

2015 SENATE JUDICIARY

SB 2232

2015 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2232
1/28/2015
22710

- Subcommittee
 Conference Committee

Committee Clerk Signature

Openrose

Minutes:

Ch. Hogue: We will open the hearing on SB 2232.

Sen. Armstrong: Sponsor, support. Human traffickers are transient in nature. You've heard testimony that victims are often minors. The increase simply gives law enforcement more time to build a case, track down suspects and victims. Also because the crime often involves minors, as you will see in the bottom section, it allows them to grow up, hopefully get counseling and help, and then help in prosecuting the individuals who are involved in human trafficking. The bill is pretty simple. It takes the human trafficking statute of limitations and it ends up being very similar to most of our other sex crimes; that's the purpose of this bill.

Ch. Hogue: Thank you. Further testimony in support. Testimony in opposition. Neutral testimony. We will close the hearing.

2015 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2232
2/9/2015
23483

- Subcommittee
- Conference Committee

Committee Clerk Signature *W. Pence*

Minutes:

[Empty rectangular box]

Ch. Hogue: Let's take a look at SB 2232.

Sen. Armstrong: I move a Do Pass on SB 2232.

Sen. Casper: Second the motion.

6 YES 0 NO 0 ABSENT

DO PASS

CARRIER: Sen. C. Nelson

Date: 2/9/15

Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTE

BILL/RESOLUTION NO. 2232

Senate _____ **JUDICIARY** _____ Committee

Subcommittee

Amendment LC# or Description: _____

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

Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Sen. Armstrong Seconded By Sen. Casper

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

REPORT OF STANDING COMMITTEE

SB 2232: Judiciary Committee (Sen. Hogue, Chairman) recommends DO PASS
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2232 was placed on the
Eleventh order on the calendar.

2015 HOUSE JUDICIARY

SB 2232

2015 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

SB 2232
3/18/2015
25082

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the statute of limitations for the crime of human trafficking.

Minutes:

Testimony #1, 2

Chairman K. Koppelman: Opened the hearing on SB 2232.

Christina Sambor, Coordinator of FUSE: (See Testimony #1) Introduced the bill. It is essentially a statute of limitations bill extending the human trafficking to seven years. Law enforcement says it takes about 2 years to even get close to victims so they disclose what has been going on so these cases are time intensive. Having this three years statute of limitation could prove challenging to prosecutors. It takes a full year or two years to work up these cases by law enforcement.

Rep. Lois Delmore: Wasn't the other bill ten years and this one is seven? Why the discrepancy?

Christine Sambor: Ten was the one put in by the Senate. Seven is what has applied to sex crimes. This bill would be whatever you deem necessary. They should be consistent. Human trafficking is more complex and this has seven years because that is what the statute of limitation was for rape. Currently we are dealing with a three year statute which is inadequate for these types of cases.

Rep. Kretschmar: If it involves a minor person that statute doesn't begin to run until that person has reach majority. I don't know about the criminal side of that.

Rep. L. Klemin: On 2331 it dealt with two other sections which is 29-04.03.1 and this is o3.2 in this particular bill. The statue does begin to run until the victim reaches the age of 15 so really it could be a lot longer. But it only goes for one year after he reaches the age 18. We have not had a bill on this section of law before. I am not sure why it would take a prosecutor that length of time to charge out a case. Prosecutors are very busy so I am wondering if it isn't better to leave that situation alone rather than leaving it on the back burner.

Christina Sambor: You have these trauma issues. You do have victims that come and go throughout the years so it gives them time to come around and be a witness. You do have victims that come and go through the course of years. I think a longer statute of limitation is needed to have the victim come forward to put these traffickers in jail.

Rep. L. Klemin: You have just given them a lot longer to give them to be doing those bad things.

Christina Sambor: There are lots of reasons that people need to process this and I think a longer statute of limitation doesn't add to the likelihood that that criminal activity would continue. I think it has more to do with victim's services and supportive services and correlating with law enforcement.

Rep. L. Klemin: We have several bills dealing with statute of limitations. We need all of these bills together.

Rep. Mary Johnson: I thought statutes of limitation provided the police with a window of opportunity. They may not know about the commission of the offense.

Christina Sambor: It might be three years before a victim is willing to come forward to law enforcement. The statute of limitation begins to run from the time of the crime; seven years.

Rep. G. Paur: If the individual leaves the state the statute of limitation stops?

Christina Sambor: Yes

Jonathan Byers, Assistant Attorney General: (See Testimony #2) (12:33-16:06)

Rep. G. Paur: How long can you generally prosecute a case?

Jonathan Byers: I think some of these cases use to be based on testimony. With the onset of medical finding and DNA samples and the recognition there are other kinds of evidence that support the verbal testimony of the victim those things are still going to be there many years later and make the case better and more reliable.

Rep. G. Paur: Assuming the offense was brought to the attention of authorities. Five years down the road when they do come forward there must be a certain window where that becomes impractical.

Jonathan Byers: The gate keeper for that is the jury.

Rep. L. Klemin: In the meantime we have to put the defendant who has to go through that whole jury trial when, under existing law that matter would be laid to rest and there wouldn't be any possibility of false claims being made so late. Now we have a defendant that has to appear and bear the expense and agony of going through that trail. You have to do some balancing here too.

Jonathan Byers: There are a couple things that do act as screens before they get to trial. ND prosecutors are busy enough. It isn't their goal to find weak cases and take those to trial. ND is a preliminary hearing state where each defendant has a right to a preliminary hearing before it gets to a trial.

Rep. Mary Johnson: Do you see a correlation between the statute of limitations and inaccurate actuation? I don't think a seven year window increases the likely hood of somebody being falsely acquiesced. Is there a relationship between those two things?

Jonathan Byers: I think human beings attach more creditability to something when it just happens.

Rep. Mary Johnson: There is a greater likelihood that a guilty party has a greater chance of being acquitted as the statute of limitation progresses.

Jonathan Byers: Yes that is right; because that is part of our human thinking.

Rep. K. Wallman: SB 2011 relating to statue of limitations you said that AG was in favor of that bill. Was he still in favor of it before it was amended?

Jonathan Byers: I could not find who that was on the Senate side.

Rep. K. Wallman: The original bill for 2011 before the amendment was.

Jonathan Byers: I was not aware we were going to take a position either way on the Senate side.

Rep. K. Wallman: On page 1, line 7 of the bill if we did change the statute of limitations to ten or take it away does that line, except as otherwise provided by law, automatically change to the number of years in the statute of limitations for this bill?

Jonathan Byers: I think it would if there was a competing bill that addresses these same things. I think it does address if a perpetrator goes out of state the clock stops running while they are out of state.

Rep. L. Klemin: What is the bill number you were talking about? We didn't do a 2111?

Jonathan Byers: It was SB 2331.

Neutral: None

Opposition: None

Recessed

Senator Armstrong: There is also a SB 2331 which dealt with regular gross sexual imposition type crimes and there was a DNA provision so the section cited here which is

25-04-02.1 is sandwiched right between those two. It would then make sense to make these ten years too.

Chairman K. Koppelman: We did have discussion on trying to look at all these bills and try to get consistency.

Meeting closed.

2015 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

SB 2232
3/30/2015
25591

- Subcommittee
 Conference Committee

Committee Clerk Signature



Minutes:

Chairman K. Koppelman: Reopened the meeting on SB2232. This deals with the statute of limitation on human trafficking.

Do Pass Motion Made by Rep. G. Paur; Seconded by Rep. K. Hawken:

Rep. L. Klemin: On line 9 the 7 years didn't we already pass out another bill that changed that to ten years.

Chairman K. Koppelman: Yes this was childhood assault.

Rep. L. Klemin: This is the current law and it is being changed by another bill we don't have to do anything with this one.

Chairman K. Koppelman: I think the other bill dealt with sexual assault against minors and this deals with human trafficking. This puts human trafficking in the same category as that first section that it refers to and that is an exception to the seven years.

Rep. Lois Delmore: In Byers's testimony he said it extends the applicable statute of lamination for human trafficking to seven years rather than the three years that applies to most felonies. For adult victims that matches what ND allows to file charges for the crime of gross sexual imposition. When the victim is less than 15 years old the seven years doesn't start until they turn 15.

Chairman K. Koppelman: This does make it seven years after the commission of the offense. It also doesn't begin to run until the victim is age 15. Do we want to make this consistent?

Rep. L. Klemin: We don't want to change this here because we would also be changing this for gross sexual imposition. Let the other bills if any take care of this.

Rep. G. Paur: Under current law it is currently within seven years. All it does is add for human trafficking.

Chairman K. Koppelman: Right so the bill really deals with the crime of human trafficking and makes it equitant with the crime of gross sexual imposition.

Rep. L. Klemin: In the human trafficking bill there is also another separate statute of limitation relating civil actions that is ten years.

Rep. G. Paur: There is the youth factor in child molestation where that doesn't apply here?

Rep. K. Wallman: Line 12 the statute of limitation it does say it doesn't begin to run until the age of 15 so it does address child victims. I think if we want to make it consistent the seven years should be changed to ten.

Chairman K. Koppelman: This bill is part of the human trafficking bills. If this bill were to pass and the other things that we have done in other bills the result would be if you commit the crime of sexual assault against a child there would be a ten year statute of limitation with the other provisions. If you human trafficking at child under this bill it is seven years beginning at age 15.

Rep. Mary Johnson: It does work with 2331 because it is not the human trafficking portion of this; it is the reference to 12.1-20.03 which is also referenced in 2331. It makes it seven years if the victim is over the age of 18 basically. Is that how you are reading it? They both reference 12.1-20.03 and the sexual abuse of minors said that it is a ten year statute of the victim was under the age of 18. I am not talking about human trafficking so I believe they do work together and this one now addresses when a person is a minor.

Chairman K. Koppelman: They don't really affect one another even they both reference it. This bill says all of the crimes in that section or human trafficking are seven years, unless it is a minor.

Rep. Mary Johnson: My point is they work together. They don't conflict as in regards to 12.1-20.03.

Chairman K. Koppelman: But if you are trying to create a 10 year statute of limitation for sexual assault against minors and/or human trafficking of minors.

Rep. Brabandt: In testimony the reason it was seven years is because it is the same as rape.

Chairman K. Koppelman: this moves the offenses from three to seven year. This isn't just a human trafficking bill. It deals with all those offenses under 12.1-20.03 as Rep. Johnson mentioned. This puts human trafficking on par with those. I think the likely hoof of finding and prosecuting a human trafficker after seven is probably not going to happen.

Roll Call Vote: 12 Yes 0 No 1 Absent Carrier: Rep. Lois Delmore:

Date: 3-30-15
 Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 5B2232

House JUDICIARY Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

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

Motion Made By Rep Paur Seconded By Rep. Hawken

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) 12 No 0

Absent 1

Floor Assignment Rep. Delmore

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

REPORT OF STANDING COMMITTEE

SB 2232: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends DO PASS
(12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2232 was placed on the
Fourteenth order on the calendar.

2015 TESTIMONY

SB 2232

#1
SB 2232
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 17th and 18th, 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

(2)

#9
SB 2232
3-18-15

SENATE BILL 2232 TESTIMONY
HOUSE JUDICIARY COMMITTEE
MARCH 18TH, 2015
PRAIRIE ROOM

By Jonathan Byers, Assistant Attorney General

Mr. Chairman and Members of the Committee:

My name is Jonathan Byers and I appear on behalf of the Attorney General. I wish to testify in favor of Senate Bill 2232.

Yesterday you heard testimony on a bill related to the lengthening of the statute of limitations for child sexual abuse. The organizations that grade North Dakota's performance in human trafficking legislation suggest that North Dakota is deficient in failing to eliminate, or at least extend, the statute of limitations as applies to human trafficking.

That a national organization thinks we need a statutory change may not be enough, in and of itself, to bother do so. But the Attorney General asked me, "Does it also make sense?" The answer to that is yes. The same logic underlying the extended statute of limitations for a sexual offense if the victim is a minor applies here. We don't trust minors with being able to understand all of the implications of consenting to sexual activity. We certainly shouldn't expect them to understand all of the dynamics of human trafficking and foreclose the remedy of a criminal prosecution for their failure to promptly report the crime.

Senate Bill 2232 extends the applicable statute of limitations for human trafficking to seven years rather than the three years that applies to most felonies. (Section 1 of SB 2232) For adult victims, that matches what North Dakota allows to file charges for the crime of gross sexual imposition.

When the victim of human trafficking is less than fifteen years old, the seven year period would not begin to run until the victim turns 15. (Section 2 of SB 2232)

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