

1999 SENATE JUDICIARY

SB 2186

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2186

Senate Judiciary Committee

Conference Committee

Hearing Date January 19, 1999

Tape Number	Side A	Side B	Meter #
1	x		0 - 2778
1-26-99 2	x		1942 - 3125
Committee Clerk Signature <i>Jackie Follman</i>			

Minutes:

SB2186 relates to contact by bodily fluids or excrement of an inmate; and to provide a penalty.

SENATOR STENEHJEM opened the hearing on SB2186 at 9:05 A.M.

All were present.

SENATOR WATNE testified in support of SB2186. Testimony attached.

PENNY ERICKSON, Ward County Jail, testified in support of SB2186. There have been assaults with a cup of urine.

LONNIE OLSON, Ramsey County States Attorney, testified in support of SB2186. The States Attorney Association supports this bill. In Ramsey County, we have had correctional officers that have had to be tested for hepatitis.

SENATOR STENEHJEM asked if the perpetrator with the hepatitis was charged with anything.

LONNIE OLSON stated yes. She was charged with disorderly conduct and she got 30 days.

SENAOR LYSON asked about the last sentence on this bill where it drops the saliva on a law enforcement officer down to a class A misdemeanor, would you have a problem with moving that to a class C felony.

LONNIE OLSON stated I wouldn't see a problem with that.

DOUG MATTSON, Ward County States Attorney, testified in support of SB2186.

TIM SCHUETZLE, Warden, Department of Corrections, testified in support of SB2186.

Testimony attached. Seven other states have legislation like this.

SENATOR NELSON asked if he would have no objection if mucus and saliva were added to the first sentence of the second section and the last sentence removed.

TIM SCHUETZLE stated that the Peace Officers are on record that we would like that done.

SENATOR STENEHJEM asked when a person becomes an inmate.

TIM SCHUETZLE stated that the language of the bill is all inclusive for what an inmate is.

SENATOR STENEHJEM asked if that included a police car from the place of arrest to the jail.

KEN SORENSON stated that an offender does not become inmate until they are actually brought into a facility.

SENATOR BERCIER asked what happens if a staff person does this to an inmate.

TIM SCHUETZLE stated that formal discipline against that employee.

SENATOR TRAYNOR asked if inmate is defined in the code.

KEN SORENSON stated that it is defined in 12-44.1-01.

KEN SORENSON, Attorney General's Office, testified in support of SB2186.

DICK PECK, ND Peace Officers Association, testified in support of SB2186 with the amendments to include the mucus and saliva and bumped up to a class C felony. We would like protection for our officers.

SENATOR NELSON asked about the inmate question where they have to be booked, when something happens in the process of arrest, how do we deal with this.

TIM SCHUETZLE stated that Section 2 takes care of that with the amendment.

SENATOR WATNE stated that her understanding of the bill is that Section 1 is dealing with an inmate, and Section 2 is dealing with anyone who is doing something to law enforcement officers.

TIM SCHUETZLE stated that is correct.

PAUL OLSON, Fraternal Order of Police of Bismarck, testified in support of SB2186. We have had 2 recent cases of bodily fluid contact.

SENATOR LYSON asked that it is not only law enforcement officers that transport prisoners, correctional officers do transport prisoners, Section 2 would not cover them if they are transporting. Transporting a mentally ill person, we can not call him an inmate.

DOUG MATTSON stated that we still have the culpability with the mental health issue.

JERRY MADISON, Ward County Jail, testified in support of SB2186. He was personally "slimed". He was doing a cell check and an inmate threw a cup of urine in his face. The inmate was charged with disorderly conduct. Today the inmate thinks this incident was funny. I feel this bill is important.

SENATOR STENEHJEM asked if this inmate was tested or STD.

JEREMY MADISON stated that no, the inmate was not tested.

Page 4
Senate Judiciary Committee
Bill/Resolution Number SB2186
Hearing Date January 19, 1999

SENATOR STENEHJEM CLOSED the hearing on SB2186.

January 26, 1999 2:30 a.m.

Discussion on amendments.

SENATOR WATNE made a motion on AMENDMENTS, SENATOR LYSON seconded.

Motion carried.

Discussion.

SENATOR WATNE made a motion for DO PASS AS AMENDED, SENATOR BERCIER seconded. Motion carried.

SENATOR WATNE will carry this bill.

5 - 0 - 0

Date: 1-26-99
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2186

Senate Judiciary Committee

- Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Amendments

Motion Made By Watne Seconded By Lyson

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

Total (Yes) 5 No 0

Absent 1

Floor Assignment _____

Date: 1-26-99
 Roll Call Vote #: 2

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2186

Senate Judiciary Committee

- Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS AS Amended

Motion Made By Watne Seconded
 By ~~Watne~~ Bercier

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

Total (Yes) 5 No 0

Absent 1

Floor Assignment ~~Watne~~ Watne

REPORT OF STANDING COMMITTEE

SB 2186: Judiciary Committee (Sen. W. Stenehjem, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2186 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "two" with "a" and replace "sections" with "section"

Page 1, line 2, remove "of an inmate"

Page 1, line 7, remove "**of an inmate**" and replace "An individual with the legal" with:

"1. An individual is guilty of a class C felony if the individual knowingly"

Page 1, remove lines 8 through 10

Page 1, line 11, after the sixth comma insert "vaginal fluid," and replace "any" with ":

- a. A law enforcement officer acting in the scope of employment;
 - b. An employee of a correctional facility or the department of corrections and rehabilitation acting in the scope of employment;
 - c. Any person lawfully present in a correctional facility who is not an inmate;
 - d. Any person lawfully present in the penitentiary or an affiliated facility of the penitentiary who is not an inmate; or
 - e. Any person who is transporting an individual who is lawfully detained.
2. Subsection 1 does not apply to a mentally ill person as defined in section 25-03.1-02 who has been detained pursuant to chapter 25-03.1."

Page 1, remove lines 12 through 20

Renumber accordingly

1999 HOUSE JUDICIARY

SB 2186

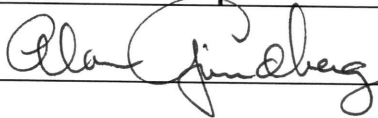
1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2186

House Judiciary Committee

Conference Committee

Hearing Date : March 2, 1999

Tape Number	Side A	Side B	Meter #
1	X		20
Committee Clerk Signature 			

Minutes:

SEN. WATNE Presented written testimony, a copy of which is attached.

PENNY ERICKSON (Ward Co. Jail) We need this bill to give us some protection. Under present law the maximum charge is disorderly conduct which carries a penalty of 30 days.

DICK PECK (NDPOA) Peace Officers support this bill. We need more protection. We often get spit on when making an arrest.

DOUG MATTSON (Ward Co. SA) We support this bill. It will give us another tool to help keep order

JEREMY MATTISON (Correctional Ofcr.) We need this bill for greater protection. I have had a glass of urine thrown on me, and we could only charge the person with disorderly conduct.

TIM SCHUETZLE (Dir. of Prisons) Presented written testimony a copy of which is attached.

He added, "we want a bill that will cover "sliming" of other inmates, but we want this bill first.

Page 2

House Judiciary Committee

Bill/Resolution Number 2186

Hearing Date : March 2, 1999

KEN SORENSON (Asst AG) The bill was drawn at the request of law enforcement and correctional officers. One point that has not been made is the matter of the cost - every time someone gets slimed, there is a Workers Comp claim for testing.

COMMITTEE WORK March 10, 1999

REP. KOPPELMAN presented an amendment #0401 and moves its adoption. Rep. Hawken seconded and the motion carried on a unanimous vote.

REP. KLEMIN presented amendment #0402. Rep. Mahoney moved its adoption and Rep. Koppelman seconded and the motion passed on a unanimous voice vote.

REP. KOPPELMAN moved that the committee recommend that the bill DO PASS AS AMENDED. Rep. Disrud seconded and the motion passed on a roll call vote with 13 ayes, 0 nays and 2 absent. Rep. Klemin was assigned to carry the bill.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2186

Page 1, line 7, replace "a class C felony" with "an offense" and remove "knowingly"

Page 1, line 12, after "employment" insert "unless the employee does an act within the scope of employment which requires or causes the contact"

Page 1, after line 18, insert:

- "3. The offense is a class C felony if the individual knowingly causes the contact and is a class A misdemeanor if the individual recklessly causes the contact."

Re-number accordingly

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2186

Page 1, line 1, replace "chapter" with "chapters" and after "12.1-17" insert "and 23-07"

Page 1, line 2, after "excrement" insert "and the reporting of test results for certain diseases"

Page 1, after line 18, insert:

"SECTION 2. A new section to chapter 23-07 of the North Dakota Century Code is created and enacted as follows:

Report of testing result of imprisoned individuals. Notwithstanding any other provision of law, the state department of health or any other agency shall release the results of any testing for any reportable disease done on an individual convicted of a crime who is imprisoned if the request is made by any individual and the individual provides written proof from the administrator of the facility with control over the individual imprisoned which states that the individual has had a significant exposure as defined in section ~~23-07.5-01.~~"

Renumber accordingly

07.3

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2186 3/11/99 Jud

Page 1, line 1, after "12.1-17" insert "and a new section to chapter 23-07"

Page 1, line 2, after "excrement" insert "and the reporting of test results for certain diseases"

Page 1, line 7, replace "a class C felony" with "an offense" and remove "knowingly"

Page 1, line 12, after "employment" insert "unless the employee does an act within the scope of employment which requires or causes the contact"

Page 1, after line 18, insert:

- "3. The offense is a class C felony if the individual knowingly causes the contact and is a class A misdemeanor if the individual recklessly causes the contact.

SECTION 2. A new section to chapter 23-07 of the North Dakota Century Code is created and enacted as follows:

Report of testing result of imprisoned individuals. Notwithstanding any other provision of law, the state department of health or any other agency shall release the results of any testing for any reportable disease performed on an individual convicted of a crime who is imprisoned if the request is made by any individual and the individual provides written proof from the administrator of the facility with control over the individual imprisoned which states that the individual has had a significant exposure as defined in section 23-07.3-01."

Renumber accordingly

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

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2186

House JUDICIARY Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do pass as amended

Motion Made By Koppelman Seconded By Disrud

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 13 No 0

Absent 2

Floor Assignment Klemin

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

REPORT OF STANDING COMMITTEE

SB 2186, as engrossed: **Judiciary Committee (Rep. DeKrey, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2186 was placed on the Sixth order on the calendar.

Page 1, line 1, after "12.1-17" insert "and a new section to chapter 23-07"

Page 1, line 2, after "excrement" insert "and the reporting of test results for certain diseases"

Page 1, line 7, replace "a class C felony" with "an offense" and remove "knowingly"

Page 1, line 12, after "employment" insert "unless the employee does an act within the scope of employment which requires or causes the contact"

Page 1, after line 18, insert:

"3. The offense is a class C felony if the individual knowingly causes the contact and is a class A misdemeanor if the individual recklessly causes the contact.

SECTION 2. A new section to chapter 23-07 of the North Dakota Century Code is created and enacted as follows:

Report of testing result of imprisoned individuals. Notwithstanding any other provision of law, the state department of health or any other agency shall release the results of any testing for any reportable disease performed on an individual convicted of a crime who is imprisoned if the request is made by any individual and the individual provides written proof from the administrator of the facility with control over the individual imprisoned which states that the individual has had a significant exposure as defined in section 23-07.3-01."

Re-number accordingly

1999 TESTIMONY

SB 2186

SENATE BILL NO. 2186

Testimony before Senate Judiciary Committee

Tim Schuetzle, Director of Prisons Division

January 19, 1999 9:00 am

Thank you for this opportunity to speak in favor of what is defined in prison slang as the "sliming" bill. Section 1 of this bill would make it a Class C felony for an inmate to knowingly cause a body fluid to come in contact with anyone who is not an inmate. There have been examples within the Department of Corrections and jails throughout the state where inmates, unhappy with captors, have spit on the correctional officers and staff. Even worse cases are when these inmates concoct a mixture of urine, feces, and other body fluids into a container and throw the contents on prison employees as they pass by their cells. Obviously, this behavior is not tolerated within the rules of the facility, and internal sanctions are given to the offender. However considering the prevalence of blood-borne diseases we are now seeing among the inmate population, this practice could have lethal consequences for the staff. The risk potential caused by this type of assault, along with the mental anxiety staff experience while waiting to determine if they have been infected, certainly justify making this despicable act a criminal offense. This type of law is not unique to North Dakota. My research conducted while preparing a request for this legislation found that at least seven other state jurisdictions have a similar law on the books. The language defines the word inmates, and the use of the term "individual who is not an inmate" is broad enough to cover any person (employee, volunteer, visitor etc.) who may become a victim of this action during their dealings with inmates.

The Department of Corrections was planning to introduce a bill like this to protect the employees of our department, but discovered that the State's law enforcement officers were going to ask for similar legislation for police and County Sheriff's employees as well. It was decided to combine our efforts into the proposal before you. Section 2 deals with criminal sanctions for individuals committing this offense against law enforcement personnel. A representative from the North Dakota Peace Officers Association will testify in support of section 2.



OFFICE OF ATTORNEY GENERAL
STATE OF NORTH DAKOTA

Heidi Heitkamp
ATTORNEY GENERAL

December 2, 1998
(sent by facsimile)

CAPITOL TOWER
State Capitol
600 E. Boulevard Ave.
Bismarck, ND 58505-0040
701-328-2210
FAX 701-328-2226

Consumer Protection
and Antitrust Division
701-328-3404
800-472-2600
Toll Free in North Dakota
701-328-3409 (TDD)
FAX 701-328-3535

Gaming Division
701-328-4848
FAX 701-328-3535

Licensing Section
701-328-2329
FAX 701-328-3535

CAPITOL COMPLEX
State Office Building
900 E. Boulevard Ave.
Bismarck, ND 58505-0041
FAX 701-328-4300

Civil Litigation
701-328-3640

Natural Resources
701-328-3640

Racing Commission
701-328-4290

Bureau of Criminal
Investigation
P.O. Box 1054
Bismarck, ND 58502-1054
701-328-5500
800-472-2185
Toll Free in North Dakota
FAX 701-328-5510

Fire Marshal
P.O. Box 1054
Bismarck, ND 58502-1054
701-328-5555
FAX 701-328-5510

Fargo Office
P.O. Box 2665
Fargo, ND 58108-2665
701-239-7126
FAX 701-239-7129

Doug Mattson
Ward County State's Attorney
Ward County Courthouse
P.O. Box 5005
Minot, ND 58702-5005

RE: Correctional Facility Anti-Sliming Legislation

Dear Doug:

The NDPOA legislative committee had reviewed the proposed draft of the anti-sliming legislation to be sponsored by Senator Watne. Bismarck Police Chief Deborah Ness commented that police officers have filed workers compensation claims after being spit on or having contact with body fluids in order to test for pathogens and she wanted to see the same legislation for police officers. The NDPOA legislative committee requested that law enforcement officers be included in the legislation. The North Dakota Department of Corrections and Rehabilitation was already considering seeking legislation making "sliming" correctional officers a felony crime.

I have enclosed a proposed draft bill that includes one subsection with the initial Legislative Council draft prepared for Senator Watne and incorporating your suggestions and including another subsection for law enforcement officers. It was basically my own work product to not include spitting on law enforcement officers as a class C felony.

I have not submitted this to the NDPOA committee yet as I was hoping to talk to you first.

Sincerely,

Ken Sorenson
Assistant Attorney General

Post-it™ brand fax transmittal memo 7671	
# of pages: 3	
From: Doug Mattson	To: Sen Watne
Co:	Co:
Dept:	Dept:
Phone #	Phone #
Fax #	Fax #

NORTH DAKOTA SENATE

or Darlene Watne
ct 5
3th Avenue SW
ND 58701-7065

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360

COMMITTEES:
Judiciary,
Vice Chairman
Political Subdivisions

Chairman Stenehjem and Members of the Senate Judiciary Committee:

Senate Bill 2186 is what I will call our "sliming bill." This type of legislation is being enacted around the country because there is a great need for protection for our law enforcement officers from contact with the bodily fluids or excrement of a prisoner. At present there is no way to prosecute such behavior, and there are health concerns because of the severity of today's communicable diseases. Sliming difficulties are a concern primarily with problem prisoners. This bill will make such behavior a Class C Felony, and makes merely spitting a Class A Misdemeanor.

The draft of this bill started some time ago when the Ward County Sheriff contacted the State's Attorney and gave him a news article fax copy from South Dakota, where the first charge was made under their new law. I have attached a copy of that article and I'm sorry for the poor quality but it is the best I can do. States Attorney Mattson contacted me to draft a bill.

Consequently, Dick Peck of the Peace Officers Association had suggestions for improvement. The bill was redrafted to reflect those changes. Assistant Attorney General, Ken Sorenson, had suggestions for changes (a copy of his letter is attached herewith) based on discussions with Bismarck Police Chief Debbie Ness. The bill was drafted once again.

Finally, after thinking we had the perfect bill, I contacted sponsors. One contact was with Senator Stan Lyson from Williston, a former Sheriff and Parole Officer, who suggested an improvement to cover parole officers. So, this is our final draft, covering everyone we can think of in the law enforcement field.

This is good legislation - needed legislation - even if the subject is unpleasant. I urge a DO PASS recommendation and thank you for your time and attention.

Respectfully,



Darlene Watne
Senator, District 5

MEMORANDUM

To: Chairman Wayne Stenehjem, Members of the Senate Judiciary Committee

From: Ken Sorenson, Assistant Attorney General

Date: January 25, 1999

Subject: Proposed Amendments to SB 2186

Attached are proposed amendments to SB 2186. The Ward County States Attorney has reviewed the amendments, and while he sounded somewhat rushed on the matter, he said they looked okay.

In order to be a parole and probation officer, the individual must be a licensed peace officer in accordance with Peace Officers Standards and Training Board (P.O.S.T.) requirements. All parole and probation officers are law enforcement officers and are included under subsection (a). Therefore, the term "parole and probation officer" does not need to be separately mentioned.

The Prisons Division of the Department of Corrections and Rehabilitation, as well as local and regional correctional facilities, have other employees besides correctional officers, including nurses, social workers, addiction counselors, teachers, administrative and support personnel, and custodial staff, to name some of the various types of employees who may work in such a facility. Because of this, subsection (b) of the proposed amendment refers to employees, not just correctional officers, acting in the scope of employment.

The term "scope of employment" was used in subsections (a) and (b). N.D.C.C. chapter 32-12.2 provides a definition and the term has broader application than the term "official capacity."

Oftentimes there are other persons present in state, regional, and local correctional facilities who are not employees or inmates, including clergy, mental health professionals, attorneys, maintenance and service persons, and visitors. For examples, the Penitentiary contracts for commissary services and medical services and the James River Correctional Center contracts for food services, commissary services, and medical services. They have chaplaincy programs and programs for nursing students and nurse practitioner students to train and assist in the medical departments. Local and regional correctional facilities frequently have contract medical providers. The persons providing such services are not DOCR or correctional facility employees but may be on the premises on a regular and sometimes daily basis. These classes of persons are covered in subsections (c) and (d) of the amendments. Subsection (c) applies to the correctional facilities governed under N.D.C.C. chapter 12-44.1. Subsection (d) refers to state facilities.

There was some concern about persons who provide temporary assistance to correctional facilities, such as persons who may transport individuals who are undergoing the civil commitment process. This class of persons is covered in subsection (e) of the amendments.

There was also some concern about persons in the civil commitment process and whether they should be included as potential offenders under SB 2186. The statute does include a culpability requirement, namely "knowingly", and the question whether there is the requisite culpability present to prosecute is something a prosecutor has to address for just about every offense and that is the best way to deal with the matter with this particular offense. However, the amendment includes some optional bracketed italicized language for this Committee's consideration regarding persons involved in the civil commitment process. The optional bracketed italicized language specifically refers to mentally ill persons, to distinguish them from persons who may be involved in the civil commitment process for chemical dependency reasons. There are cases where the person being committed may have both a mental illness as well as a chemical dependency problem, but persons who are only being committed for chemical dependency should not be exempted from the section if the committee is going to consider including the bracketed italicized language.

PROPOSED AMENDMENTS TO SENATE BILL 2186

Page 1, line 7, remove “**of an inmate**” and remove “with the legal”

Page 1, remove lines 8 and 9

Page 1, line 10, remove “confined under the jurisdiction of the department of corrections and rehabilitation”

Page 1, line 11, after “semen,” insert “vaginal fluid”; after “with”, insert a “.” and remove “any”

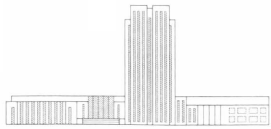
Page 1, line 12, replace “ individual who is not an inmate is guilty of a class C felony” with

- a. A law enforcement officer acting in the scope of employment;
- b. An employee of a correctional facility or the department of corrections and rehabilitation acting in the scope of employment;
- c. Any person lawfully present in a correctional facility who is not an inmate;
- d. Any person lawfully present in the penitentiary or an affiliated facility of the penitentiary who is not an inmate;
- e. Any person who is transporting an individual who is lawfully detained;

is guilty of a class C felony. [*The provisions of this section do not apply to a mentally ill person as defined in section 23-03.1-02(10) who has been detained pursuant to chapter 25-03.1*]

Page 1, remove lines 13-20

Renumber accordingly



Senator Darlene Watne
District 5
520 28th Avenue SW
Minot, ND 58701-7065

NORTH DAKOTA SENATE

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



COMMITTEES:
Judiciary,
Vice Chairman
Political Subdivisions

Chairman DeKrey and Members of the House Judiciary Committee:

Senate Bill 2186 is what I will call our "sliming bill." This type of legislation is being enacted around the country because there is a great need for protection for our law enforcement officers from contact with the bodily fluids or excrement of a prisoner. At present there is no way to prosecute such behavior, and there are health concerns with the communicable diseases we have now. Sliming difficulties are primarily with problem prisoners. This bill will give a penalty to such behavior.

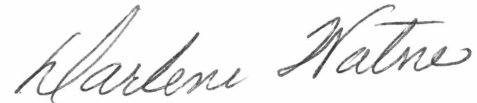
The draft of this bill started some time ago when the Ward County Sheriff contacted the State's Attorney and gave him a copy of a FAX of a news article from South Dakota where the first charge was made under their new law. I have attached a copy of that article and I'm sorry for the poor quality but it is the best I can do. At least seven other states have similar legislation. State's Attorney Mattson contacted me to draft a bill.

Then Dick Peck of the Peace Officers Association had suggestions for improvement, and the bill was redrafted to be sure they would be included. Then Ken Sorenson, Assistant Attorney General, had suggestions for change (a copy of his letter is attached herewith) based on discussions with Bismarck Police Chief Debbie Ness, and the bill was drafted once again.

And finally I thought we had the perfect bill. Then I contacted sponsors. One contact was with Senator Stan Lyson from Williston, a former Sheriff and Parole Officer, now on the Senate Judiciary Committee with me. When he read the bill, he had a suggestion for improvement to cover Parole Officers. So, we then had our final draft and everyone we can think of in the law enforcement field is covered. With all this drafting, I want to extend special thanks to Tim Dawson of Legislative Council for his patience and proficiency. In the Senate Judiciary, after testimony, further amendments were made to be sure everyone was included and that this wouldn't affect a mentally ill person being transported.

This is good legislation, needed legislation, even if the subject is unpleasant. I urge a DO PASS recommendation and thank you for your time and attention.

Respectfully,

A handwritten signature in cursive script that reads "Darlene Watne".

Darlene Watne
Senator, Fifth District

SHERIFF VERN ERCK, FYI
Ken CRITES

>>FACTA<> <NC>[QI]
<AG>R.N.2 - PG-SI--SLIMINGCHARGE.PJT 08-26 0345 - [QI]
<EO>PG-SI--Sliming Charge, Pjt, 330[QI]
Penitentiary inmate charged with 'sliming' [QI]
wmosdsio<AG>[PAR]

SIOUX FALLS, S.D. (AP) [ME] A South Dakota man is the first to be charged under a new state law that forbids prisoners from throwing bodily fluids at guards. [PAR]

Prosecutors say Robert Wadkins, 44, threw urine at two South Dakota State Penitentiary guards in April. [PAR]

He pleaded innocent Monday and is scheduled to go on trial Dec. 8. [PAR]
"This type of crime was originally not covered under the law," said Deputy Attorney General John Strohman. "Inmates could intimidate guards and have made these types of attacks on guards without a way for us to prosecute." [PAR]

Wadkins appeared in court wearing a black hood and shackles on his feet and wrists. During his arraignment, three guards stood over him. [PAR]

State officials say "sliming," throwing feces, urine, blood or spitting at guards, has been growing in recent years. [PAR]

"It's been a rising factor, assaults in general against staff ... With the sliming, there is a health concern with the communicable diseases we have now," said Patty Warkentheisen, public information officer for the Corrections Department. [PAR]

Warkentheisen said prison officials don't count sliming incidents, but all assaults on guards have doubled the past two years. In 1996, there were 21 assaults. [PAR]

Most prisons have sliming difficulties primarily with problem prisoners [PAR]

those who have already been placed into isolation by the prison for bad behavior, Warkentheisen said. [PAR]

The South Dakota legislature in March approved a law making it a felony for inmates to slime guards. [PAR]

Wadkins is the first to be charged, Strohman said. [PAR]

Prisoners convicted of sliming can get up to two more years in prison, with no parole or time off for good behavior. [PAR]

Prosecutors hope to prove that he is a habitual criminal and use a state law that doubles penalties for people who commit crimes in prison. [PAR]

Wadkins was serving a Pennington County sentence on six charges, including forgery, grand theft and second-degree burglary. [PAR]

[QI]
AP-WS-28-26-97 0928EDI[QI]

(END)

SENATE BILL NO. 2186

Testimony before House Judiciary Committee
Tim Schuetzle, Director of Prisons Division

Thank you for this opportunity to speak in favor of what is defined in prison slang as the “sliming” bill. Section 1 of this bill would make it a Class C felony for any individual to knowingly cause a body fluid to come in contact with a law enforcement officer or any person lawfully present in a correctional facility who is not an inmate.

There have been examples within the Department of Corrections and jails throughout the state where inmates, unhappy with captors, have spit on the correctional officers and staff. Even worse cases are when these inmates concoct a mixture of urine, feces, and other body fluids into a container and throw the contents on prison employees as they pass by their cells. Obviously, this behavior is not tolerated within the rules of the prison, and internal sanctions are given to the offender. However considering the prevalence of blood-borne diseases we are now seeing among the inmate population, this practice could have lethal consequences for the full time staff, or volunteers and visitors who may come into the correctional facility. The risk potential caused by this type of assault, along with the mental anxiety staff experience while waiting to determine if they have been infected, certainly justify making this despicable act a criminal offense. This type of law is not unique to North Dakota. My research conducted while preparing a request for this legislation found that at least seven other state jurisdictions have a similar law on the books.

The language in this bill is broad enough to properly include not only correctional and law enforcement employees, but also will cover non-employees such as a volunteer or visitor who may become a victim of this action during their dealings with inmates in correctional facilities. Section 1.e will protect non-law enforcement personnel who at times are asked to transport prisoners to correctional facilities

23-07.3-01. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Contagious disease" means the interruption, cessation, or disorder of body functions, systems, or organs transmissible by association with the sick or their secretions or excretions, excluding the common cold.
2. "Department" means the state department of health.
3. "Emergency medical services provider" means a firefighter, law enforcement officer, or other person trained and authorized by law or rule to render emergency medical assistance or treatment.
4. "Licensed facility" means a hospital, nursing home, dialysis center, or any entity licensed by the state to provide medical care.
5. "Significant exposure" means:
 - a. Contact of broken skin or mucous membrane with a patient's blood or bodily fluids other than tears or perspiration;
 - b. The occurrence of a needle stick or scalpel or instrument wound in the process of caring for a patient; or
 - c. Exposure that occurs by any other method of transmission defined by the department as a significant exposure.

33-06-01-01. Reportable conditions

All reports of reportable conditions shall be confidential and not open to inspection. The following conditions are hereby declared to be reportable in this state.

1. Acquired immune deficiency syndrome (A.I.D.S.).
2. Anthrax.
3. Botulism.
4. Campylobacter enteritis.
5. Cancer, all invasive and in situ carcinomas (except basal and squamous cell skin carcinomas or carcinoma in situ of the cervix uteri).
6. Chickenpox (varicella).
7. Chlamydial infections.
8. Cholera.
9. Cryptosporidiosis.
10. Diphtheria.
11. E. coli 0157:H7 infection.
12. Encephalitis (arboviral encephalitides only).
13. Foodborne or waterborne outbreaks.
14. Giardiasis.
15. Gonorrhea.
16. Hantavirus.
17. Haemophilus influenzae b.
18. Hemolytic uremic syndrome.
19. Hepatitis (specify type).
20. Human immunodeficiency virus infection.
21. Infantile group B streptococcal infection.
22. Influenza.

23. Lead poisoning.
24. Legionellosis.
25. Lyme disease.
26. Malaria.
27. Measles (rubeola).
28. Meningitis, bacterial (all bacterial species isolated from cerebrospinal fluid).
29. Mumps.
30. Nosocomial outbreaks in institutions.
31. Pertussis.
32. Plague.
33. Poliomyelitis.
34. Q fever.
35. Rabies.
36. Rocky Mountain spotted fever.
37. Rubella.
38. Salmonellosis.
39. Scabies outbreaks in institutions.
40. Shigellosis.
41. Streptococcus, group A invasive infection (streptococcus, group A isolated from blood, cerebral spinal fluid or other normal sterile site).
42. Streptococcus pneumoniae (drug-resistant streptococcus pneumoniae isolated from blood, cerebral spinal fluid or other normal sterile site which is resistant to at least one drug commonly used for treatment).
43. Syphilis.
44. Tetanus.
45. Toxic-shock syndrome.
46. Trichinosis.

47. Tuberculosis.
48. Tumors of the central nervous system.
49. Typhoid fever.
50. Unusual disease cluster or outbreak.