

1999 HOUSE JUDICIARY

HB 1379

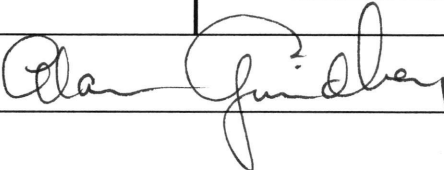
1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1379

House Judiciary Committee

Conference Committee

Hearing Date : February 1, 1999

Tape Number	Side A	Side B	Meter #
2	X		0
Committee Clerk Signature 			

Minutes:

REP. CARLISLE: Submitted written testimony, a copy of which is attached.

BONNIE PALACEK: Submitted written testimony, a copy of which is attached.

DICK PECK: North Dakota Peace Officers support this bill. This will be another tool to use in these domestic emergencies. Burleigh County Sherriff's department has at least one call a month where the phone has been ripped from the wall.

COMMITTEE ACTION: February 1, 1999

REP. MAHONEY presented proposed amendments and moved their adoption. Rep. Hawken seconded the motion which was passed on a unanimous voice vote.

REP. DELMORE moved that the committee recommend that the bill DO PASS AS AMENDED.

Rep. Meyer seconded and the motion passed on a roll call vote with 12 ayes, 0 nays and 3 absent.

Rep. Delmore was assigned to carry the bill on the floor.

Proposed Amendment to House Bill No. 1379

Page 1, line 7, replace "persons" with "person"

Page 1, line 7, after "any" insert "telephone or"

Date: 2/1
Roll Call Vote #: _____

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1379

House JUDICIARY Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Am.

Motion Made By Delmore Seconded By Meyer

Representatives	Yes	No	Representatives	Yes	No
REP. DEKREY	✓		REP. KELSH	✓	
✓ REP. CLEARY	✓		REP. KLEMIN	✓	
REP. DELMORE	✓		REP. KOPPELMAN	✓	
REP. DISRUD	✓		REP. MAHONEY	✓	
REP. FAIRFIELD			REP. MARAGOS		
REP. GORDER			REP. MEYER	✓	
REP. GUNTER	✓		REP. SVEEN	✓	
REP. HAWKEN	✓				

Total Yes 12 No 0

Absent 3

Floor Assignment Delmore

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

REPORT OF STANDING COMMITTEE

HB 1379: Judiciary Committee (Rep. DeKrey, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). HB 1379 was placed on the Sixth order on the calendar.

Page 1, line 7, replace "persons maliciously" with "person" and after the first "any" insert "telephone or"

Renumber accordingly

1999 SENATE JUDICIARY

HB 1379

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1379

Senate Judiciary Committee

Conference Committee

Hearing Date March 10, 1999

Tape Number	Side A	Side B	Meter #
1		x	0 - 1208
Committee Clerk Signature <i>Jackie Follman</i>			

Minutes:

HB1379 relates to interference with a telephone during emergency calls.

SENATOR STENEHJEM opened the hearing on HB1379 at 10:30 A.M.

All were present.

REPRESENTATIVE CARLISLE testified in support of HB1379. Testimony attached.

SENATOR NELSON asked if cell phones would be covered on this bill.

REPRESENTATIVE CARLISLE stated that Bonnie will answer that.

BONNIE PALECEK, North Dakota Council of Abused Women, testified in support of HB1379.

Testimony attached. The cell phones are included in this bill.

DICK PECK, North Dakota Peace Officers Association, testified in support of HB1379. This will give the law enforcement officers another tool in doing their job.

SENATOR STENEHJEM CLOSED the hearing on HB1379.

Page 2

Senate Judiciary Committee

Bill/Resolution Number HB1379

Hearing Date March 10, 1999

SENATOR BERCIER made a motion for DO PASS, SENATOR WATNE seconded.

Discussion. Motion carried. 6 - 0 - 0

SENATOR WATNE will carry the bill.

Date 3-10-99
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1379

Senate Judiciary Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken 10 Pass

Motion Made By Senator Bercier Seconded By Senator Watne

Senators	Yes	No	Senators	Yes	No
Senator Wayne Stenehjem	X				
Senator Darlene Watne	X				
Senator Stanley Lyson	X				
Senator John Traynor	X				
Senator Dennis Bercier	X				
SenatorCarolyn Nelson	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Watne

REPORT OF STANDING COMMITTEE (410)
March 10, 1999 2:21 p.m.

Module No: SR-43-4484
Carrier: Watne
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1379, as engrossed: Judiciary Committee (Sen. W. Stenehjem, Chairman)
recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed HB 1379 was placed on the Fourteenth order on the calendar.

1999 TESTIMONY

HB 1379



NORTH DAKOTA HOUSE OF REPRESENTATIVES

Representative Ron Carlisle
District 30
P.O. Box 222
Bismarck, ND 58502-0222

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



COMMITTEES:
Appropriations

TESTMONY ON HB 1379

PRESENTED BY REPRESENTATIVE RON CARLISLE

FEBRUARY 1, 1999

Mr. Chairman and members of the Judiciary Committee:

HB 1379 gives prosecutors another tool in dealing with crimes of domestic violence and other crimes of personal victimization. It makes it a crime for anyone to interfere with an emergency call for help.

It is not uncommon scenario for law enforcement officers to arrive at a house on a domestic violence call to find the phone ripped out of the wall. It should be taken seriously when someone is in danger, and the offender prevents them from getting help.

Other states have found this kind of law very helpful. We ask you to consider it favorably.

BISMARCK
Abused Adult Resource Center
222-8370
BOTTINEAU
Family Crisis Center
228-2028
DEVILS LAKE
Alternatives for
Families
1-888-662-7378
DICKINSON
Domestic Violence and
Rape Crisis Center
225-4506
ELLEDALE
Kedish House
349-4729
FARGO
Rape and Abuse Crisis Center
800-344-7273
FORT BERTHOLD RESERVATION
Coalition Against
Domestic Violence
627-4171
FORT YATES
Tender Heart Against
Domestic Violence
854-3402
GRAFTON
Tri-County Crisis
Intervention Center
352-4242
GRAND FORKS
Community Violence
Intervention Center
JACKSON
S.A.F.E. Shelter
888-353-7233
MCLEAN COUNTY
McLean Family
Resource Center
800-657-8643
MERCER COUNTY
Women's Action and
Resource Center
873-2274
MINOT
Domestic Violence Crisis
Center
852-2258
RANSOM COUNTY
Abuse Resource Network
683-5061
STANLEY
Domestic Violence Program,
NW, ND
628-3233
VALLEY CITY
Abused Persons Outreach
Center
845-0078
WILLISTON
Family Crisis Center
642-2115
WILLISTON
Family Crisis Shelter
572-0757

Testimony on HB1379

Testimony HB1379
House Judiciary Committee
February 1, 1999

Chair DeKrey and Members of the Committee:

My name is Bonnie Palecek, and I am speaking on behalf of the ND Council on Abused Women's Services in support of HB1379.

Domestic violence is an extremely complex crime, and those of us who are advocates for victims of these crimes are always watchful for new tools which assist law enforcement and prosecutors to respond more effectively. We believe that HB1379 provides such a tool, which quite simply makes it a crime in and of itself to interfere with an emergency call for help.

Because domestic violence usually occurs in a home with no witnesses, unless there is a physical injury, a police officer must often face determining probable cause in a "his word against hers" situation. The dynamics of a crime occurring in a home, on the other hand, also make a call for help a possibility. Of course that possibility carries with it a real potential for perpetrator interference.

Law enforcement officers tell us that the scenario of a phone ripped out of a wall is a common one when they respond to so-called "domestics." Both telephone cords and telephones themselves are frequently used as weapons. One of the worst series of bruises I ever saw was a woman's arm which was totally black and blue from being beaten with a telephone wrenched from her hand as she was trying to call for help.

We first heard of a similar statute in California from a prosecutor who provided training on stalking laws in North Dakota last fall. He said the law was invaluable to him. When I followed up with a conversation with a law enforcement officer, he said their department used it literally every day.

We continued our research through the National Council of Juvenile and Family Court Judges. They were aware of similar statutes in Maryland, Alaska, and Washington State. Some are specific to interfering with a domestic violence call, but we chose to use a broader definition which includes interference with **any** emergency call. We ran the draft by U.W. West representatives and they suggested including battery operated phones by including language referring to "any telephone." With the popularity of cell phones, we thought that was good idea.

We hope you will support this effort to give law enforcement officers and prosecutors a new tool with which to hold prosecutors of personal violence accountable.

Thank you.






COMMITTEES:
Appropriations

NORTH DAKOTA HOUSE OF REPRESENTATIVES

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



Representative Ron Carlisle
District 30
P.O. Box 222
Bismarck, ND 58502-0222

TESTIMONY ON HB 1379

PRESENTED BY REPRESENTATIVE RON CARLISLE

MARCH 10, 1999

Mr. Chairman and members of the Senate Judiciary Committee:

HB 1379 gives prosecutors another tool in dealing with crimes of domestic violence and other crimes of personal victimization. It makes it a crime for anyone to interfere with an emergency call for help.

It is not uncommon scenario for law enforcement officers to arrive at a house on a domestic violence call to find the phone ripped out of the wall. It should be taken seriously when someone is in danger, and the offender prevents them from getting help.

Other states have found this kind of law very helpful. We ask you to consider it favorably.

ifying Prohibited Con-

co... ordinance did not
bit... penalize any speech
high is constitutionally pro-
te statute, section 12.1-31-
l language of the ordinance
particular language which it
lly expresses what the state
construed to include to be
ordingly, the ordinance has
e state statute. City of Bis-
ert, 450 N.W.2d 757 (N.D.

se and Sale of Alcohol.

onize the statutes granting
ower of a municipality with
o avoid an implicit repeal of
gulate the use and sale of
es, the prohibition in this
municipal ordinance super-
does not prevent a munici-
ting an ordinance with a
fers from the penalty which
l under similar state law
s enacted an ordinance au-
ion of up to the maximum
ay impose under state law,
nt is in an area of law in
s authorized to engage in
h the enactment of an ordi-
go v. Little Brown Jug, 468
1991).

of the use and sale of alcohol
y is limited to imposing a
class B misdemeanor. City
Brown Jug, 468 N.W.2d 392

ng possible equal protection
a city enacts an ordinance
ich differ from the penalties
lled state statute, see City of
rown Jug, 468 N.W.2d 392

Y

ance or mistake negating
lpability — Repealed.
al relationship between con-
ct and result.

on engages in conduct,
n violation of a statute
e.

2. A person who omits to perform an act does not commit an offense unless the person has a legal duty to perform the act, nor shall such an omission be an offense if the act is performed on the person's behalf by a person legally authorized to perform it.

Source: S.L. 1973, ch. 116, § 2.

DECISIONS UNDER PRIOR LAW**Failure to Act.**

Statute making it a crime to perform a prohibited act even if no statute set forth a penalty for that act did not make it a criminal offense to fail to do an act which was required by statute. *Langer v. Goode*, 21 N.D. 462, 131 N.W. 258, 1913D Ann. Cas. 429 (1911).

Forbidden Act.

Where a certain act was forbidden and the forbidden act was done, and a punishment was prescribed for the doing of the forbidden act, such act was a crime. *In re Hogan*, 8 N.D. 301, 78 N.W. 1051, 45 L.R.A. 166, 73 Am. St. Rep. 759 (1899).

Practice of Accounting.

Since the statute relating to accountancy neither declared it to be a crime for one to practice, nor prescribed any punishment or penalty upon one who practiced, without a certificate from the board of accountancy, the statute did not create a crime. *Brissman v. Thistlethwaite*, 49 N.D. 417, 192 N.W. 85 (1922).

Collateral References.

Criminal Law \S 12 et seq.
21 Am. Jur. 2d, Criminal Law, $\S\S$ 31-36
22 C.J.S. Criminal Law, \S 2.

Law Reviews.

How to Identify Criminals and Other Citi-
zens of North Dakota After July 1, 1975, 50
N.D. L. Rev. 617 (1974).

12.1-02-02. Requirements of culpability.

1. For the purposes of this title, a person engages in conduct:
 - a. "Intentionally" if, when he engages in the conduct, it is his purpose to do so.
 - b. "Knowingly" if, when he engages in the conduct, he knows or has a firm belief, unaccompanied by substantial doubt, that he is doing so, whether or not it is his purpose to do so.
 - c. "Recklessly" if he engages in the conduct in conscious and clearly unjustifiable disregard of a substantial likelihood of the existence of the relevant facts or risks, such disregard involving a gross deviation from acceptable standards of conduct, except that, as provided in section 12.1-04-02, awareness of the risk is not required where its absence is due to self-induced intoxication.
 - d. "Negligently" if he engages in the conduct in unreasonable disregard of a substantial likelihood of the existence of the relevant facts or risks, such disregard involving a gross deviation from acceptable standards of conduct.
 - e. "Willfully" if he engages in the conduct intentionally, knowingly, or recklessly.
2. If a statute or regulation thereunder defining a crime does not specify any culpability and does not provide explicitly that a person may be guilty without culpability, the culpability that is required is willfully.
3. a. Except as otherwise expressly provided, where culpability is required, that kind of culpability is required with respect to every element of the conduct and to those attendant circumstances specified in the definition of the offense, except that where the

BISMARCK
 Abused Adult Resource Center
 222-8370
 BOTTINEAU
 Family Crisis Center
 228-2028
 DEER LAKE
 Sexual Alternatives for
 Abused Families
 1-888-662-7378
 DICKINSON
 Domestic Violence and
 Rape Crisis Center
 225-4506
 ELLENDALE
 Kedish House
 349-4729
 FARGO
 Rape and Abuse Crisis Center
 800-344-7273
 FORT BERTHOLD RESERVATION
 Coalition Against
 Domestic Violence
 627-4171
 FORT YATES
 Tender Heart Against
 Domestic Violence
 854-3402
 GRAFTON
 Tri-County Crisis
 Intervention Center
 352-4242
 GRAND FORKS
 Community Violence
 Intervention Center
 7-05
 JAMESTOWN
 S.A.F.E. Shelter
 888-353-7233
 McLEAN COUNTY
 McLean Family
 Resource Center
 800-657-8643
 MERCER COUNTY
 Women's Action and
 Resource Center
 873-2274
 MINOT
 Domestic Violence Crisis
 Center
 852-2258
 RANSOM COUNTY
 Abuse Resource Network
 683-5061
 STANLEY
 Domestic Violence Program,
 NW, ND
 628-3233
 VALLEY CITY
 Abused Persons Outreach
 Center
 845-0078
 WASHINGTON
 Thrivers Crisis Center
 642-2115
 WILLISTON
 Family Crisis Shelter
 572-0757

Testimony HB1379
 Senate Judiciary Committee
 March 10, 1999

Chair Stenehjem and Members of the Committee:

My name is Bonnie Palecek, and I am speaking on behalf of the ND Council on Abused Women's Services in support of HB1379.

Domestic violence is an extremely complex crime, and those of us who are advocates for victims of these crimes are always watchful for new tools which assist law enforcement and prosecutors to respond more effectively. We believe that HB1379 provides such a tool, which quite simply makes it a crime in and of itself to interfere with an emergency call for help.

Because domestic violence usually occurs in a home with no witnesses, unless there is a physical injury, a police officer must often face determining probable cause in a "his word against hers" situation. The dynamics of a crime occurring in a home, on the other hand, also make a call for help a possibility. Of course that possibility carries with it a real potential for perpetrator interference.

Law enforcement officers tell us that the scenario of a phone ripped out of a wall is a common one when they respond to so-called "domestics." Both telephone cords and telephones themselves are frequently used as weapons. One of the worst series of bruises I ever saw was a woman's arm which was totally black and blue from being beaten with a telephone wrenched from her hand as she was trying to call for help.

We just finished the compilation of domestic violence statistics for 1998. Hotlines documented over 1,900 phone calls only and in addition another 4,357 incidents reported, totaling well over 6,000 incidents statewide. If only a quarter of these reports involved telephone interference, it would be a significant number.

We first heard of a similar statute in California from a prosecutor who provided training on stalking laws in North Dakota last fall. He said the law was invaluable to him. When I followed up with a conversation with a law enforcement officer, he said their department used it literally every day.

We continued our research through the National Council of Juvenile and Family Court Judges. They were aware of similar statutes in Maryland, Alaska, and Washington State. Some are specific to interfering with a domestic violence call, but we chose to use a broader definition which includes interference with **any** emergency call. We ran the draft by U.W. West representatives and they suggested including battery operated phones by including language referring to "any telephone." With the popularity of cell phones, we thought that was good idea.

We hope you will support this effort to give law enforcement officers and prosecutors a new tool with which to hold prosecutors of personal violence accountable.

Thank you.

North Dakota Council on Abused Women's Services • Coalition Against Sexual Assault in North Dakota
 418 East Rosser #320 • Bismarck, ND 58501 • Phone: (701) 255-6240 • Toll Free 1-800-472-2911 • Fax: 255-1904

