

**1999 SENATE JUDICIARY
SB 2189**

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2189

Senate Judiciary Committee

Conference Committee

Hearing Date January 19, 1999

| Tape Number | Side A | Side B | Meter # |
|---|--------|--------|------------|
| 1 | x | | 2778 - end |
| 2-10-99 2 | x | | 5570 - end |
| Committee Clerk Signature <i>Jackie Follman</i> | | | |

Minutes:

SB2189 relates to a speedy trial.

SENATOR STENEHJEM opened the hearing on SB2189 at 9:45 A.M.

All were present.

SENATOR COOK testified in support of SB2189. He introduced this bill to get the people who are selling drugs off the streets faster.

LADD ERICKSON, Assistant States Attorney, testified in support of SB2189. Testimony attached. The States Attorneys will support this with the amendment of 7 days after the arraignment instead of 2 days.

SENATOR STENEHJEM stated that the right to a speedy trial is in the Constitution. This is the right of the accused. Your bill states the state has a right to a speedy trial. The defendant should have the same right as the state does.

LADD ERICKSON stated that the defense has the right to a speedy trial.

SENATOR STENEHJEM stated not with the specific days.

LADD ERICKSON stated the first section gives both of them the right which is the Constitutional right.

SENATOR STENEHJEM stated this is vague.

LADD ERICKSON stated that the defense right to a speedy trial is covered by Rule 48(b) which is ambiguous. There is nothing in the Court Rules that affects speedy trial for the prosecution. There is in the Court Rules for the defense. There might be a separation of powers if we put something in for the defense. I don't have a problem with the concept.

SENATOR STENEHJEM stated that the Hanson case had to do with a bill that came in that required that the defendant asked the state for certain evidence under the Rules of Criminal Procedure. Then the defendant had to give to the state the information that the defendant had. The bill came to this committee on a do not pass recommendation, went up onto the floor where it was passed. The argument was that North Dakota Constitution says that the Judicial Branch of government has the power to adopt rules of procedure, and then the law went before the Supreme Court, but lost the case. The Supreme Court said we will adopt our rules on procedure, not the legislature.

SENATOR STENEHJEM asked if this election would be made by notice or motion.

LADD ERICKSON stated it should be by motion.

ANDREA MARTIN, North Dakota Council on Abused Women, testified in support of SB2189.

Testimony attached.

Page 3
Senate Judiciary Committee
Bill/Resolution Number SB2189
Hearing Date January 19, 1999

LONNIE OLSON, Ramsey County States Attorney, testified in support of SB2189 with the amendment changing the 2 day to 7 day.

SENATOR STENEHJEM CLOSED the hearing on SB2189.

February 10, 1999 Tape 2, Side A

Discussion.

SENATOR WATNE made a motion on Amendments, SENATOR TRAYNOR seconded.

Motion carried. 6 - 0 - 0

SENATOR WATNE made a motion for DO PASS AS AMENDED, SENATOR LYSON

seconded. Motion carried. 6 - 0 - 0

SENATOR BERCIER will carry the bill.

Date: 2-10-99
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB2189

Senate Judiciary Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Amendment

Motion Made By Watne Seconded By Traynor

| Senators | Yes | No | Senators | Yes | No |
|-------------------------|-----|----|----------|-----|----|
| Senator Wayne Stenhjem | X | | | | |
| Senator Darlene Watne | X | | | | |
| Senator Stanley Lyson | X | | | | |
| Senator John Traynor | X | | | | |
| Senator Dennis Bercier | X | | | | |
| Senator Carolynn Nelson | X | | | | |
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Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

REPORT OF STANDING COMMITTEE (410)
February 11, 1999 2:20 p.m.

Module No: SR-28-2616
Carrier: Bercier
Insert LC: 90187.0101 Title: .0200

REPORT OF STANDING COMMITTEE

SB 2189: Judiciary Committee (Sen. W. Stenehjem, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2189 was placed on the Sixth order on the calendar.

Page 1, line 10, replace "two" with "seven"

Renumber accordingly

1999 HOUSE JUDICIARY

SB 2189

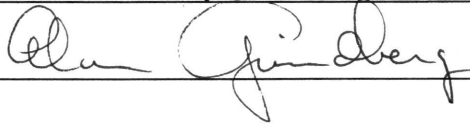
1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. : 2189

House Judiciary Committee

Conference Committee

Hearing Date : February 8, 1999

| Tape Number | Side A | Side B | Meter # |
|--|--------|--------|---------|
| 1 | | X | 28.3 |
| | | | |
| | | | |
| Committee Clerk Signature  | | | |

Minutes:

LADD ERICKSON (Asst. Morton Co. SA) Presented written testimony, a copy of which is attached.

COMMITTEE ACTION: March 15, 1999

REP. MARAGOS moved to amend the bill to extend the time to make the demand from 7 days to 14 days. Rep. Delmore seconded and the motion passed on a unanimous voice vote.

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

Rep. Maragos seconded and the motion passed on a roll call vote with 12 ayes, 1 nay and 2 absent. Rep. Maragos was assigned to carry the bill on the floor.

Date: 3.15.99
 Roll Call Vote #: 1

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

House JUDICIARY Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken 2189 accept the amendment

Motion Made By Maragos Seconded By Delmore

| 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 _____ No _____

Absent _____

Floor Assignment _____

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

Date: 3.15.99
 Roll Call Vote #: 2

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

House JUDICIARY Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken 2189 Do Pass as amended

Motion Made By Hawken Seconded By Maragos

| 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 1

Absent 2

Floor Assignment Maragos

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

REPORT OF STANDING COMMITTEE (410)
March 15, 1999 4:04 p.m.

Module No: HR-46-4832
Carrier: Maragos
Insert LC: 90187.0201 Title: .0300

REPORT OF STANDING COMMITTEE

SB 2189, as engrossed: Judiciary Committee (Rep. DeKrey, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 1 NAY, 2 ABSENT AND NOT VOTING). Engrossed SB 2189 was placed on the Sixth order on the calendar.

Page 1, line 10, replace "seven" with "fourteen"

Renumber accordingly

1999 SENATE JUDICIARY

SB 2189

CONFERENCE COMMITTEE

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2189

Senate Judiciary Committee

Conference Committee

Hearing Date March 26, 1999

| Tape Number | Side A | Side B | Meter # |
|---|--------|--------|----------|
| 1 | x | | 0 - 2000 |
| | | | |
| | | | |
| Committee Clerk Signature <i>Jackie Tollman</i> | | | |

Minutes:

SB2189 relates to a speedy trial.

SENATOR STENEHJEM opened the conference committee hearing.

Senator Stenehjem, Senator Traynor, Senator Nelson, Representative Klemin, Representative Gunter, and Representative Cleary were present.

SENATOR STENEHJEM asked the House to explain the purpose of their amendment.

REPRESENTATIVE KLEMIN stated the reason for their amendment was to give the prosecution more time to make that election. I don't think this is very balanced, it should be both the prosecution and the defendant to make that election.

SENATOR STENEHJEM stated that the problem I had with this bill is that not so much that the prosecution has to make this election, why shouldn't the defense have an equal right to make an election to demand a speedy trial.

Page 2

Senate Judiciary Committee

Bill/Resolution Number SB2189

Hearing Date March 26, 1999

REPRESENTATIVE KLEMIN stated that I would move to further amend with Jack

McDonald's amendments. Senator Nelson seconded. Discussion. Motion failed.

SENATOR NELSON made a motion that the Senate accede to the House amendments and further amend. Insert the prosecution or the defendant instead of prosecution. Representative Cleary seconded. Discussion. Motion carried.

REPRESENTATIVE KLEMIN made a motion to further amend. Representative Gunter seconded. Discussion. Strike arraignment and insert date the party elects this right. Motion carried.

(Bill Number) SB2189 (, as (re)engrossed):

Your Conference Committee Judiciary Committee
Motion on Amendment - Jack McDonald

For the Senate:

For the House:

Senator Stenehjem N
Senator Traumer N
Senator Nelson N

Representative Klemin Y
Representative Gunter Y
Representative Cleary N

[] recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)
723/724 725/726 S724/H726 S723/H725
the (Senate/House) amendments on (SJ/HJ) page(s) -

[] and place on the Seventh order.
727

[], adopt (further) amendments as follows, and place
on the Seventh order:

[] having been unable to agree, recommends that the committee be discharged
and a new committee be appointed. 690/515

((Re)Engrossed) was placed on the Seventh order of business on the
calendar.

DATE: / /

CARRIER: _____

LC NO. . of amendment

LC NO. . of engrossment

Emergency clause added or deleted _____

Statement of purpose of amendment _____

(1) LC (2) LC (3) DESK (4) COMM.

(Bill Number) SB2189 (, as (re)engrossed):

Your Conference Committee Judiciary - Motion on amendment.

For the Senate:

For the House:

Senator Pererjew Y
Senator Traipor Y
Senator Nelson Y

Representative Kemin Y
Representative Jutter Y
Representative Cleary Y

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)
723/724 725/726 S724/H726 S723/H725
the (Senate/House) amendments on (SJ/HJ) page(s) 167 - _____

and place _____ on the Seventh order.
727

, adopt (further) amendments as follows, and place
SB2189 on the Seventh order:

having been unable to agree, recommends that the committee be discharged
and a new committee be appointed. 690/515

((Re)Engrossed) _____ was placed on the Seventh order of business on the calendar.

=====
DATE: ____/____/____

CARRIER: _____

LC NO. _____ . _____ of amendment

LC NO. _____ . _____ of engrossment

Emergency clause added or deleted _____

Statement of purpose of amendment _____
=====

(1) LC (2) LC (3) DESK (4) COMM.

(Bill Number) SB2189 (, as (re)engrossed):

Your Conference Committee

For the Senate:

Senator Stenehjem 4
Senator Traynor 4
Senator Nelson 4

For the House:

Representative Fleming 4
Representative Hunter 4
Representative Cleary 4

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)
723/724 725/726 S724/H726 S723/H725

the (Senate/House) amendments on (SJ/HJ) page(s) 767 - _____

and place _____ on the Seventh order.
727

, adopt (further) amendments as follows, and place

SB2189 on the Seventh order:

having been unable to agree, recommends that the committee be discharged and a new committee be appointed. 690/515

((Re)Engrossed) _____ was placed on the Seventh order of business on the calendar.

=====
DATE: 3/26/99

CARRIER: Sen. W. Stenehjem

LC NO. _____ of amendment

LC NO. _____ of engrossment

Emergency clause added or deleted _____

Statement of purpose of amendment _____
=====

(1) LC (2) LC (3) DESK (4) COMM.

REPORT OF CONFERENCE COMMITTEE

SB 2189, as engrossed: Your conference committee (Sens. W. Stenehjem, Traynor, C. Nelson and Reps. Klemin, Gunter, Cleary) recommends that the **SENATE ACCEDE** to the House amendments on SJ page 767, adopt further amendments as follows, and place SB 2189 on the Seventh order:

That the Senate accede to the House amendments as printed on page 767 of the Senate Journal and page 844 of the House Journal and that Senate Bill No. 2189 further be amended as follows:

Page 1, line 7, remove "for the prosecution"

Page 1, line 10, replace "arraignment" with "date the party elects this right" and after "prosecution" insert "and the defendant"

Renumber accordingly

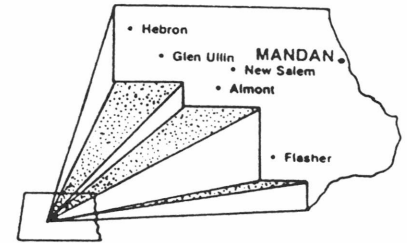
Engrossed SB 2189 was placed on the Seventh order of business on the calendar.

1999 TESTIMONY

SB 2189



MORTON COUNTY
STATE OF NORTH DAKOTA
OFFICE OF
STATE'S ATTORNEY



210 2ND AVE. N.W.

MANDAN, NORTH DAKOTA 58554

PHONE 667-3350

ALLEN KOPPY
State's Attorney

BRIAN D. GROSINGER
Assistant State's Attorney
LADD R. ERICKSON
Assistant State's Attorney

Testimony of Morton County Assistant State's Attorney Ladd R. Erickson in support of SB 2189

Mr. Chairman and members of the committee, I am Ladd R. Erickson and I work for the Morton County State's Attorney's Office. I am here in support of SB 2189, and would like to give this committee an explanation of why I believe the criminal justice system would be more effective if this bill became law.

Our court system is divided into districts which encompass multiple counties. Some judicial districts may not be effected by this bill because they have small case-loads, and different trial scheduling procedures. Other districts have a large case-load, and trials are not held until many months past the time a person is charged with an offense. There are two categories of serious crimes that excessive delay in trial harm individuals or society.

First, felony sex crimes. These are crimes such as rape and child molestation, wherein the victim can be traumatized by the crime that was committed upon them and then have to wait an extended time-period before the perpetrator is brought to justice. This can have a tremendous emotional impact on the victim. This bill would allow the prosecution to demand a speedy trial at or within two days of the arraignment, which is generally held approximately one month after a person is charged, and accelerate the scheduling of trial. This will help the victim get the

whole episode behind them and get on with their lives. This bill leaves the demand for a speedy trial discretionary with the prosecutor. Therefore, if the prosecutor has a complex case requiring extensive lab analysis of evidence that can not be completed within ninety days of the arraignment the prosecutor does not have to file the demand. In addition, both the defense and prosecution have the ability to get a continuance of the trial if the judge assigned to the case finds there is a good cause for granting the request.

Second, felony drug crimes. As many members of the committee are no doubt aware, North Dakota and other mid-western states have witnessed a dramatic increase in drug offenses in recent years. By all accounts, this increase is the result of the influx of methamphetamine into the mid-west from the southern states and Mexico. Methamphetamine is a very potent and addictive drug which is doing tremendous societal harm, and law enforcement officials from across the State are dedicating more and more resources in dealing with the methamphetamine problem. Mental health commitments for methamphetamine addicts and investigations into property and violent crimes relating to the underlying methamphetamine problem are continuing to burden law enforcement and the court system.

This bill will not solve the methamphetamine problem facing North Dakota. However, this bill will positively impact the effectiveness of enforcement measures being taken to address the problem.

A drug dealer is in a business that receives illegal product wholesale from a larger supplier. The dealer then distributes drugs to customers in smaller amounts which the dealer will add his profit to. For example, a local dealer will order one ounce of methamphetamine from his supplier at the cost of two thousand dollars (\$2000.00). The dealer will then break the ounce into twenty-eight (28) one gram packages for street level sale. The dealer will then sell

each gram to a drug user for one hundred dollars (\$100.00) (Estimating the current market price in the Bismarck/Mandan area) Once the dealer has sold all twenty-eight grams, he realizes a profit of eight hundred dollars (\$800.00) on his investment. As opposed to a legitimate business which absorbs operating costs that reduces the profit margin, a drug dealer passes all of his or her costs onto society. Costs such as publicly-funded treatment of drug addicts, and the cost to society in increased property and crimes of violence as drug addicts commit thefts, forgeries, robberies, and other offenses in efforts to get money to feed their drug addiction.

One of the typical methods law enforcement utilizes in investigating and prosecuting drug dealers is through the use of informants. People that work as informants are people that have bought drugs from a drug dealer in the past and have gained the trust of the drug dealer. The informant will make “controlled” drug purchases from a drug dealer while wearing a body transmitter permitting law enforcement to record the drug deal or will introduce an undercover law enforcement officer to the drug dealer with the purpose of the undercover officer making the purchase.

Once the purchase is made the drug dealer is typically not arrested immediately for delivering drugs because that would burn the cover of the informant. While the informant is working on purchasing drugs from other drug dealers, the drug dealer who originally sold drugs to the informant continues to operate his business. Law enforcement and state’s attorney’s are continuing to make efforts to stream-line investigations and cut down the length of time it takes to charge a drug dealer because that dealer is continuing to adversely impact society by operating his or her business.

When an informant’s work is complete, the drug dealer is arrested, and will typically be bonded out of jail within a few days. The only reason a judge can set a high bond is if the judge

finds a person is a flight risk or a danger to the community. Generally those facts are not present when a local drug dealer is arrested. Therefore, the drug dealer gets out of jail on bond and goes right back in business. The adverse societal costs of that drug dealers business does not stop until that dealer is sentenced and incarcerated. If the trial of the drug dealer is not scheduled for many months after the arraignment, that dealer has every economic incentive to delay the trial as long as possible. It is not an uncommon case when law enforcement has to keep re-arresting the same drug dealer over and over while the dealer is awaiting trial on the first charge. Therefore, law enforcement and court resources are repeatedly burdened by having to deal with the same drug dealer over and over waiting for trial. In addition, the prosecution's case will usually weaken with time. It is difficult to track informants for long periods of time to ensure they are still viable witnesses.

What this bill will do is to strengthen the governments ability to deal with the influx of methamphetamine. First, it will get drug dealers off the street much sooner which will positively impact society. Second, it will free-up existing law enforcement resources that are burdened by have to continually re-investigate the same people while they are awaiting trial. Third, in some cases, it will create more guilty pleas early in the case because this bill will reduce the incentive to delay changing the plea to guilty in hopes the prosecutions case falls apart in the lengthy time it takes to get to trial.

This bill enhances the effectiveness of the criminal justice system by addressing and prioritizing two important types of cases where the delay in holding a trial adversely impacts victims, society, law enforcement, and the courts. I ask that you support the bill. Thank you.

Abused Adult Resource Center
222-8370
BOTTINEAU
Family Crisis Center
228-2028
DEVILS LAKE
Alternatives for
Families
1-800-2-7378
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
7-
J
S. 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
WAHPETON
Therapists Crisis Center
6-
W
Family Crisis Shelter
572-0757

Testimony on SB2189
Judiciary Committee
January 19, 1999

Chair Stenehjelm and Committee Members,

My name is Andrea Martin, and I am speaking on behalf of the ND Council on Abused Women's Services/Coalition Against Sexual Assault. I am also a Licensed Professional Clinical Counselor in ND currently working solely with victims of sexual assault. I am here today to speak about Senate Bill 2189 regarding the right to a speedy trial involving drug-related offenses and sex offenses.

The Coalition I represent is a nonprofit network of 20 community-based agencies providing direct services to victims of domestic violence and sexual assault. Our network of agencies serves approximately 800-900 sexual assault victims each year in North Dakota.

A few years ago, the Otto Bremer Foundation funded a three-year criminal justice monitoring project. Our domestic and sexual assault service providers from around the state tracked personal injury cases through the justice system. They followed cases from a victim's first report to law enforcement to sentencing of the offender. What we learned from this study was that from 1995-1997 there were 71 sex offense cases charged with the majority of victims ranging in age from late teens to mid thirties. Of those 71 cases charged, four were dismissed, three were jury trials, and the rest were bench trials. Unfortunately our project did not track the length of time in the system. I am not aware of the existence of statewide statistics regarding the average length of time from charge to adjudication of sex offenses.

In my experience as an advocate working directly with victims, I estimate that most cases range between 9-18 months. I would think that the length of time in the system varies from county to county in North Dakota.

Clearly the Coalition Against Sexual Assault in North Dakota would support efforts to speed up the criminal justice process for victims. As you can imagine, trying to move forward after a traumatic experience is very difficult if that experience is part of daily living over the course of several months. Jury trials are particularly painful due to the public exposure of open courtrooms while personal details are revealed oftentimes without regard to the victim's privacy or emotional well-being.

On the other hand, SB2189 poses potential concerns regarding defendants' rights if a trial goes forward and the defense is unprepared. The Coalition



Against Sexual Assault is cautious about legislation that may increase the rate of appeals, because then victims will certainly be engaged in the justice process for up to several years in some cases.

In today's testimony I have been speaking about adult victims of sexual assault and have not addressed the issue of child sexual abuse victims. Our network works primarily with adult victims and so I do not have criminal justice data regarding child sexual abuse cases. It is my understanding that for children who are sexually abused, there is already a provision under Chapter 12.1-35-05 that allows for a prompt disposition in child cases to protect the child from protracted proceedings.

Finally, the Council on Abused Women's Services/Coalition Against Sexual Assault supports all efforts toward reducing emotional hardship for victims. When attempting to create a friendlier system it is equally important that the rights of all parties involved are protected.

Thank you.

A handwritten signature in cursive script that reads "Andrea J. Martin". The signature is fluid and connected, with a large initial "A" and "M".

Andrea J. Martin, L.P.C.C.
Assistant Director
NDCAWS/CASAND

BISMARCK
Abused Adult Resource Center
222-8370
BOTTINEAU
Family Crisis Center
228-2028
DE SMOKE
Safe Alternatives for
Abused 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
746-5555
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
623-3233
VALLEY CITY
Abused Parsons Outreach
Center
345-2078
TINNIPES
Tinnipes Crisis Center
642-2115
WILLISTON
Family Crisis Shelter
572-0757

Testimony SB2189
House Judiciary Committee
March 8, 1999

Chair DeKrey and Members of the Committee:

The ND Council on Abused Women's Services/Coalition Against Sexual Assault wishes to provide testimony relating to SB2189, regarding the right to a speedy trial involving drug-related offenses and sex offenses.

NDCAWS/CASAND is a nonprofit network of 20 community-based agencies providing direct services to victims of domestic violence and sexual assault. Our network of agencies serves approximately 800-900 sexual assault victims each year in North Dakota.

A few years ago, the Otto Bremer Foundation funded a three-year criminal justice monitoring project. Our domestic and sexual assault service providers from around the state tracked personal injury cases through the justice system. They followed cases from a victim's first report to law enforcement to sentencing of the offender. What we learned from this study was that from 1995-1997 there were 71 sex offense cases charged, with the majority of victims ranging in age from late teens to mid thirties. Of those 71 cases charged, four were dismissed, three were jury trials, and the rest were bench trials. Unfortunately our project did not track the length of time in the system. I am not aware of the existence of statewide statistics regarding the average length of time from charge to adjudication of sex offenses.

We would estimate that most sexual assault cases range between 9-18 months in the criminal justice system. I would think that the length of time in the system varies from county to county in North Dakota, however.

Clearly the Coalition Against Sexual Assault in North Dakota would support efforts to speed up the criminal justice process for victims. As you can imagine, trying to move forward after a traumatic experience is very difficult if that experience is part of daily living over the course of several months. Jury trials are particularly painful due to the public exposure of open courtrooms while personal details are revealed, oftentimes without regard to the victim's privacy or emotional well being.

On the other hand, SB2189 poses potential concerns regarding defendants' rights if a trial goes forward and the defense is unprepared. The Coalition Against Sexual Assault is cautious about legislation that may increase the rate of appeals, because then victims will certainly be engaged in the justice process for up to several years in some cases.

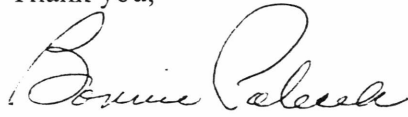
Our network works primarily with adult victims and we do not have criminal justice data regarding child sexual abuse cases. It is my



understanding that for children who are sexually abused, there is already a provision under Chapter 12.1-35-05 that allows for a prompt disposition in child cases to protect the child from protracted proceedings.

Finally, the Council on Abused Women's Services/Coalition Against Sexual Assault supports all efforts toward reducing emotional hardship for victims. When attempting to create a friendlier system, however, it is equally important that the rights of all parties involved are protected.

Thank you,

A handwritten signature in cursive script, appearing to read "Bonnie Palecek".

Bonnie Palecek
Executive Director
NDCAWS/CASAND