

2017 SENATE JUDICIARY

SB 2249

2017 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2249
2/6/2017
27934

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to prohibiting participation in North Dakota high school activities association events by students who are felons.

Minutes:

Testimony attached #

1,2

Chairman Armstrong called the committee to order on SB 2249. All committee members were present.

Nicole Poolman, North Dakota State Senator District 7, introduced and testified in support of the bill. (see attachment 1)

Chairman Armstrong: "Was there any consideration that the restraining order should be issued against another student?"

Senator Poolman: "There wasn't, that was actually an assumption. So if that's something you would want to write into the bill that would be great."

Chairman Armstrong: "There is no juvenile adjudication in this so if it's a 16-year old committing these acts they would have to be charged in adult court currently, is that intentional?"

Senator Poolman: "Correct. I guess I'd ask you as a defense attorney do you have a lot of 16-year old kids charged with Class AA Felonies in juvenile court, or are they typically moved up to adult court?"

Chairman Armstrong: "I think it depends on the age but I think if it's over 16 it's automatic?"

Senator Larson: "It's over 14."

Senator Luick: "Why are we going for a Class AA Felony? Why aren't we moving these down to a Class C Felony?"

Senator Poolman: "I wanted to address what I consider the most egregious. The idea is that some kids might make a mistake on a lower level that's not as much of a safety issue to other students."

Senator Luick discussed the different kinds of Class AA felonies, Class A, Class B, and Class C. He discussed how he believes that those who are charged with the seriousness of a Class A and Class AA Felonies shouldn't even be in a school.

"Now we are getting into crimes that are less egregious and all you're talking about is that they can't play basketball."

Senator Poolman: "I don't disagree with any of that. I was looking at making this bill passable and by choosing Class AA Felony I knew it would apply to the situation you will be hearing today, and I knew that it would have a better chance succeeding in this chamber, but I am open to modifying it for lesser crimes."

Senator Luick: "Were you open to the thought if I would bring a floor amendment to this?"

Chairman Armstrong: "I'd hope we'd do it in committee first."

Senator Poolman: "I'll tell you that I originally had the bill drafted where it had to be only a felony; any class of felony. That's how low I went, but I amped it up to make sure that it was confirmed that someone had been convicted and went through their due process."

Senator Myrdal: "It is my understanding that you can't play if there is any alcohol involvement? Even if you aren't charged with a crime but just are in a picture where alcohol is present. That's local policy, however, if a student is a meth user, that juvenile court officer is not allowed to tell the school board that that student is a meth user and so they get to stay on the team. Is that right?"

Senator Poolman: "I don't know why that would be? All principles have an exemption under confidentiality of court records of juveniles in order to enforce rules of the North Dakota High School Activities Association."

Senator Osland: "I struggle with the North Dakota High School Association; they can't manage this? Or they care not to manage this?"

Senator Poolman: "I'd rather we not either, but they couldn't adopt a policy so we're here as a last resort and since we have our fingers in this already."

Senator Larson: "I was told that juveniles cited with drug or alcohol offenses are prohibited from playing, but a person who committed a felony is allowed to play. Was this bill in response to that disparity?"

Senator Poolman: "Exactly."

Senator Nelson: "Your paragraph said he wasn't allowed to attend is high school. So how would he be eligible to play if he couldn't even to his high school?"

Senator Poolman: "He had to attend another high school."

Carma Hanson, North Dakota citizen, testified in support of bill, (see attachment 2)

Janelle Moos, Director of Caws North Dakota, testified in support of the bill. No written testimony. Janelle went over teenager violence and harassment statistics. She described how women have difficulty telling people about what has happened to them.

"I think this legislation will help those women who may feel threatened and who may not be sure how to proceed with telling people about what is happening to them. I think we need to look proactively on how to address these issues for women at a young age."

Chairman Armstrong: "Can you find us the appropriate data of how many contacts has that offender had with the criminal justice system, particularly with domestic violence and also the average age in which it started? Could you find that for us?"

Janelle Moos: "Yes, I can. Ultimately, we are happy to work with the committee on amendments."

Chairman Armstrong: "My concern would be on the Chapter 14 Orders, how we trigger it versus the ex parte."

Chairman Armstrong described some of his reservations regarding the different types of protection orders. He asked Janelle if she could look into the language and make sure everything looks good.

Janelle Moos: "Absolutely."

Chairman Armstrong closed the hearing on SB 2249.

No motions were made.

2017 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2249 Committee Work
2/7/2017
27984

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to prohibiting participation in North Dakota high school activities association events by students who are felons.

Minutes: **No written testimony**

Chairman Armstrong began the discussion on SB 2249. All committee members were present.

Senator Myrdal asked the committee if they would go over the bill to discuss possible amendments that may be added to further facilitate a resolution.

Chairman Armstrong: "I think you have two issues with this bill. One is conviction and one is charge. As you know, the more serious the crime the longer the distance in time can be between charge and conviction. I think the conviction for 85% crimes and especially for adults is a no brainer. If you get convicted of any of those in adult court, let's be honest, you're either a senior in high school and you're over the age of 18, or you're under 18 and they moved you into an adult court to seek a conviction. The bigger issue that will affect more students and keep more victims safe, is the protection order part of this piece because that comes independently of the criminal conviction, and that would be your violence protection orders, protection orders that are issues in concurrence with a criminal charge, and disorderly conduct protection orders. One of my recommendations would be that the victim notifies the school when a protection order is filed since they are the ones who know about it."

Senator Myrdal: "There's two sides to the story. There is the victim yes, but there are also false accusations that can be made which can also cause issues. With juveniles, there are also confidential issues we have to deal with. We know there can be horrific accusations with no merit whatsoever so there is no arrest or police involvement, but it can escalate to parental involvement. Then you throw sports into the mix, and you got one of the hottest topics in the world."

Chairman Armstrong: "I think it should also say that it's for all curricular events, and not just sports."

Senator Myrdal: "Yes."

Chairman Armstrong: "They treat minor drug and alcohol offenses significantly worse than this, and at the very least that is a public perception problem."

Senator Myrdal: "The policy right now actually comes from the North Dakota High School Activities Association. If I'm at a wedding with my daughter and she's in a picture with me and I'm holding a glass of wine and she's a minor, she doesn't play sports for six weeks. That is beyond ridiculous when compared to what seem of these people can get away with when it comes to horrific crimes. It seems this policy is so inconsistent."

Chairman Armstrong: "I understand Senator Osland's frustration because why are we here doing this? Sometimes we are here doing this because nobody else will do it."

Senator Osland: "So you think that maybe the High School Activities Association may appear and . . ."

Senator Osland did not finish the question before Chairman Armstrong chimed in.

Chairman Armstrong: "There may be a new policy before it even gets to the House side."

Senator Myrdal: "I agree with you, Senator Osland, and they are not in the room and they know we are discussing this bill. It's amazing nobody was here. So I'm going to draft an amendment to tighten some of these things up, even though I am a 'less government' kind of person. I think we do need stricter standards regarding this."

Senator Larson: "I want to bring something up regarding that. I was asked the question of, 'what if this is one of the school's in a small town and there is a protection order against that kid, what are they supposed to do?' I talked to Kirsten Baisler and she said they already have this and what they do is DPI pays tuition to the other school district and they work out some transportation for that student to go to a different school. So this is something that isn't new."

Chairman Armstrong: "This bill doesn't affect that. We aren't creating new protection orders; we are just using existing protection to orders to apply to extra-curricular events."

Senator Myrdal: "This is a cultural problem over a legal problem; sports have taken over."

Chairman Armstrong ended the discussion on SB 2249.

No motions were made.

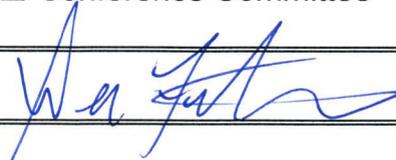
2017 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2249 Committee Work
2/13/2017
28296

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to failure to vacate; to provide a penalty; to provide for an effective date; and to declare an emergency.

Minutes:

Attachments

1

Chairman Armstrong began the discussion on SB 2249. All committee members were present.

Senator Myrdal's Amendment was handed out and discussed. (see attachment 1)

Senator Larson motioned to Adopt the Amendment. **Senator Luick** seconded.

Discussion followed:

Senator Luick: "Can you touch on the issue with that super-star athlete going to an alternative school and then bypassing the Athletic Association requirement?"

Senator Myrdal: "The School Board Athletics Association is really out of power here."

Senator Luick: "Whose obligation is it to notify the principal of a specific incident?"

Chairman Armstrong: "A few different ways this happens, one is in adult court, another one is we allow the Juvenile Court Office to handle it, and anybody who is getting an order of prohibiting contact from another student can provide that information."

Senator Myrdal: "What I understood while talking to DPI (Department of Public Instruction) is that the student could appeal it to the schoolboard even while their judicial sentence is going on."

Senator Luick: "What is penalty for false accusation?"

Senator Larson: "There is an offense for giving false info. I asked the question to Kirsten Baisler of what happens if you are in a small town and you are told there is a no contact order

against you and there isn't another school in town? She said they already have that happening; they just work out transportation with another school for the student."

Chairman Armstrong: "There are various judiciary remedies there for appeal."

Senator Myrdal: "I was going to reiterate that this is just for extra-curricular activities. And secondly, be aware that this may become a crazy thing since it deals with sports. We're dealing with a cultural thing."

A Roll Call Vote was taken. Yea: 6 Nay: 0 Absent: 0.
The motion carried.

Senator Luick motioned Do Pass as Amended. **Senator Larson** seconded.

A Roll Call Vote was taken. Yea: 6 Nay: 0 Absent: 0.
The motion carried.

Chairman Armstrong ended the discussion on SB 2249.

Senator Myrdal carried the bill.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2249

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 15.1-09 of the North Dakota Century Code, relating to prohibiting participation in extracurricular activities by students who have committed a criminal offense.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15.1-09 of the North Dakota Century Code is created and enacted as follows:

Student misconduct - Prohibition against participation in extracurricular activities.

1. The board of a school district shall prohibit a student from participating in any extracurricular activity if:
 - a. The student has pled guilty to or been convicted of a criminal offense and sentenced under section 12.1-32-02.1 or pled guilty or convicted of an offense specified in subsection 1 of section 12.1-32-09.1;
 - b. The student has:
 - (1) An order prohibiting contact issued against the student at the request of another student or employee of the school under section 12.1-31.2-02;
 - (2) A disorderly conduct restraining order issued against the student at the request of another student or employee of the school under section 12.1-32.1-01; or
 - (3) A protection order issued against the student at the request of another student or employee of the school, except a temporary protection order under section 14-07.1-03;
 - c. The principal of the school receives information pertaining to an offense or order included under this section as provided in subsection 2 of section 27-20-51; or
 - d. The victim of the offense or the subject of the order notifies the principal of the offense or order.
2. For purposes of this section, a representative of the juvenile court system may notify the principal of a school regarding the existence of files or records of the juvenile court pertaining to a student of the school which are open to inspection by the principal under subsection 2 of section 27-20-51."

Renumber accordingly

**2017 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. SB 2249**

Senate Judiciary Committee

Subcommittee

Amendment LC# or Description: 17.0368.02003

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 Senator Larson Seconded By Senator Luick

Senators	Yes	No	Senators	Yes	No
Chairman Armstrong	X		Senator Nelson	X	
Vice-Chair Larson	X				
Senator Luick	X				
Senator Myrdal	X				
Senator Osland	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

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

**2017 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. SB 2249**

Senate Judiciary Committee

Subcommittee

Amendment LC# or Description: 17.0368.02003

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 Senator Luick Seconded By Senator Larson

Senators	Yes	No	Senators	Yes	No
Chairman Armstrong	X		Senator Nelson	X	
Vice-Chair Larson	X				
Senator Luick	X				
Senator Myrdal	X				
Senator Osland	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Myrdal

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

REPORT OF STANDING COMMITTEE

SB 2249: Judiciary Committee (Sen. Armstrong, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2249 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 15.1-09 of the North Dakota Century Code, relating to prohibiting participation in extracurricular activities by students who have committed a criminal offense.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15.1-09 of the North Dakota Century Code is created and enacted as follows:

Student misconduct - Prohibition against participation in extracurricular activities.

1. The board of a school district shall prohibit a student from participating in any extracurricular activity if:
 - a. The student has pled guilty to or been convicted of a criminal offense and sentenced under section 12.1-32-02.1 or pled guilty or convicted of an offense specified in subsection 1 of section 12.1-32-09.1;
 - b. The student has:
 - (1) An order prohibiting contact issued against the student at the request of another student or employee of the school under section 12.1-31.2-02;
 - (2) A disorderly conduct restraining order issued against the student at the request of another student or employee of the school under section 12.1-32.1-01; or
 - (3) A protection order issued against the student at the request of another student or employee of the school, except a temporary protection order under section 14-07.1-03;
 - c. The principal of the school receives information pertaining to an offense or order included under this section as provided in subsection 2 of section 27-20-51; or
 - d. The victim of the offense or the subject of the order notifies the principal of the offense or order.
2. For purposes of this section, a representative of the juvenile court system may notify the principal of a school regarding the existence of files or records of the juvenile court pertaining to a student of the school which are open to inspection by the principal under subsection 2 of section 27-20-51."

Renumber accordingly

2017 HOUSE EDUCATION

SB 2249

2017 HOUSE STANDING COMMITTEE MINUTES

Education Committee
Coteau A Room, State Capitol

SB 2249
3/1/2017
Job 28569

- Subcommittee
 Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

Relating to prohibiting participation in extracurricular activities by students who have committed a criminal offense.

Minutes:

Attachments 1, 2, 3, and 3a.

Chairman- Mark S. Owens: Opens hear on SB 2249

Representative Poolman: see attachment 1 for testimony.

Chairman- Mark S. Owens: any questions

Vice Chairman- Cynthia Schreiber-Beck: down to line 22 on page 1, I was going back into the code and looking at the various aspects in the code, and there is such a restriction on having any information or information available, because of being a minor. So I am trying to be the judicial person here and figure this out, but it is so restricted who can have that information, so maybe you can explain how the principal or how they can obtain that information or does that get changed too in code.

Senator Poolman: That is an excellent question, and in my research in writing this bill, it is already in code, that principals have access to juvenile criminal records, for the purpose of enforcing rules of the North Dakota high school activities association, for enforcing the types of rules that we set up for participation in those activities. So that is already in the code.

Chairman- Mark S. Owens: any other questions.

Rep. Andrew Marschall: I sent this to a friend of mine was a lawyer, and still going over some of the stuff that he sent back, and he has problems with. On section B2 and the referenced code, is that a typo possibly, should it be this code.

Senator Poolman: I cannot comment on typos, I am not quite sure, someone will have to look that up.

Rep. Andrew Marschall: I may have some other questions.

Chairman- Mark S. Owens: any other questions, ok.

Vice Chairman- Cynthia Schreiber-Beck: on page 2 line 1, the victim of the offense or the subject of order notifies the principal of the offensive order, does that require a principal then to obtain verification, that indeed this restraining order exist.

Senator Poolman: I do not have a copy of the bill on me right now, but I would assume that certainly a victim can report, but that principal is going to have to report verification. No principal is going to say, oh she said this happened or he said this happened, and suspend. So if that is an amendment that needs to be added in that section if it makes you feel better, the principal shall obtain verification of that conviction or that restraining order, certainly.

Chairman- Mark S. Owens: any further questions, seeing none, thank you. Any additional support for SB 2249.

Carma Hanson: see attachment 2 for testimony.

Chairman- Mark S. Owens: are there any questions

Rep. Pat D. Heinert: I know understand where your daughter got her strength from, thank you.

Chairman- Mark S. Owens: any additional questions. anyone else in support of SB 2249

Janelle Moos: attachment 3 and 3a

Chairman- Mark S. Owens: any questions

Vice Chairman- Cynthia Schreiber-Beck: my question is there is nothing that exist at an ordinary school level though, if this occurs, they cannot go to school then or they can, they can't be in the school building because of the restraining order that someone talked about or are there always restraining orders or just from a holistic piece I am looking at this and saying, is this enough?

Janelle Moos: it depends on what you go in and request, say under a protection order you can ask that the person you are restricted from the house, your employment, in this particular situation the family requested restriction from being at the school, so if you put the information in the petition about what happened during the course of event, where you are asking for relief you can ask for housing, you can ask for emergency assistance, you can often, firearms are often removed at that point in time. So it is really depended on what's in the petition when you come forward and ask for relief from the court, and the judge has that ability to make decisions about where the restrictions will take place. In this case, they did request that he be removed from the school, and be restricted from having access to her at the school, and the judge did award that. But it is going to be different in every judicial district, about what judges will allow for, but I think that gives the fluidity within the judicial system for victims to come forward and ask for the certain protection that is important for their particular case, it is not a one size fits all, we have a lot of victims that come forward and don't want to

engage in the criminal justice system, that want to have a protection order. That is why we give them options, we never force it upon anybody, we just lay out the options, you can do this or you can do this, so it is really open to what is going to be best in that situation.

Chairman- Mark S. Owens: call on Rep. Andrew Marschall.

Rep. Andrew Marschall: does this also include temporary orders or ex-parte orders, this does not affect those.

Janelle Moos: no, it does not. It is only for the permanent protection orders, so after a hearing has occurred.

Rep. Andrew Marschall: ok.

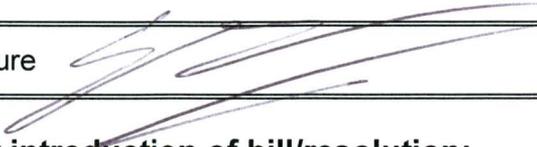
Chairman- Mark S. Owens: any additional questions, seeing none, thank you. Any additional support for SB 2249, any opposition for SB 2249, any neutral testimony. Closing the hearing on SB 2249.

2017 HOUSE STANDING COMMITTEE MINUTES

Education Committee
Coteau A Room, State Capitol

SB 2249
3/1/2017
Job 28573

- Subcommittee
 Conference Committee

Committee Clerk Signature 

Explanation or reason for introduction of bill/resolution:

Relating to prohibiting participation in extracurricular activities by students who have committed a criminal offense.

Minutes:

No Attachments

Chairman- Mark S. Owens: opens discussion on SB 2249.

Rep. Pat D. Heinert: we do have to correct the century code in there.

Chairman- Mark S. Owens: I noticed that myself, that is why these two books are sitting here, I looked that up, so I just wanted to let you all know there is something wrong with the century code reference in this bill, so at a minimum I want to take it upstairs, and find out what the intent was in what section, because I am no lawyer, so I am not about to figure out what section they were referring to.

Rep. Pat D. Heinert: they should be referred to 12.1-31.2-01 which is the disorderly conduct restrained order.

Chairman- Mark S. Owens: that may be, I've got 32.1-01, so there is no transposition, the 2 is missing altogether, if that is the case. I see, well that is because there is no 32.1, I just looked it up, so unless we are dealing with another states code, that could be the case. Anyways that is why I wanted to bring it up, and let you all know I did notice that. Rep. Andrew Marschall you had a few comments, was there anything other than that.

Rep. Andrew Marschall: one of the suggestions I got is that we might want to put in, in here that all ex-parte and temporary orders should be excluded.

Chairman- Mark S. Owens: actually I think it already says that. It says that, it says a disorderly conduct, and a protection order issued against a student at the request of another student, except a temporary protection order under 14-07.1-03, so the temporary is already referenced, specifically. I can double check on the ex-parte, but I think because the temporary is there, the temporary is ex-parte, so I do not think that is the big issue. I think that is fine, I am just trying to get the references correct so all of a sudden.

Rep. Andrew Marschall: then they have to reference if we would put that in there, they have a reference for that, but if we do not need to put that in there, then.

Chairman- Mark S. Owens: I can ask the question when I go up and ask about the other, and I can just verify that, but I believe we, that exemption is already there as far as temporary, so.

Rep. Andrew Marschall: the section is already in there.

Chairman- Mark S. Owens: and it is already exempt.

Rep. Ron Guggisberg: first of all, we have 19.3 million in that loan fund, but obviously this is a good bill, and I am glad we got it, and they are going to pass it hopefully, but my concern is what is going on with the athletic association. Do they want us to start micro-managing them?

Chairman- Mark S. Owens: apparently, because we had that other bill that we were going to see, that went to judiciary, and now this bill has come from judiciary to us, so they are both dealing with various issues let's say, that was within their wheelhouse that they did not want to do, apparently. But then what I heard during testimony for 2249 was that even if they wanted to deal with it, some of their rules and the paperwork and everything would not hold water, it was easily defeated in court, so what they need is this bill in order to put teeth to give them the teeth they need to say no, and to give the schools the teeth that they need, because they were saying, here is this code of conduct everybody agrees to it, oh but we just blow it off when we want to, and we will just take you to court. They do not have the teeth it sounded like to me, maybe I misunderstood.

Rep. Bill Oliver: I respectfully disagree with that, because there are different organizations outside of this state obviously, because this has not come up in this state that often, it does but it does not come up that often, and all it took is just one situation unfortunately to create the teeth, and get the backbone back into the sports administration, Illinois there is a code of conduct, if you violate that code of conduct you are no longer playing, and they already fought it and won in court. This could have been taken care of at that level.

Chairman- Mark S. Owens: and yet what we heard the code of conduct that they had, people would agree to, and yet at the simple hint of a threat of going to court they back down.

Rep. Bill Oliver: but that is what I am saying. I am for this, I am absolutely for this, I am not against it.

Chairman- Mark S. Owens: I am not against it; I just want to make sure the reference is correct so all of a sudden somebody does not say.

Rep. Bill Oliver: I do know that other sporting associations, high school sport associations Illinois and Indiana both have a code of conduct that every student athlete signs, and if they do not follow that code of conduct they do not play anymore.

Chairman- Mark S. Owens: it does not sound like we have that kinds of backbone in North Dakota, that is where I am getting at.

Rep. Brandy Pyle: I was just going to add to that, that has happed at my daughter's school, they do not enforce their own policy, and then all parents got a letter and an e-mail, and saying well this is the new policy, which was the same as the old policy, which they did not enforce in the first place.

Chairman- Mark S. Owens: any further discussion on SB 2249, alright, we will verify everything is right and we will deal with that in committee work, Monday afternoon or Tuesday as soon as we have anything. Any other comments, concerns, questions, thoughts.

2017 HOUSE STANDING COMMITTEE MINUTES

Education Committee
Coteau A Room, State Capitol

SB 2249
3/6/2017
Job 28761

- Subcommittee
 Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

Relating to prohibiting participation in extracurricular activities by students who have committed a criminal offense.

Minutes:

No attachments.

Chairman- Mark S. Owens: opens discussion on SB 2249. Did everybody get a copy of the amendment. If you recall when we went over this bill we were told that due process was included, they tightened it up, and on line 18 that reference we discovered was incorrect, does everybody recall that situation. If you notice the amendment has a little bit more in it though, so on line 18 we have corrected that reference, it is the appropriate reference and then right before I was about ready to get that done, Senator Armstrong from the senate committee that passed this out to us came over and said, oh we tightened up three, but we left out the same phrase in sub-paragraph 2. So that's where that's coming except for temporary restraining order under subsection 4, which relates to 1b-2 which deals with disorderly conduct restraining orders. Which is why the reference is different than the one that is listed under three for temporary restraining order, because that deals with protection orders. On top of that just to make sure that we did not miss anything in tightening this up as far as due process, I had a conversation with the assistant attorney general, just this morning. So based on that conversation, I am ready to provide you with this amendment, and explain that, and then ask you what your wishes are. There is actually not a 32.1 that is why I had to go somewhere. It was supposed to be 31.2, not 32.1, it was a typo.

Rep. Denton Zubke: I will move the amendments 03001 to SB 2249

Chairman- Mark S. Owens: We have a motion, and we have a second from Rep. Longmuir. Any further discussion.

Rep. Mary Johnson: So basically in the case situation where there is a temporary restraining order, it is accepted from this whole.

Chairman- Mark S. Owens: that is correct, the whole purpose of when they said they tightened it up for due process, is the fact that with a temporary restraining order there has not been a hearing, there has not been adjudication, there has not been any of the court, and

the rights of both the defendant and the accused to go through the process. So with a temporary restraining order, it is just a one sided court order, or a judgement temporarily, and what they are doing is, they are tightening it up to ensure that the person that is being accused has due process, in other words this only applies to the individual that has gone through, and been adjudicated, and there has actually been an order prohibiting contact, or a protection on this issue. And it is exempting that action during a temporary case.

Rep. Mary Johnson: the concern that I have is that even with temporary restraining orders, somebody who has not been at the hearing is restrained, and there are certain provisions that apply to that person, and I am concerned with the length of time it takes to get into court, to have the hearing, because now you have got a guy or a person who is maybe angrier, and not he has a two or three, him or her has a 20 or 30-day window to take action on. I am uncomfortable with it, because I do not think it protects the victim, and if we think about the situation where this young lady was attacked, and I am not so sure about it, and there are some cases where due process is set aside for security of safety reasons, so I have no problem, I do not think this is really a violation of due process.

Chairman- Mark S. Owens: well I was explaining the purpose of the amendment, and what the authors were thinking at the time, and why they wanted it. The principal of what they were most concerned about is if they do not have due process, it is another hammer they can use to ignore the whole law, they can claim oh no due process, we do not have to pay any attention to this, and of course if you recall, part of the problem was the policies of the organization to begin with, so this was to nail down the organization, and again I am not defending one way or the other, I am just telling you what the authors purpose was as far as they wanted to get the due process, and to eliminate the ability to challenge it, as much as possible. You are never going to eliminate challenges, you can challenge anything, but I understand your point.

Rep. Mary Johnson: Sure, someone subject to a temporary restraining order is not allowed to go within a certain number of feet, but it is that waiting period of getting into court for the final order.

Chairman- Mark S. Owens: I appreciate your point, but remember this bill isn't about the individual that wants the restraining order, let's say it is not about me and I want a restraining order against you ok, it's about allowing you to continue to participate in sports when there is a restraining order against you, it is a secondary if you want to think about it as a secondary administrative punishment, it has nothing to do with the restraining order, and it is now restricting you from participating in sports at the school, even though you are keeping your distance from me, now even without due process for you to have a hearing, and found out, wait a minute I made all this stuff up, you are actually innocent we are going to pull you out of sports, that's what they are getting at, it is about the sports and the participation.

Rep. Mary Johnson: alright, I understand.

Rep. Andrew Marschall: my lawyer was saying too that this needs to be in place too, because what if, and put this across that another team does not want another member of the opposite team playing because he is one of their best players, they will come up with some type of

restraining order against that individual, it would be temporary in nature, would prevent him from playing.

Chairman- Mark S. Owens: I can understand that, I did not think about that, I can see some less scrupulous people.

Rep. Andrew Marschall: when I sent this to him to have him read it, and got his thoughts, you know he came up with that printing error, and then that is one of the things he went on to say, you have to make sure, because another team could, and he has seen this in other places that they will put a restraining order preventing a good player from playing just for that reason, to keep him from playing.

Chairman- Mark S. Owens: understood.

Rep. Mary Johnson: I find it curious that Rep. Andrew Marshall's lawyer is a criminal lawyer.

Rep. Andrew Marschall: he is also my professor too.

Chairman- Mark S. Owens: any further discussion on the amendment, I invite the clerk to call the roll on the amendment 03001 to SB 2249. 13-0-1.

Rep. Pat D. Heinert: I move a do pass on SB 2249 as amended.

Chairman- Mark S. Owens: we have a motion for a do pass on SB 2249 as amended, and seconded by Rep. Matthew Ruby. Any discussion, ok seeing non I will invite the clerk to call the roll for a do pass as amended for SB 2249. 13-0-1, and Rep. Pat D. Heinert will carry this bill.

3/6/17 DE

17.0368.03001
Title.04000

Prepared by the Legislative Council staff for
Representative Owens
March 6, 2017

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2249

Page 1, line 18, replace "12.1-32.1-01" with "12.1-31.2-01, except a temporary restraining order under subsection 4 of section 12.1-31.2-01"

Renumber accordingly

Date: 3/6/17

Roll Call Vote 1

**2017 HOUSE STANDING COMMITTEE
Roll Call Votes**

BILL/RESOLUTION NO. SB 2249

House Education Committee

Subcommittee

Amendment LC# or Description: 17.0368.03001

- 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 Zubke Seconded By Longmuir

Representatives	Yes	No	Representatives	Yes	No
Chairman- Mark S. Owens	✓		Rep. Bill Oliver	✓	
Rep. Corey Mock	AB		Rep. Rich S. Becker	✓	
Rep. Denton Zubke	✓		Rep. Longmuir	✓	
Rep. Andrew Marschall	✓		Rep. Mary Johnson	✓	
Rep. Dennis Johnson	✓		Rep. Brandy Pyle	✓	
Rep. Matthew Ruby	✓		Rep. Ron Guggisberg	✓	
Rep. Pat D. Heinert	✓		Vice Chairman- Cynthia Schreiber-Beck	✓	

Total (Yes) 13 No 0

Absent 1 Rep Mock

Floor Assignment _____

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

Date: 3/6/17

Roll Call Vote 2

**2017 HOUSE STANDING COMMITTEE
Roll Call Votes**

BILL/RESOLUTION NO. SB 2249

House Education 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 Heinert Seconded By Ruby

Representatives	Yes	No	Representatives	Yes	No
Chairman- Mark S. Owens	✓		Rep. Bill Oliver	✓	
Rep. Corey Mock	AB		Rep. Rich S. Becker	✓	
Rep. Denton Zubke	✓		Rep. Longmuir	✓	
Rep. Andrew Marschall	✓		Rep. Mary Johnson	✓	
Rep. Dennis Johnson	✓		Rep. Brandy Pyle	✓	
Rep. Matthew Ruby	✓		Rep. Ron Guggisberg	✓	
Rep. Pat D. Heinert	✓		Vice Chairman- Cynthia Schreiber-Beck	✓	

Total (Yes) 13 No 0

Absent 1 Rep Mock.

Floor Assignment Rep Heinert

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

REPORT OF STANDING COMMITTEE

SB 2249, as engrossed: Education Committee (Rep. Owens, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2249 was placed on the Sixth order on the calendar.

Page 1, line 18, replace "12.1-32.1-01" with "12.1-31.2-01, except a temporary restraining order under subsection 4 of section 12.1-31.2-01"

Renumber accordingly

2017 TESTIMONY

SB 2249

Mr. Chairman and members of the committee, my name is Nicole Poolman, state senator from District 7 representing Bismarck and Lincoln.

SB 2249 is one of those bills I wish we didn't need. The bill would prohibit a school board from allowing a student to participate in a NDHSAA activity if he/she has been convicted of a AA felony or has a restraining order against him/her.

The main issue here is one of student safety. In this day of incredibly competitive sports, players are heading into school from a dark parking lot at 5 am, and many times are not leaving until well after dark at 9 pm. And on nights with away games, players are heading to their cars at one or two in the morning.

Over the past year and a half, attempts were made to get the NDHSAA to implement such a policy, but they refused, citing local control and an ability to make students sign a local code of conduct. But as you will hear, because this is not a policy in the NDHSAA handbook, parents threaten coaches with lawsuits if they are not allowed to play - even after they have signed such a code of conduct.

In the case you will hear about today, a young man was charged with multiple felonies and could not even attend his high school due to a restraining order, but his parents threatened to sue, and because the baseball field was technically off-campus, he could play. The NDHSAA not only allowed this young man to play the whole season, they named him all-state. This is not the only case of students with felonies participating in activities.

It is difficult for parents and coaches to understand how someone can simply be at a party where alcohol is present or earn poor grades, and that results in suspension from NDHSAA activities, but felonies are acceptable.

As some of you already know, our base number in the education funding formula includes \$250 per secondary student for extra-curricular activities, so the state certainly plays a part in funding the NDHSAA. It is unfortunate that we are here to play a part in policing them, as well, but as I mentioned earlier, this is our last resort.

Making it clear that convicted felons cannot represent schools in NDHSAA activities is a common-sense policy that will ensure our student leaders are meeting a basic behavioral requirement, but more importantly, it will keep other players, choir members, cheerleaders, and band members safe.

2

2/6/17

Testimony in Support of SB 2249

Mr. Chairman, Members of the Senate Judiciary Committee, my name is Carma Hanson. I come before you today as a mother who lived through an experience that I hope none of you will ever know. The incident happened back in 2010 when our oldest child, our daughter was a senior in high school. She was a straight A student with aspirations of going to medical school one day. She was involved in the National Honor Society, Student Council and many other school activities. Her story is one that is long and complicated and I will only share part of it today for the purpose of asking for your support of SB 2249.

During my daughter's senior year, she broke up with a boyfriend she had had for 2 years, also a straight A student and all state baseball player. Both were "good kids" that made "good decisions" including not drinking, smoking, doing drugs, etc. She was a model student that gave back to her church, her school and her community. Our daughter had so many exciting things planned for her senior year of high school and moving on to college. That all changed when her former boyfriend, who struggled severely with the break up, began an elaborate scheme for several months designed to force our daughter to live in fear for herself and for our family. He told our daughter he was involved with a criminal organization and that she "could not go to law enforcement" or she or our family members would be hurt or killed. Our daughter lived for months in a world of fear, told that if she failed to follow instructions, physical harm or even death would be the result. She was led to believe that she was being followed, her phone tapped, our house watched and her every action scrutinized by what ended up being fictitious people that her boyfriend had created to have her under his terroristic control. To make a long story short, we eventually became aware of the situation, albeit too late to protect our daughter as by this time, our daughter had not only been living in this world of being terrorized but she had also been assaulted. Her former boyfriend was arrested and charged with terrorizing and other class AA felony charges. Our world was turned upside down and we began what was a two-year long process of court proceedings, hearings, seeking to protect our daughter with a restraining order and living in a world that was so far from our reality that each of us were paralyzed by the situation.

Shortly after her boyfriend was out of jail on bond, he showed up back at high school and our nightmare continued. We knew that our daughter would not be able to focus on school work or complete her senior year with him there. We sought a restraining order to prevent his presence near our home, her place of work and school. The judge granted that order and the perpetrator was not allowed to attend the rest of his senior year at the high school he had attended. Threats by the parents of the perpetrator resulted in his continuing on the high school sponsored baseball team, despite the fact that coaches had real concerns of traveling with a young man who had made death threats to others at his high school. You can imagine the concern of his teammates, most of whom knew what he had done. However, he was allowed to continue playing as a member of the high school varsity baseball team. In fact, he went on to again be named as a member of the 2010 Class A Baseball All State Team.

Something about this seemed so very, very wrong. Had he had grades below a C or been caught drinking or smoking, he would have been banned from play for a period of time as deemed by the NDHSAA rules noted in their handbook. However, the perpetrator was charged with felonies of terrorizing and gross sexual imposition and yet he was allowed to practice with his teammates, ride on the school bus, be in the locker room (because the sports facility was not only school property for which we had a restraining order). A charged felon playing on a high school sponsored varsity team. Does that not seem very wrong?? I had many parents ask me "how is it that he can even play" or "I don't want my kid riding on the same bus as someone that has enough evidence against him to be charged with such horrific crimes". At the time, I didn't have the

energy or focus to worry about that aspect as I had a daughter whose life had been turned upside down, and who was doing all in her power to make it from day to day. Our worries at the time were to help her. Focusing on helping our daughter heal was the right decision. Our daughter became a SURVIVOR who through incredible strength and effort is a girl who once again smiles, laughs, is no longer afraid and is finishing her second year of medical school.

Now, time has passed and my heart has told me that while this bill will not help our situation that occurred 7 years ago, I must work to right the system for others who may be in a similar situation. While I would like to think that the bill I am asking you to pass today will never be needed, that would be living in an ideal world. The real world says that there has been other incidents such as this in our state and there will be again. We must make a policy that condones not just drinking, smoking or poor grades by our athletes but also criminal activity such as the ones I have described.

Two years ago, I approached the North Dakota High School Activities Association by working with our Superintendent of Public Instruction and visiting with a board member. I not only had personal conversations with the board member but provided information in writing about the request. I had to find a way to add what appears to be a "common sense" addition to the NDHSAA handbook. This type of activity is no longer acceptable in the world of sports. National athletic associations bar players from playing when charged with activities such as this. Millions watched the Super Bowl last night – even the NFL has determined that players charged with these types of crimes are suspended from play. Our state needs to follow suit and expect more of our students engaging in school sponsored activities, whether they be athletic or academic in nature. Participation in extracurricular activities are not a right, they are a privilege and with that privilege comes the responsibility to follow a code of ethics. That code of ethics needs to encompass not only grades and refraining from use of tobacco and alcohol, but other aberrant behavior as well. Individuals involved in sports are very often a role model for the other students. What kind of behavior do we foster when our student ambassadors can extol violence and terroristic behavior and yet we reward them by allowing them the privilege of representing our schools.

At the time the NDHSAA was approached, they decided not to put this into their policy. There were excuses of it being too hard to enforce or that "each school could write their own code of conduct and have the players sign it". They claimed that the decision could be left up to each individual coach as to whether to let the person be a part of the team. Well, if only that worked in reality. . . .

At the time of this incident, we asked how the perpetrator was allowed to continue to play baseball when he was not even allowed to attend his own school because of his horrific actions. We were told that his father visited the coaches and threatened them with legal action because "there was nothing in the NDHSAA handbook that prevented him from playing". Well, I think there should be and that is why I have asked for this bill to be considered. Having provisions in the policy book not only about grades, smoking and drinking but about other behaviors unbecoming a student athlete would provide clear expectations, ones that are not left to the subjectivity of the school, the principal or the coaches. As a reminder, participation in school activities is a privilege that comes with responsibilities and an expectation to represent the school and the association in a respectable manner.

As far as the concerns from the NDHSAA about the "school having to enforce this", there are processes in place already to disclose students who have been arrested for underage drinking, minor in possession, DUI, tobacco use, etc. The court system already has a responsibility to report those arrested for these infractions to school officials so adding on this additional "activity" in their weekly reporting would not be difficult or

cumbersome. While the number of incidents is not likely to be high, when it does occur, it is a travesty to those of us that sit and wonder how this can be.

The next person that will provide testimony is Janelle Moos, the Executive Director of North Dakota Council on Abused Women's Services (NDCAWS). She will speak much more eloquently about the logistics of carrying out this bill but as a mother who wants to right a wrong and prevent a similar situation in the future, I thank you for allowing me to testify in support of this bill. I so wish we lived in the world where written rules and parameters such as this were not needed but unfortunately, our family learned all too quickly that there are bad people in this world that do set out to hurt others. Those finding themselves in a situation such as this should not be allowed to play or represent a voluntary school organization that has standards for performance. When those standards were written, the authors most likely never imagined the need for language such as this but unfortunately, we are in a day and age where situations such as this occur and the handbook/law needs to be reflective of the behavior that is expected of our student representatives. While I wish the bill was written to say "charged with a felony rather than convicted of a felony", I at least like that we are beginning the dialogue and the actions needed to get this type of behavior a part of our written guidelines.

Again, I thank you for allowing me to testify in support of SB 2249 and would stand for questions.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2249

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 15.1-09 of the North Dakota Century Code, relating to prohibiting participation in extracurricular activities by students who have committed a criminal offense.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15.1-09 of the North Dakota Century Code is created and enacted as follows:

Student misconduct - Prohibition against participation in extracurricular activities.

1. The board of a school district shall prohibit a student from participating in any extracurricular activity if:
 - a. The student has pled guilty to or been convicted of a criminal offense under section 12.1-32-02.1 or subsection 1 of section 12.1-32-09.1;
 - b. The student has:
 - (1) An order prohibiting contact issued against the student at the request of another student or employee of the school under section 12.1-31.2-02;
 - (2) A disorderly conduct restraining order issued against the student at the request of another student or employee of the school under section 12.1-32.1-01; or
 - (3) A protection order issued against the student at the request of another student or employee of the school, except a temporary protection order under section 14-07.1-03; or
 - c. The principal of the school receives information pertaining to an offense or order included under this section as provided in subsection 2 of section 27-20-51.
 - d. The victim of the offense or the subject of the order notifies the principal of the offense or order.
2. For purposes of this section, a representative of the juvenile court system may notify the principal of a school regarding the existence of files or records of the juvenile court pertaining to a student of the school which are open to inspection by the principal under subsection 2 of section 27-20-51."

Renumber accordingly

Attachment 1 SB 2249

3/1/17

Testimony to House Education - Nicole Poolman, District 7

Chairman Owens and members of the committee, my name is Nicole Poolman, state senator from District 7 representing Bismarck and Lincoln.

SB 2249 is one of those bills I wish we didn't need. The bill would prohibit a school board from allowing a student to participate in an extra-curricular activity if he/she has been convicted of a violent felony or has a restraining order against him/her.

The main issue here is one of student safety. In this day of incredibly competitive sports, players are heading into school from a dark parking lot at 5 am, and many times are not leaving until well after dark at 9 pm. And on nights with away games, players are heading to their cars at one or two in the morning.

Over the past year and a half, attempts were made to get the NDHSAA to implement such a policy, but they refused, citing an ability to make students sign a local code of conduct. But as you will hear, because this is not a policy in the NDHSAA handbook, parents threaten coaches with lawsuits if they are not allowed to play - even after they have signed such a code of conduct. We have realized that those codes of conduct are not worth the paper they are written on. Coaches, administrators, and most importantly, our kids need a policy to fall back on to protect other participants. This bill would provide that.

In the case you will hear about today, a young man was charged with multiple felonies and could not even attend his high school due to a protection order, but his parents threatened to sue, and because the baseball field was technically off-campus, he could play. The NDHSAA not only allowed this young man to play the whole season, they named him all-state. He waited until after baseball season to plead guilty to multiple felonies: gross sexual imposition, terrorizing, and sexual assault. This is not the only case of students with felonies participating in activities.

It is difficult for parents and coaches to understand how someone can simply be at a party where alcohol is present or earn poor grades, and that results in suspension from extra-curricular activities, but felonies and being a danger to others is acceptable.

Making it clear that convicted felons cannot represent schools in extra-curricular activities is a common-sense policy that will ensure our student leaders are meeting a basic behavioral requirement, but more importantly, it will keep other athletes, choir members, cheerleaders, and band members safe.

Testimony in Support of SB 2249

Mr. Chairman, Members of the House Judiciary Committee, my name is Carma Hanson. I come before you today as a mother who lived through an experience that I hope none of you will ever know. The incident happened back in 2010 when our oldest child, our daughter was a senior in high school. She was a straight A student with aspirations of going to medical school one day. She was involved in the National Honor Society, Student Council and many other school activities. Her story is one that is long and complicated and I will only share part of it today for the purpose of asking for your support of SB 2249.

During my daughter's senior year, she broke up with a boyfriend she had had for 2 years, also a straight A student and all state baseball player. Both were "good kids" that made "good decisions" including not drinking, smoking, doing drugs, etc. She was a model student that gave back to her church, her school and her community. Our daughter had so many exciting things planned for her senior year of high school and moving on to college. That all changed when her former boyfriend, who struggled severely with the break up, began an elaborate scheme for several months designed to force our daughter to live in fear for herself and for our family. He told our daughter he was involved with a criminal organization and that she "could not go to law enforcement" or she or our family members would be hurt or killed. Our daughter lived for months in a world of fear, told that if she failed to follow instructions, physical harm or even death would be the result. She was led to believe that she was being followed, her phone tapped, our house watched and her every action scrutinized by what ended up being fictitious people that her boyfriend had created to have her under his terroristic control. To make a long story short, we eventually became aware of the situation, albeit too late to protect our daughter as by this time, our daughter had not only been living in this world of being terrorized but she had also been assaulted. Her former boyfriend was arrested and charged with terrorizing and other class AA felony charges. Our world was turned upside down and we began what was a two-year long process of court proceedings, hearings, seeking to protect our daughter with a restraining order and living in a world that was so far from our reality that each of us were paralyzed by the situation.

Shortly after her boyfriend was out of jail on bond, he showed up back at high school and our nightmare continued. We knew that our daughter would not be able to focus on school work or complete her senior year with him there. We sought a restraining order to prevent his presence near our home, her place of work and school. The judge granted that order and the perpetrator was not allowed to attend the rest of his senior year at the high school he had attended. However, threats by the parents of the perpetrator resulted in his continuing on the high school sponsored baseball team, despite the fact that coaches had real concerns of traveling with a young man who had made death threats to others at his high school. You can imagine the concern of his teammates, most of whom knew what he had done. However, he was allowed to continue playing as a member of the high school varsity baseball team. In fact, he went on to again be named as a member of the 2010 Class A Baseball All State Team.

Something about this seemed so very, very wrong. Had he had grades below a C or been caught drinking or smoking, he would have been banned from play for a period of time as deemed by the NDHSAA rules noted in their handbook. However, the perpetrator was charged with felonies of terrorizing and gross sexual imposition and yet he was allowed to practice with his teammates, ride on the school bus, be in the locker room (because the sports facility was not on school property for which we had a restraining order). A charged felon playing on a high school sponsored varsity team. . . . does that not seem very wrong?? I had many parents ask me "how is it that he can even play" or "I don't want my kid riding on the same bus as someone that has enough evidence against him to be charged with such horrific crimes". At the time, I didn't

have the energy or focus to worry about that aspect as I had a daughter whose life had been turned upside down, and who was doing all in her power to make it from day to day. Our worries at the time were to help her. Focusing on helping our daughter heal was the right decision. Our daughter became a SURVIVOR who through incredible strength and effort is a girl who once again smiles, laughs, is no longer afraid and is finishing her second year of medical school.

Now, time has passed and my heart has told me that while this bill will not help our situation that occurred 7 years ago, I must work to right the system for others who may be in a similar situation. While I would like to think that the bill I am asking you to pass today will never be needed, that would be living in an ideal world. The real world says that there has been other incidents such as this in our state and there will be again. We must make a policy that condones not just drinking, smoking or poor grades by our athletes but also criminal activity such as the ones I have described.

Two years ago, I approached the North Dakota High School Activities Association by working with our Superintendent of Public Instruction and visiting with a board member. I not only had personal conversations with the board member but provided information in writing about the request. I had to find a way to add what appears to be a "common sense" addition to the NDHSAA handbook. This type of activity is no longer acceptable in the world of sports. National athletic associations bar players from playing when charged with activities such as this. Millions watched the Super Bowl recently and even the NFL has determined that players **charged** with these types of crimes are suspended from play. Our state needs to follow suit and expect more of our students engaging in school sponsored activities, whether they be athletic or academic in nature. Participation in extracurricular activities is not a right, it is a privilege and with that privilege comes the responsibility to follow a code of ethics. That code of ethics needs to encompass not only grades and refraining from use of tobacco and alcohol, but other aberrant behavior as well. Individuals involved in sports are very often a role model for the other students. What kind of behavior do we foster when our student ambassadors can extol violence and terroristic behavior and yet we reward them by allowing them the privilege of representing our schools and even being named to an all-state team.

At the time the NDHSAA was approached, they decided not to put this into their policy. There were excuses of it being too hard to enforce or that "each school could write their own code of conduct and have the players sign it". They claimed that the decision could be left up to each individual coach as to whether to let the person be a part of the team. Well, if only that worked in reality. . . .

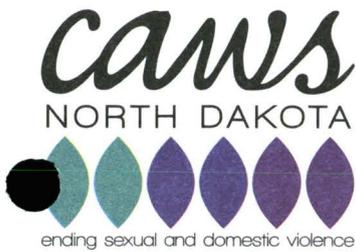
At the time of this incident, we asked how the perpetrator was allowed to continue to play baseball when he was not even allowed to attend his own school because of his horrific actions. We were told that his father visited the coaches and threatened them with legal action because "there was nothing in the NDHSAA handbook that prevented him from playing". Well, I think there should be and that is why I have asked for this bill to be considered. Having provisions in the policy book not only about grades, smoking and drinking but about other behaviors unbecoming a student athlete or school representative would provide clear expectations, ones that are not left to the subjectivity of the school, the principal or the coaches. As a reminder, participation in school activities is a privilege that comes with responsibilities and an expectation to represent the school and the association in a respectable manner.

As far as the concerns from the NDHSAA about the "school having to enforce this", there are processes in place already to disclose students who have been arrested for underage drinking, minor in possession, DUI, tobacco use, etc. The court system already has a responsibility to report those arrested for these infractions to school officials so adding on this additional "activity" in their weekly reporting would not be difficult or

cumbersome. While the number of incidents is not likely to be high, when it does occur, it is a travesty to those of us that sit and wonder how this can be.

The next person that will provide testimony is Janelle Moos, the Executive Director of North Dakota Council on Abused Women's Services (NDCAWS). She will speak much more eloquently about the logistics of carrying out this bill but as a mother who wants to right a wrong and prevent a similar situation in the future, I thank you for allowing me to testify in support of this bill. I so wish we lived in the world where written rules and parameters such as this were not needed but unfortunately, our family learned all too quickly that there are bad people in this world that do set out to hurt others. Those finding themselves in a situation such as this should not be allowed to play or represent a voluntary school organization that has standards for performance. When those standards were written, the authors most likely never imagined the need for language such as this but unfortunately, we are in a day and age where situations such as this occur and the handbook/law needs to be reflective of the behavior that is expected of our student representatives. While I wish the bill was written to say "**charged with** a criminal offense rather than just pled guilty to or been convicted of", I at least like that we are beginning the dialogue and the actions needed to get this type of behavior a part of our written guidelines for students presenting out school system's in the state.

Again, I thank you for allowing me to testify in support of SB 2249 and would stand for questions.



Attachment 3, SB 2249
3/1/17

525 N. 4th St. Bismarck, N.D. 58501
(P) 701.255.6240 (TF) 1.888.255.6240 (F) 701.255.1904
www.ndcaws.org • facebook.com/NDCAWS • Twitter @NDCAWS

Testimony on SB 2249
House Education Committee
March 1, 2017

Chairman Owens and Members of the Committee:

My name is Janelle Moos and I am the Executive Director of CAWS North Dakota. Our Coalition is a membership based organization that consists of 20 domestic violence and rape crisis centers that provide services to victims of domestic violence, sexual assault, and stalking in all 53 counties and the reservations in North Dakota. I'm here today to offer support for SB 2249.

Last year alone, our programs provided services to 913 sexual assault victims; 40% of those victims were under the age of 18 at the time of the assault and a high percentage (40%) of the victims were assaulted by an acquaintance, friend or relative. Additionally, 71% of victims reported the assault to law enforcement.

February was teen dating violence awareness month. This is an issue that affects people every day of the year. One in three teens will experience some form of dating abuse, and we think that's one too many. Many forms of abusive go unnoticed and unreported. The focus of teen dating violence awareness month is to create awareness about the signs of abuse, identify resources within the school and community for victims, promote healthy relationships and promote ways teens can be allies to those needing help.

SB 2249 outlines the penalties for student misconduct and the prohibition in extracurricular activities if they have plead guilty of been convicted of an offense and sentenced or are subject to a protection order, order prohibiting contact or disorderly conduct restraining order. Many forms of abuse don't reach this level and often victims don't identify the behavior as abuse.

Although I think this is an important step to addressing the serious nature of dating violence I think it's also important to start to invest time and resources into prevention and identifying lower level offenses earlier on in order to decrease the likelihood that the behavior will escalate.

SB 2249 is a good first step towards addressing teen dating violence therefore I urge a do pass recommendation.

Thank you.

Dating Abuse Statistics



love is respect org

Dating abuse is a big problem, affecting youth in every community across the nation. Learn the facts below.

Too Common

- Nearly 1.5 million high school students nationwide experience physical abuse from a dating partner in a single year.¹
- One in three girls in the US is a victim of physical, emotional or verbal abuse from a dating partner, a figure that far exceeds rates of other types of youth violence.²
- One in ten high school students has been purposefully hit, slapped or physically hurt by a boyfriend or girlfriend.³

Why Focus on Young People?

- Girls and young women between the ages of 16 and 24 experience the highest rate of intimate partner violence, almost triple the national average.⁴
- Among female victims of intimate partner violence, 94% of those age 16-19 and 70% of those age 20-24 were victimized by a current or former boyfriend or girlfriend.⁵
- Violent behavior often begins between the ages of 12 and 18.⁶
- The severity of intimate partner violence is often greater in cases where the pattern of abuse was established in adolescence.⁷

Don't Forget About College Students

- Nearly half (43%) of dating college women report experiencing violent and abusive dating behaviors.⁸
- College students are not equipped to deal with dating abuse – 57% say it is difficult to identify and 58% say they don't know how to help someone who's experiencing it.⁹
- One in three (36%) dating college students has given a dating partner their computer, email or social network passwords and these students are more likely to experience digital dating abuse.¹⁰
- One in six (16%) college women has been sexually abused in a dating relationship.¹¹

Long-lasting Effects

- Violent relationships in adolescence can have serious ramifications by putting the victims at higher risk for substance abuse, eating disorders, risky sexual behavior and further domestic violence.¹²
- Being physically or sexually abused makes teen girls six times more likely to become pregnant and twice as likely to get a STD.¹³
- Half of youth who have been victims of both dating violence and rape attempt suicide, compared to 12.5% of non-abused girls and 5.4% of non-abused boys.¹⁴

Lack of Awareness

- Only 33% of teens who were in an abusive relationship ever told anyone about the abuse.¹⁵
- Eighty-one (81) percent of parents believe teen dating violence is not an issue or admit they don't know if it's an issue.¹⁶
- Though 82% of parents feel confident that they could recognize the signs if their child was experiencing dating abuse, a majority of parents (58%) could not correctly identify all the warning signs of abuse.¹⁷

connect now!

chat at loveisrespect.org

SMS text loveis to 22522

call 1-866-331-9474

Discuss your options confidentially.
Peer advocates are available 24/7.

For more information, visit www.loveisrespect.org

Repurposing is allowed and encouraged.
Please contact loveisrespect.org for more information.

- ¹ Centers for Disease Control and Prevention, "Physical Dating Violence Among High School Students—United States, 2003," *Morbidity and Mortality Weekly Report*, May 19, 2006, Vol. 55, No. 19.
- ² Davis, Antoinette, MPH. 2008. Interpersonal and Physical Dating Violence among Teens. The National Council on Crime and Delinquency Focus. Available at http://www.nccd-crc.org/nccd/pubs/2008_focus_teen_dating_violence.pdf.
- ³ Grunbaum JA, Kann L, Kinchen S, et al. 2004. *Youth Risk Behavior Surveillance—United States, 2003*. Morbidity and Mortality Weekly Report. 53(SS02); 1-96. Available at <http://www.cdc.gov/mmwr/preview/mmwrhtml/ss5302a1.htm>.
- ⁴ Department of Justice, Bureau of Justice and Statistics, *Intimate Partner Violence in the United States, 1993-2004*. Dec. 2006.
- ⁵ Callie Marie Rennison, Ph.D., Department of Justice, Bureau of Justice Statistics, "Intimate Partner Violence and Age of Victim, 1993-99" (2001). Available at: <http://bjs.ojp.usdoj.gov/content/pub/pdf/ipva99.pdf>
- ⁶ Rosado, Lourdes, *The Pathways to Youth Violence; How Child Maltreatment and Other Risk Factors Lead Children to Chronically Aggressive Behavior*. 2000. American Bar Association Juvenile Justice Center.
- ⁷ S.L. Feld & M.A. Strauss, *Criminology*, 27, 141-161, (1989).
- ⁸ Fifth & Pacific Companies, Inc. (Formerly: Liz Claiborne, Inc.), Conducted by Knowledge Networks, (December 2010). "College Dating Violence and Abuse Poll," Available at: <https://www.breakthecycle.org/surveys>.
- ⁹ Fifth & Pacific Companies, Inc. (Formerly: Liz Claiborne, Inc.), Conducted by Knowledge Networks, (December 2010). "College Dating Violence and Abuse Poll," Available at: <https://www.breakthecycle.org/surveys>.
- ¹⁰ Fifth & Pacific Companies, Inc. (Formerly: Liz Claiborne, Inc.), Conducted by Knowledge Networks, (December 2010). "College Dating Violence and Abuse Poll," Available at: <https://www.breakthecycle.org/surveys>.
- ¹¹ Fifth & Pacific Companies, Inc. (Formerly: Liz Claiborne, Inc.), Conducted by Knowledge Networks, (December 2010). "College Dating Violence and Abuse Poll," Available at: <https://www.breakthecycle.org/surveys>.
- ¹² Jay G. Silverman, PhD; Anita Raj, PhD; Lorelei A. Mucci, MPH; Jeanne E. Hathaway, MD, MPH, "Dating Violence Against Adolescent Girls and Associated Substance Use, Unhealthy Weight Control, Sexual Risk Behavior, Pregnancy, and Suicidality" *JAMA*. 2001;286(5):572-579. doi:10.1001/jama.286.5.572
- ¹³ Decker M, Silverman J, Raj A. 2005. *Dating Violence and Sexually Transmitted Disease/HIV Testing and Diagnosis Among Adolescent Females*. *Pediatrics*. 116: 272-276.
- ¹⁴ D. M. Ackard, Minneapolis, MN, and D. Neumark-Sztainer, Division of Epidemiology, School of Public Health, University of Minnesota, Minneapolis, MN, *Date Violence and Date Rape Among Adolescents: Associations with Disordered Eating Behaviors and Psychological Health, Child Abuse & Neglect*, 26 455-473, (2002).
- ¹⁵ Liz Claiborne Inc., conducted by Teenage Research Unlimited, (February 2005).
- ¹⁶ "Women's Health," June/July 2004, *Family Violence Prevention Fund and Advocates for Youth*, <http://www.med.umich.edu/whp/newsletters/summer04/p03-dating.html>.
- ¹⁷ Fifth & Pacific Companies, Inc. (Liz Claiborne, Inc.), Conducted by Teen Research Unlimited, (May 2009). "Troubled Economy Linked to High Levels of Teen Dating Violence & Abuse Survey 2009," Available at: <https://www.breakthecycle.org/surveys>.

For more information, visit www.loveisrespect.org

Repurposing is allowed and encouraged. Please contact [loveisrespect](http://loveisrespect.org) for more information.

