal and that they will get arrested. Our housing director identified five women served in one of our housing programs that were victims of the same trafficker and those are the victims we were able to identify.

**Victim Based Response:**

Identifying victims of human trafficking and helping them find appropriate resources is an enormous challenge in North Dakota. The women we see in our shelter are embarrassed, ashamed and frequently fear for their lives. Because of this, women often do not openly admit they have been victims of trafficking. Our advocates need to be trained to recognize the signs of trafficking and have the skills necessary to gain the trust of women who have been taken advantage of by people who said they cared for them. Establishing this level of trust and asking the appropriate questions to help women get the help they need isn't easy.

In conversations with our shelter leadership team, they have tracked the additional hours necessary while working with a trafficking victim largely because of the additional layers of complexity. According to our case management records, on average, assisting victims of human trafficking takes three times more resources than helping a victim of domestic violence or homelessness. The YWCA provides a broad continuum of care for women in our shelter and is

committed to providing these services to human trafficking victims, but our staff needs additional resources to build trafficking-specific programming and to support the increased workload associated with these cases.

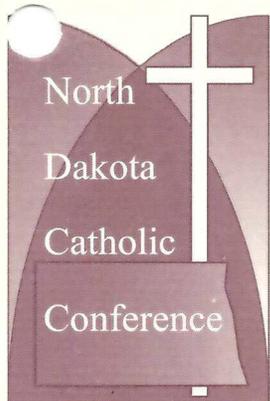
In addition to providing resources to support the YWCA and the broader network of providers that assist human trafficking victims, a greater investment in law enforcement is also needed. If an additional investment is made in law enforcement without additional investments to service providers, more victims will be identified with nowhere to go. We cannot adequately provide safety and security while stabilizing victims on their pathway towards healing without additional resources. We would all like to see our partners in the criminal justice system successfully prosecute perpetrators of this horrific crime but they will need the help of service providers who work hand in hand with victims.

**Bottom line:**

The bottom line on human trafficking in ND is that service providers, law enforcement and government agencies currently are and must continue to work together. This is an emerging challenge with unique complexities that require additional resources if we are to address the issue head on, genuinely help women who have been human trafficking victims, and break the cycles of poverty and abuse thereby preventing trafficking from happening in the first place. More funding is needed to support providers, specifically funds for additional advocates and training, and more funds are needed to support law enforcement's investigation and prosecution of the criminals that continue to prey on vulnerable women and children.

Wherever a woman may be on her journey, together we must walk alongside her to ensure she has access to the tools and resources necessary to heal, reach her goals and ultimately, build a future free from violence for her family.

Thank you.



*Representing the Diocese of Fargo  
and the Diocese of Bismarck*

Christopher T. Dodson  
Executive Director and  
General Counsel

**To:** House Judiciary Committee  
**From:** Christopher T. Dodson, Executive Director  
**Subject:** SB 2107 - Human Trafficking  
**Date:** March 18, 2015

#7  
SB2107  
3-18-15

The North Dakota Catholic Conference supports SB 2107 and urges a do pass recommendation.

Human trafficking is an offense against the fundamental dignity of the human person and a crime against humanity. We must end this modern day slavery.

Victims of human trafficking are often lured by traffickers with false promises. False promises of education, financial security, and even love. Victims are very often poor, desperate, and oppressed. They often suffer physical, mental, and psychological abuse not only at the hands of their trafficker, but also at the hands of their 'johns' and even other victims as they all struggle to survive.

In addition, we as a society must also work toward changing attitudes. Whenever people engage in sexual servitude or turn away from unjust working conditions, they contribute to the environment that allows human trafficking to flourish. These actions ultimately impact real people and violate the dignity of a child of God.

SB 2107 is the "mainframe" for the state's efforts to attack human trafficking. Its uniformity, improved clarity, increased penalties, and comprehensiveness, when combined with other efforts like SB 2199 (victim services) provide the tools for a multi-disciplinary approach to the scourge of trafficking.

Some misunderstandings have arisen about the limitation on the use of tax dollars for referring for abortions on page 10, lines 24-28 of the bill and the North Dakota Catholic Conference's position on the bill. I'd like to take this opportunity to address those misunderstandings.

We requested the language at the first hearing on the bill for two reasons. First, we believe that state funds should not be used to refer for, or counsel in favor of, abortions. Second, the language maintains what has long been the policy of North Dakota.<sup>1</sup> By including the language in SB 2107, we hoped to prevent controversies about abortion and tax dollars rather than inserting them into the discussion on human trafficking. Nationally and

①

locally there exists a push to use tax funding for abortion-related counseling, especially in the context of providing services to trafficked victims. North Dakota legislators, however, have consistently prevented the use of tax money for those activities and our efforts to help victims of human trafficking should not become a vehicle to change North Dakota policy on tax dollars and abortion.

What happened at the federal level concerning human trafficking and abortion referrals demonstrates why the language in SB 2107 is needed. In 2000, a bipartisan Congress passed the Trafficking Victims Protection Act. Among other things, it provided federal funding to help victims of human trafficking. It did not, however, explicitly prohibit funding for abortion referrals and counseling. For ten years, the United States Conference of Catholic Bishops (USCCB) received the grant to administer the program, through which it subcontracted with various individuals and organizations, Catholic and non-Catholic, around the country.

In 2011 the Department of Health and Human Services (DHHS) re-opened the application process. As in the past, the USCCB scored significantly higher than all other applicants. Nevertheless, DHHS awarded the grants to three lower scoring applicants. A subsequent Congressional hearing revealed that USCCB was denied the grant solely because it would not refer for abortions, despite the fact that nothing prevented USCCB's sub-grantees from referring and even performing abortions with other sources of funding. The absence of language in the authorizing legislation allowed for the Administration to change its policy.

The language in SB 2107 is preventive. By securing the *status quo* it takes the abortion issue "off the table" and allows for the bill's passage and implementation.

It does **not** prevent a grantee from referring individuals for abortion with their own funds. It does **not** prevent a grantee from using state funds to refer a victim to another agency which, in turn, might refer a victim for an abortion. In fact, nothing in the bill prevents a grantee - even with state money - from referring a victim to any of the state's nine family planning clinics, all of which are required by federal law to provide referrals for abortion, if asked.<sup>2</sup>

Moreover, the language does not, and cannot, limit constitutionally protected speech.

The provision only preserves the *status quo* that tax dollars should not be used for referring for abortions. It does not restrict access to abortion or make anything illegal. Even people in favor of abortion rights are uncomfortable with using tax money for anything related to abortion. The provision strikes a necessary balance that clears the way for focusing on addressing human trafficking.

We urge a Do Pass recommendation on SB 2107.

<sup>1</sup> N.D.C.C. sec. 14-02.3-02. "No funds of this state or any agency, county, municipality, or any other subdivision thereof and no federal funds passing through the state treasury or a state agency may be used as family planning funds by any person or public or private agency which performs, refers, or encourages abortion." N.D.C.C sec. 15.1-19-06. "No person while acting in an official capacity as an employee or agent of a school district may refer a student to another person, agency, or entity for the purpose of obtaining an abortion." Finally, by exclusion, the language of N.D.C.C. section 50-06-26 ensures that the state's alternatives to abortion program does not fund the counseling for or referring for abortion. To that end, the contract the Department of Human Services has with service providers expressly prohibits them from using even their own funds to: "Counsel for, refer for, encourage, or perform abortions, or knowingly refer an Alternatives to Abortions client to another person or agency for the purpose of counseling for, referral for, encouragement for, or the performance of an abortion."

<sup>2</sup> In this respect, SB 2107 is less restrictive than existing state policies. The Abortion Alternatives Program prevents participants from using even their own funds to refer for abortions or to refer to another agency that would refer for an abortion.

#9

SB 2107

3-18-15

Testimony of Brandi Jude in Favor of Senate Bill 2107

Chairman Koppleman, members of the Judiciary Committee, thank you for this opportunity to testify on Senate Bill 2107.

My name is Brandi Jude and I stand before you as a concerned citizen and a mother of two daughters. I am here today to speak about Senator Bill 2107. I have experience through trainings, conferences, workshops, visiting safe homes in Montana and Minnesota, and conversing with survivors of human trafficking.

SB 2107 clearly states criminal provisions and penalties involving human trafficking; in conjunction with providing services and focuses on comprehensive ways to legally support victims' needs.

Except in one area, an amendment which gags medical professionals and advocates. SB 2107 declares the new law will enable federal, state, and local agencies to better identify and provide needed services; however, the amendment contradicts this by silencing social workers, clinical workers, and advocates from informing sex trafficked victims of their legal reproductive health care options, including abortion.

When reading this amendment, as a concerned citizen, I feel outraged and confused on why we would allow opinions to be implemented into laws. As a mother, I feel empathy and sorrow for sex slaves who may never experience true freedom for their own bodies and ask myself "How can someone make such a restrictive decision on a situation they have never personally experienced?"

I urge you to remove the gag amendment from this bill that can protect so many victims enslaved in human trafficking. Speaking solely as a mother right now, I want to think if my daughters were ever entrapped in such a horrific life, there would be someone in the position and with the power to help them gain freedom with their bodies and decisions they make with it. I leave you with this question, "Who does it benefit being uninformed?"

①

#9  
SB2107  
3-18-15

TESTIMONY OF REBECCA MATTHEWS  
IN FAVOR OF SENATE BILL 2107

Chairman Koppleman, members of the House Judiciary Committee, thank you for the opportunity to testify on Senate Bill 2107. I am Rebecca Matthews a community member here in Bismarck, North Dakota.

SB2107, the Uniform Act on Prevention of and Remedies for Human Trafficking, is a critical component of the plan to end the scourge of human trafficking in our state. The basis of this bill comes to us from the Uniform Law Commission. The ULC has provided a model to state legislatures across the country, and to North Dakota, to ensure traffickers are held accountable and to provide the desperately needed support for victims.

As you have heard today from advocates and direct care professionals human trafficking is all too real in our state. The prevention of and remedies for human trafficking is desperately needed.

Unfortunately, SB2017 it has been amended in a manner that further harms the victims of trafficking and polarizes the community on the issue of abortion. Abortion, in no way, addressed in the original version of SB2107. And, in fact, none of the states that have passed the UAPRHT have amended it in such a way.

This kind of infringement on women's health care and fundamental individual rights should not be tolerated in a bill that is designed to preserve and expand those rights. Lines 24-28 raise a distracting and divisive debate about abortion and about the rights of victims to receive referral information/counseling that includes all her legal reproductive health care options.

For these reasons I would urge the bill be amended to remove lines 24-28. Once removed I urge the passage of SB2107.

# North Dakota Family Alliance Action

*A Trusted Voice Impacting Our Legacy*

Tom D. Freier, EXECUTIVE DIRECTOR

House Judiciary Committee  
March 18, 2015  
SB 2107

#10  
SB 2107  
3-18-15

Including references to other Human Trafficking Bills

Mr. Chairman and members of the House Judiciary Committee, I am Tom Freier with the North Dakota Family Alliance, and am here to testify in favor of SB 2107.

In the United States, slavery ended with President Lincoln's Emancipation Proclamation and the end of the Civil War. Unfortunately, that was not the end of slavery in our country. By the beginning of the 20<sup>th</sup> century, President Theodore Roosevelt warned against the "white slave trade," which involved the abduction and forced prostitution of young women and girls. This kind of sexual servitude now referred to as sex trafficking continues in the United States – and globally –and right here in North Dakota, to this day.

The selling and trading of human life for the purpose of sex, labor or any other purpose is an attack on human dignity. The reality is sex trafficking turns people, often very young girls and even boys, into mere commodities — sexual objects to be bought, sold, used and discarded. No human being should be treated this way.

Trafficking is no respecter of age, ethnicity, educational achievement, economic or social status. No one by status is safe.

Two years ago the North Dakota Family Alliance, in its desire to know what was on the hearts and minds of our millennials, held a number of focus meetings. The number one issue on the minds of these young people—the issue they wished to have an impact on—was human/sex trafficking. A number of those attending the focus groups started a non-profit known as the Voice for the Captives. The name says a lot, these mostly young girls, are enslaved, they are captives, and they need a voice. Today, there are many voices, in this room.

As we worked with Voice for the Captives on an action plan, we settled in on three general goals: 1) to raise the general awareness 2) to facilitate a means to rescue these victims from captivity, to provide a safe harbor, and then 3) to strengthen the efforts to bring the perpetrators to justice. We believe SB 2107 will do much to respond to our three general goals.

We believe SB 2107 in itself can bring an increased level of awareness. But in addition, we know the great work of the faith based organizations like Voice for the Captives, 4HerND in the northwest, and the many churches across the state. Coordinating these efforts may be a task for a possible human trafficking commission.



*Dedicated To Strengthening Families*

3220 18th St South Ste 8 · Fargo, ND 58104 · Phone: 701-364-0676  
www.ndfa.org · admin@ndfa.org

We agree in concept with a well thought out plan to provide victims treatment and support services to the victims as found in SB 2199. We agree in concept with an immunity clause for the minor as found here in SB 2107, as long as the clause would not in effect be used to the advantage of the perpetrators.

The sad reality is sex trafficking wouldn't exist if there was no demand. Prostitution, which often involves human trafficking, is fueled by the proliferation of pornography, both legal and illegal.

The following information from Shared Hope International helps shed some light on the problem of domestic sex trafficking:

- Human Trafficking in the U.S. is a 9.8 billion dollar industry.
- Over 1.68 million American children run away each year
- Up to 90% of victims are under the control of a pimp
- Pimps commonly sell girls for \$400 an hour or more
- Kids are especially susceptible to the deception and manipulation of traffickers. Traffickers recruit at locations that commonly attract youth; like schools, malls, parks, even protective shelters and group homes.

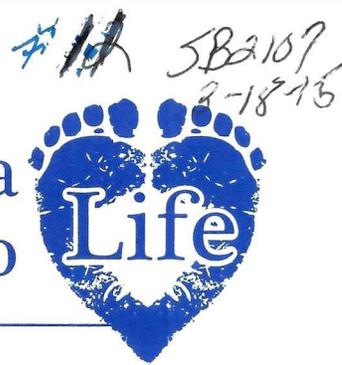
NDFA supports the amendment prohibiting state funding being used to refer for or counsel in favor of abortion.

Human/sex trafficking is major issue—a big, big problem. It will need a well thought out strategic solution. We believe SB 2107 in conjunction with other introduced legislation can serve as basis for that solution.

NDFA supports SB 2107 and asks for a Do Pass.

PO Box 551  
Bismarck, ND 58502  
(701) 258-3811  
Fax (701) 224-1963  
1-800-247-0343

# North Dakota Right to



Dear Chairman Koppelman and members of the House Judiciary Committee,

I am here to speak in favor of the proposed Section 12.1-41-20 that SB 2107 would add to the Century Code: Use of public funds for abortions prohibited.

Section 12.1-41-20 would prohibit the use of taxpayer funds for either abortion referrals or counseling in favor of abortion. This is consistent with other sections of the Century Code.

Human trafficking is an egregious crime that attacks the dignity of the human person. It is a crime where the victims need healing, not more violence. Abortion does not provide healing it provides more violence and destroys another victim.

Taxpayer dollars should not be used to encourage this destruction of innocent human life.

The purpose of this bill is to prevent innocent people from being taken advantage of by human traffickers. Taxpayer funding of abortion counseling and abortion referrals does not accomplish this goal, instead it makes the taxpayers of North Dakota complicit in the violent acts of abortion, that end the lives of innocent unborn children.

Please continue the current prohibition on state funding of abortion referrals and counseling, and vote to keep Section 12.1-41-20 of SB 2107 the way it currently reads. This bill should be about protecting the victims of human trafficking, not about opening the door for taxpayer funded abortions.

Thanks for your time.

Sincerely In Life,

Brock Schmeling  
Legislative Director

#72  
SB 2107  
3-18-15

Mark Heinert  
Homeless Programs Manager  
Youthworks  
Testimony in support of SB 2199, 2107, 2232, 2250, 2266 and 2332  
House Judiciary Committee  
March 17, 2015

Chairman Koppelman, Members of the Judiciary Committee:

My name is Mark Heinert, and I am here today to deliver testimony in support of SB 2199, and also in support of the policy bills you will consider tomorrow. I have been a licensed social worker in North Dakota for 24 years, serving runaway and homeless youth for the last 18. I am the Homeless Programs Manager at Youthworks, a private, non-profit, youth serving agency serving Runaway and Homeless Youth in North Dakota. At Youthworks we provide diversion services for the Juvenile Court, as well as providing shelter for Runaways and other youth in need of emergency placement. We work closely with Law Enforcement, County Social Services, Juvenile Court and the schools.

Youthworks has two emergency shelters in Bismarck and Fargo, sheltering underage youth for law enforcement and human services. For young adults ages eighteen to twenty-one years of age, Youthworks provides housing and social services for homeless young adults.

In the past year staff at Youthworks have worked with fourteen youth/young adults who have been victims of trafficking. The victims who have come before us have fit the profile of human trafficking victims:

- They describe being fearful for their life and that of their loved ones
- They are ashamed of what has been happening but feel there is no way out

- They have been physically and sexually abused by the person who is trafficking them
- They do not trust the system (law enforcement, human services, social workers, etc.) to protect them and believe they will be punished
- They have very low self-esteem and do not see themselves as having the potential to move beyond their current situation.
- Some have had prior histories of being sexually abused by adults.
- Many were already in the system as foster, runaway or corrections youth, making them easy targets as the techniques traffickers use make them feel cared for and needed.
- Several have been brought into “the life” because of a mistake they made texting sexually explicit pictures of themselves; where the trafficker threatens to post the pictures on social media fearing the shame it will bring on their families.
- Many have been provided with drugs and alcohol by their traffickers in an effort to control them and assure compliance.
- Most state they are aware of many other girls who are victims that no one knows about.
- They often go to school, work in jobs during the day and are trafficked at night.
- Some have children who are also at risk

We have had traffickers show up in our waiting rooms looking for the victims or waiting in our parking lot until the young adult victims leave. In recent months,

our Director has estimated that she sees pimps waiting outside our emergency shelter nearly once a week. Accordingly, we have had to change protocols as it relates to staff safety when routine apartment checks are done at our homeless apartments. We have watched victims leave our program and return; and leave and return, until they are ready to trust that someone will indeed help them.

In addition to the direct services we provide, Youthworks is currently involved in the Red River Human Trafficking Response Team, which is a regional effort to develop a seamless service delivery system to trafficked youth and young adults with local domestic violence programs, law enforcement, prosecution, medical examiners, social services and state authorities responsible for the welfare of children. Service providers are deeply concerned about their ability to effectively serve victims for one very important reason – shelters in North Dakota are already full or inadequate to meet the needs of children and adult victims who have been trafficked. SB 2199 is an excellent beginning to address the need for adequate community protocols, appropriate crisis shelter and the provision of comprehensive services through a multidisciplinary approach.

By providing additional resources, law enforcement and prosecutors will ultimately stand a better chance at bringing the traffickers to justice and assuring the victims that they can indeed trust that they will be protected and treated humanely.

Another crucial piece to these efforts is the Safe Harbor provision found in Section 12.1-41-12 of SB 2107, the Uniform Act on Prevention of and Remedies for Human Trafficking, which you will be considering tomorrow.

As I've previously discussed, at Youthworks, we have become all too familiar with the child victims of human trafficking, who often come from poverty, have been mistreated or abused by adults, have low self-worth, have had exposure to drugs and alcohol, have runaway or been in foster care, have been sexually assaulted or raped, and have experienced homelessness; making them vulnerable for sexual exploitation.

Gaining the trust of victims is extremely difficult, as they have been threatened with abuse, public humiliation, harm to their family or friends or even death. Addiction to drugs has been a technique used by their traffickers to maintain control of them.

These children are truly victims of crime who have been "groomed" into a specific way to act, talk and behave that will please their adult perpetrators. They develop street smarts and have learned to be cautious of adults who make promises. When entering our system they are identified as delinquent or unruly teens and are often held in detention centers. The likelihood that they will trust helping professionals is compromised in our current system, with the victims giving very guarded, calculated answers to questions intended to help them. The Safe Harbor provisions of SB 2107 are another crucial component to addressing this problem. Treating minors as victims - not as delinquents - will help us in our ability to reach these youth and to establish a trusting relationship with them. This Safe Harbor

provision will allow our workers to provide a consistent message to the victims they work with, that they are indeed victims and will be treated accordingly. Our current approach provides a very mixed message: "we believe you are a victim, but you will enter our court system with criminal charges." Enacting the Safe Harbor provision allow victims to move past their abuse and exploitation and pursue their dreams and goals, which, interestingly, often involve the desire to help others.

For these reasons, I urge you to pass the funding provided for in SB 2199, and to pass the Safe Harbor provision found in Section 12.1-41-12 of SB 2107, the Uniform Act on Prevention of and Remedies for Human Trafficking.

#1  
SB 2107  
3-23-15

**House Judiciary**  
**SB 2107**  
**March 23, 2015**

Chairman Koppelman and members of the House Judiciary committee. My name is Renee Stromme, Executive Director of the North Dakota Women's Network. The North Dakota Women's Network is a statewide women's advocacy organization, as well as a founding member of FUSE (the state anti-human trafficking coalition). I stand representing the North Dakota Women's Network. We strongly support Senate Bill 2107.

SB 2107 is the signature legislation introduced this session to address human trafficking. It is vitally important to our state's efforts to address the problem of human trafficking. Unfortunately, conflict has emerged over an added amendment regarding abortion referrals. This legislation is too important to lose over one amendment.

After listening to discussions and testimony from the amendments supporters, we do believe there is a path forward. That path forward is clarification of the amendment. Supporters indicate that service providers could still provide unbiased information. With that being the case, I urge the committee to simply incorporate that description within that section of the bill to provide true clarity.

The compromise language we recommend is:

Page 10, line 28, after the underscored period, insert, "The terms "refer for or counsel" do not include giving a victim of human trafficking a list of health care providers and social service providers that provide prenatal care, childbirth care, infant care, foster care, adoption services, alternatives to abortion, or abortion services, and do not include giving a victim of human trafficking accurate, nondirective information about the listed providers."

By providing this clarification and definition, I believe we all could move forward and work together to support 2107 unwaveringly. I hope you will consider this compromise language. Thank you for your work on this important legislation.

#2  
SB2107  
3-23-15

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2107

Page 10, after line 24, insert "1."

Page 10, after line 28, insert:

"2. As used in subsection 1, "refer for or counsel" does not include giving a victim of human trafficking nondirective counseling. Nondirective counseling includes:

- a. A list of health care providers and social service providers that provide prenatal care, childbirth care, infant care, foster care, adoption services, alternatives to abortion, or abortion services; and
- b. Nondirective information about the listed providers."

Renumber accordingly

#3

SB 2107  
from Rep. Hawken

SB 2107  
3-28-15

The Jamestown Sun

# Letter to the editor: Remove amendment, pass clean anti-trafficking bill

By Jessica Zolondek from Minot Today at 7:15 a.m.

As a clergyperson, I have counseled women who have been raped on many occasions over the past decade of being a chaplain and pastor. When a woman has been dateraped, raped by a stranger or repeatedly raped as a victim of sex trafficking, she has had control stolen from her. After the trauma of being forced into a sexual encounter, an important part of a person's spiritual healing is to be able to be in control of one's life again.

Abortion is a tragic event, and I have never met a woman who went into it lightly, in spite of how many portray women who have had them. It is a gut-wrenching spiritual choice that some women feel they have to make in order to survive. On the other side of abortion, there is always a complex grieving and healing process. I have worked with both women who have decided to have a child that was a result of rape and women who have opted to have an abortion, and each choice has different psychological and spiritual ramifications.

What I know for sure is many women feel spiritually abused by those in positions of authority, such as clergy, who feel compelled to impose their own sense of morality on the victim – oftentimes having no personal experience or appropriate training to draw upon before counseling others. I have spent many hours working through this with women who have been numbed by the experience of being told how to recover in ways that do not resonate with their own experience. It is our place to walk with the victims in love and give them the opportunity to be in control of their own lives and to

1

make their own spiritual choice before God. This is a difficult road to walk as someone who values life, but it is one I must walk for I know that this world is too complicated for one sweeping stance for all situations.

Unfortunately, lawmakers allowed one of the anti-sex trafficking bills to be hijacked. An amendment was added to Senate Bill 2107 that prevents service providers who receive state funds from discussing all of a trafficking victim's reproductive health care options, including abortion – even if she asks. This gag amendment means that a pregnant trafficking victim who seeks help from a counselor, nurse or doctor will be denied complete information about all her legal options.

By limiting the information trafficking victims receive, the gag amendment continues to take away their control and choices. The North Dakota House Judiciary Committee should remove the amendment and pass a clean anti-trafficking bill.

2

#)  
SB2107  
3-25-15

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2107

Page 2, line 9, after "b" insert "of subsection 1"

Page 8, line 7, replace "2" with "3"

Renumber accordingly

15.0227.03007  
Title.

Prepared by the Legislative Council staff for  
Representative Klemin

March 24, 2015

#2  
SBa107  
3-25-15

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2107

Page 7, line 31, remove "and"

Page 8, line 13, after "prostitution" insert ", felony forgery, felony theft, felony drug distribution,"

Renumber accordingly

#3  
SB2107  
3-25-15

**Proposed Amendments to SB 2107 from Representative Larson**

Page 7, remove lines 22 through 31

Page 8, ~~line 1~~, remove lines 1 through 3

Page 8, line 4, replace "3." with "1."

Page 8, after line 6, insert "

2. It is an affirmative defense to felony forgery, felony theft, and felony drug distribution that the individual was a minor at the time of the offense and committed the offense as a direct result of being a victim as defined by this chapter."

Page 8, line 7, replace "4." with "3."

Page 8, remove lines 10 through 11

15.0227.03008  
Title.

Prepared by the Legislative Council staff for  
Representative Klemin

March 24, 2015

#4  
SB2107  
3-25-15

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2107

Page 10, line 27, remove "not"

Page 10, line 27, remove "in favor"

Page 10, line 28, replace "of abortion" with "for family planning services, but may not be used to perform, refer for, or encourage abortion"

Renumber accordingly

revised LC 3004

#5  
SB2007  
3-25-15

Proposed Amendments to SB 2107

Page 10, after line 24, insert "1."

Page 10, after line 28, insert:

2. As used in subsection 1, "refer for or counsel" does not include giving a victim of human trafficking ~~nondirective counseling~~. Nondirective counseling includes:
- a. A list of health care, social service, legal, shelter, and state family planning providers.
  - b. Nondirective information about the listed providers.

Renumber accordingly