

Testimony Prepared FOR: The Honorable Lawrence R. Klemin, Chair
And Honorable Members of the **House Judiciary Committee**
The North Dakota Legislature
600 E. Boulevard
Bismarck, ND 58505-0360

February 1, 2021

RE: HB 1387 (Extends the Statute of Limitations) Support by Kathleen K. Murray & PCAND

Hello, my name is Kathleen K. Murray. I represent Prevent Child Abuse of North Dakota (PCAND) Board, as I am a board member. PCAND supports a “do pass” for HB 1387. I am also here with my personal support for HB 1387. Thank you for allowing me an opportunity to submit my testimony.

As an introduction, I have been a licensed attorney since 1995, and I have been a prosecutor since 1997, and the Wells County State’s Attorney since 2002. Before working primarily as a prosecutor, I also had a private practice law firm for over ten years and have been an active member of my local child protection team since 2002. I have been fortunate enough to work with the ND Bureau of Criminal Investigation (BCI) to help teach criminal investigation and advanced criminal investigation courses for more than ten years.

The main reason I am in support of HB 1387 and wanted to testify for the bill was related to the extension of the statute of limitations for child sex abuse crimes. In my experience and training, many child sex crimes are not prosecuted. Some of the reasons for the lack of prosecution includes at least the following: 1) child victims don’t understand the abuse; 2) child victims are afraid to tell anyone for various reasons; 3) child victims do not want the perpetrator to be punished; 4) child victims are unable to articulate the date, time, location and description of the abuse; 5) law enforcement mistakes and/or lack of training; 6) prosecutor mistakes.

The extension of the statute of limitations would be helpful for those child victims that do not understand the abuse. For example, I had a case that was almost barred by the statute of limitations because the child was only six years old at the time of the abuse. The child victim didn’t understand what had happened until somebody provided this child victim with sex education, at which point the child broke down and cried and remembered the abuse. Luckily, in that case, the child was brought to counseling early and disclosed to a counselor and later to a Children’s Advocacy Center (CAC) forensic child interviewer that the abuse occurred. Many child victims are not so fortunate that they are brought to counseling early and/or can even describe the abuse.

Sex crimes upon children almost always include some grooming of the child. This grooming, which usually allows the perpetrator to convince the child not to tell the “secret” of the abuse, may begin with gifts or other special treatment. In other cases, the grooming sometimes includes a threat or other reason to make the child afraid to tell about the abuse. The child may not need a threat of violence to keep the secret, as just the possibility of being ashamed and the child thinking that they somehow did something wrong to cause the abuse, may deter the child from reporting. Disclosures of abuse are often delayed by the grooming and fears.. These delayed disclosures are part of the reason we need to have a longer statute of limitations to prosecute the perpetrators.

I had a case in which multiple child victims were being sexually abused. This abuse occurred over a six (6) year period. It wasn't until one of the older child victims was approximately 16 years old and talking to a school counselor about being ashamed of a bruise that there was an investigation. Even though the older children described instances of abuse involving the youngest child, that youngest child still denied that any abuse occurred and didn't seem to understand that she had been abused and photographed. I am telling you about this case to give an example of a lack of understanding and/or lack of ability to describe sex abuse. This was also a rare case in which there were other victim-witnesses. However, if there were no other witnesses, there likely would not have been enough evidence to prosecute the perpetrator from the youngest child's information. This type of case would need the extension of the statute of limitations if the youngest child later recalls the events and reports the crime.

Child victims often do not want a perpetrator punished. One of the reasons that the child victims do not want the perpetrator punished might be from the perpetrator grooming the victim and the perpetrator making the victim believe that they are a good friend that cares about them. Another reason that a child victim will not want a perpetrator to be punished is that the abuser is a parent, family member, or family friend. Even if the child might be willing to disclose that the sex abuse occurred, they might be told by their parents not to report it to the police. When a child does not want a perpetrator to initially be punished, this often causes a delay in law enforcement even being able to investigate the crime. Sometimes the trauma itself causes a lack of memory or lack of ability to describe the abuse. In these types of cases, the extension of the statute of limitations is beneficial because it takes a lot of courage for a child to disclose the sex abuse. Sometimes this courage is not found until that child victim has become an adult and can deal with the trauma and fully describe the abuse.

Prosecuting sex crimes is extremely difficult. While we all want to end child sex abuse, there is a huge stigma and shame associated with the abuse. Many people do not want to believe that a perpetrator would cause such trauma and harm to children. Mistakes by law enforcement and prosecutors' mistakes may sometimes be rectified by additional and later investigation of the same case. This further investigation takes more time and better training. Thus, even when there are mistakes, this is another reason for extending the statute of limitations.

Proper investigations also involve time for the investigation from the time that the crime is reported. If the victim is still a child, there should be a forensic interview by a child forensic interviewer such as the ones that are at the Children's Advocacy Center (CAC) in North Dakota locations. Proper investigations involve search warrants and processing of the search warrant items that may include detailed review of digital evidence, photographs, videos, emails, and other social media locations. In some investigations, DNA and other items will need to be processed at the state crime lab. These state crime lab items take time to process and analyze and for the prosecutor to receive the reports. There is usually further investigation after the reports.

Even if the investigation locates DNA at the crime scene, this DNA alone is not sufficient. The lab also needs a sample from the perpetrator to match the DNA sample. If fingerprints are located at a crime scene, the lab also needs the fingerprint to match the fingerprint sample located at the crime scene. If the perpetrator is not immediately apprehended, obtaining a DNA sample and/or

fingerprints from the perpetrator may take extra time and require an additional search warrant to obtain the DNA sample and/or fingerprints. Further, law enforcement will still have to follow up with an investigation to determine how the DNA and/or how the fingerprints were found at the crime scene. For there to be sufficient evidence to prosecute a case, law enforcement will have to investigate to determine the other evidence available to prove the crime occurred.

Thank you for allowing me the opportunity to provide testimony. I am willing to answer questions. I am also ready to give more examples of cases and information to support the testimony that I have provided for you today. Thank you.

Kathleen K. Murray
700 Railway Street N#325
Fessenden, ND 58438
Phone: (701) 547-3885
Email: kmurray@nd.gov