

1999 SENATE TRANSPORTATION

SB 2212

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2212

Senate Transportation Committee

Conference Committee

Hearing Date January 22, 1999

Tape Number	Side A	Side B	Meter #
1	x		1-1116
2-January 28, 1999		x	1-1251
Committee Clerk Signature <i>Ann A. Schaeffer</i>			

Minutes:

SENATOR B. STENEHJEM opened the hearing on SB 2212. Committee members present were: Sens. Bob Stenehjem, R. Schobinger, D. Mutch, D. Cook, D. O'Connell, V. Thompson, and D. Bercier.

SENATOR WATNE testified in support of SB 2212 (see testimony).

SENATOR SCHOBINGER testified in support of SB 2212. I think there is no weapon in society more dangerous than the automobile. There is no reason to flee from a police officer with the rights citizens have today.

MIKE MARCHUS, MINOT POLICE DEPARTMENT testified in support of SB 2212 (see testimony).

SENATOR COOK Is the individual in your testimony still not in court? Any idea when he will be going to court?

MIKE MARCHUS As far as I know, he has not been to court yet and I don't know when he will be in court.

SENATOR THOMPSON So this individual isn't in jail and can do this again.

MIKE MARCHUS Yes, he could and still not be charged with felony under the Class A misdemeanor.

The difference among felonies and misdemeanors was explained.

SENATOR COOK He's got four convictions. He'll plea bargain and plead guilty for one and the other three charges will be dismissed.

MIKE MARCHUS It's a possibility. I don't know what the courts will decide.

SENATOR B. STENEHJEM How will this solve the problem?

MIKE MARCHUS The judge can hold the accused up until court time or he can impose of higher bond with a Class C felony.

SENATOR B. STENEHJEM Is there any more testimony? We will close the hearing on SB 2212.

January 28, 1999-Tape #2-Committee Discussion

SENATOR SCHOBINGER I wouldn't be opposed to putting serious bodily harm to a Class B but I do want keep the cause of death at a Class A felony.

SENATOR B. STENEHJEM I wouldn't have a problem changing both to Class B felony.

SENATOR SCHOBINGER When someone dies or is injured, it's not just one person but a family that suffers. When we gave people the right to remain silent or have an attorney, we gave them no reason to flee from the police.

SENATOR COOK I move we change Class A to Class B on page 1, line 8.

SENATOR O'CONNELL I second the amendment.

SENATOR BERCIER I'm inclined to have it remain a Class A felony (gave an example).

SENATOR B. STENEHJEM Here is where I have a problem leaving it at a Class A. We're comparing that to someone who just shoots a guy in the head dead. Now they are Class C felonies and you want to move them up two steps to Class A.

SENATOR SCHOBINGER It is equal to shooting someone. If I'm driving through town while fleeing a police officer, I'm out there with the intent to get away no matter what. If you kill someone while fleeing, that is like shooting someone. I will vote against the amendment, but would not oppose changing it to Class B for bodily harm.

A roll call vote was taken on amendment (3 Yeas, 4 Nays, and 0 Absent and Not Voting).

Amendment fails.

SENATOR THOMPSON I'll move for an amendment. If the person negligently causes a death of another, it is a Class A felony. Make it a Class B felony if the person causes injury.

SENATOR BERCIER I'll second the motion.

Roll call vote was taken (5 Yeas, 2 Nays, and 0 Absent and Not Voting). Amendment is adopted.

SENATOR SCHOBINGER I move for an amendment on line 16 to change it to a Class C felony if one flees an officer.

SENATOR BERCIER I second it.

SENATOR THOMPSON The first time moves it from misdemeanor to felony.

Roll call was taken (5 Yeas, 2 Nays, and 0 Absent and Not Voting). Amendment is adopted.

SENATOR SCHOBINGER I move for a Do Pass as Amended on SB 2212.

Page 4

Senate Transportation Committee

Bill/Resolution Number Sb 2212

Hearing Date January 22, 1999

SENATOR THOMPSON I second the motion.

Roll call was taken for a Do Pass as Amended on SB 2212 (4 Yeas, 3 Nays, and 0 Absent and Not Voting).

Senator Thompson will carry SB 2212.

Date: Jan. 28, 1999
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2212

Senate Transportation Committee

Subcommittee on _____
or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Amendment Fails

Motion Made By Sen. Cook Seconded By Sen. O'Connell

Senators	Yes	No	Senators	Yes	No
Sen. B. Stenehjem-Chairman	X				
Sen. R. Schobinger-V. Chair		X			
Sen. Duane Mutch	X				
Sen. Dwight Cook	X				
Sen. David O'Connell		X			
Sen. Vern Thompson		X			
Sen. Dennis Bercier		X			

Total (Yes) 3 No 4

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent: line 8, page 1. change class A to class B

Date: Jan. 28, 1999
Roll Call Vote #: 2

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2212

Senate Transportation Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Amendment Adopted

Motion Made By Sen. Thompson Seconded By Sen. Bercier

Senators	Yes	No	Senators	Yes	No
Sen. B. Stenehjem-Chairman		X			
Sen. R. Schobinger-V. Chair	X				
Sen. Duane Mutch		X			
Sen. Dwight Cook	X				
Sen. David O'Connell	X				
Sen. Vern Thompson	X				
Sen. Dennis Bercier	X				

Total (Yes) 5 No 2

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent: change bodily harm to a Class B felony.

3
1/21/99

PROPOSED AMENDMENTS TO SENATE BILL NO. 2212

Page 1, line 9, after "or" insert "a class B felony if that person negligently"

Page 1, line 16, overstrike "class" and remove "C"

Page 1, line 17, remove "felony", overstrike "for a first or second offense and a", remove the overstrike over "G", remove "A", and overstrike "for a subsequent offense"

Renumber accordingly

Date: Jan. 28, 1999

Roll Call Vote #: 3

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2212

Senate Transportation Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Amendment adopted

Motion Made By Sen. Schobinger Seconded By Sen. Bercier

Senators	Yes	No	Senators	Yes	No
Sen. B. Stenehjem-Chairman		X			
Sen. R. Schobinger-V. Chair	X				
Sen. Duane Mutch	X				
Sen. Dwight Cook		X			
Sen. David O'Connell	X				
Sen. Vern Thompson	X				
Sen. Dennis Bercier	X				

Total (Yes) 5 No 2

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent: Line 17, page 1, fleeing from an officer is guilty of a class C felony no matter what offense.

Date: Jan. 28, 1998
Roll Call Vote #: 4

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2212

Senate Transportation Committee

Subcommittee on _____
or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended

Motion Made By Sen. Schobinger Seconded By Sen. Thompson

Senators	Yes	No	Senators	Yes	No
Sen. B. Stenehjem-Chairman		X			
Sen. R. Schobinger-V. Chair	X				
Sen. Duane Mutch		X			
Sen. Dwight Cook		X			
Sen. David O'Connell	X				
Sen. Vern Thompson	X				
Sen. Dennis Bercier	X				

Total (Yes) 4 No 3

Absent 0

Floor Assignment Senator Thompson

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

REPORT OF STANDING COMMITTEE

SB 2212: Transportation Committee (Sen. B. Stenehjem, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2212 was placed on the Sixth order on the calendar.

Page 1, line 9, after "or" insert "a class B felony if that person negligently"

Page 1, line 16, overstrike "class" and remove "C"

Page 1, line 17, remove "felony", overstrike "for a first or second offense and a", remove the overstrike over "G", remove "A", and overstrike "for a subsequent offense"

Renumber accordingly

1999 HOUSE JUDICIARY

SB 2212


1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. : 2212

House Judiciary Committee

Conference Committee

Hearing Date : March 9, 1999

Tape Number	Side A	Side B	Meter #
1	X		10.3
Committee Clerk Signature 			

Minutes:

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

SEN. LYSON As a former police officer I have seen these situations many times. These people have a two to three thousand pound weapon. If a person is old enough to drive, they are old enough to take the responsibility for their actions.

MIKE MARCHUS (Minot PD) Presented written testimony, a copy of which is attached.

DICK PECK (NDPOA) We are for this bill. High speed chases are about the worst situation that an officer can face. I have had my share and I found them terrible. I would rather go into a building after a burglar than have a high speed chase. If the defendant is young and just foolish, the court may impose a reduced sentence or defer all of the penalty. The felony may, and generally will, be deferred through plea bargaining.

COMMITTEE ACTION March 9, 1999

Page 2

House Judiciary Committee

Bill/Resolution Number : 2212

Hearing Date : March 9, 1999

REP. MAHONEY moved that the bill be amended so that the first offense is a class A misdemeanor and any subsequent offense is a class C felony. Rep. Meyer seconded and the motion passed on a unanimous voice vote.

REP. MAHONEY moved that the committee recommend that the bill DO PASS AS AMENDED. Rep. Hawkins seconded and the motion was passed on a roll call vote with 11 ayes, 2 nays and 2 absent. Rep. Mahoney was assigned to carry the bill on the floor.

VK
3/9/99

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2212 **3/10/99 JUD.**

Page 1, line 16, remove the overstrike over "~~class A misdemeanor for a~~"

Page 1, line 17, remove the overstrike over "~~first~~", remove the overstrike over "~~offense and a~~",
and remove the overstrike over "~~for a subsequent offense~~"

Renumber accordingly

Date: 9/2/92
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2212

House JUDICIARY Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Am

Motion Made By Mah Seconded By Haw

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 14 No 2

Absent 2

Floor Assignment Mahoney

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

REPORT OF STANDING COMMITTEE

SB 2212, as engrossed: Judiciary Committee (Rep. DeKrey, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 2 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2212 was placed on the Sixth order on the calendar.

Page 1, line 16, remove the overstrike over "~~class A misdemeanor for a~~"

Page 1, line 17, remove the overstrike over "~~first~~", remove the overstrike over "~~offense and a~~", and remove the overstrike over "~~for a subsequent offense~~"

Renumber accordingly

1999 SENATE TRANSPORTATION

SB 2212

CONFERENCE COMMITTEE

1999 SENATE CONFERENCE COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2212

Senate Transportation Committee

Conference Committee

Hearing Date 3/25/99

Tape Number	Side A	Side B	Meter #
VOID			1
Committee Clerk Signature <i>Don A. Schaeffer</i>			

Minutes:

Senator Stenhjem opened the conference committee on SB 2212. Present were Senator Stenhjem, Senator Cook, Senator O'Connell, Representative Dekrey, Representative Disrud, and Representative Scot Kelsh.

Senator Stenhjem: There is no problem with the House amendments except the open time.

Representative Dekrey: I move to further amend. The House will accede from the House amendments to further amend with a 3 year cap.

Representative Scot Kelsh seconded.

Discussion was held.

Representative Disrud: The police officers in Fargo are thrilled for us to be dealing with this issue.

Page 2

Senate Transportation Committee

Bill/Resolution Number trans. SB 2212

Hearing Date 3/25/99

ROLL CALL:

Senator Stenehjem- Yes

Senator Cook- Yes

Senator O'Connell- Yes

Representative Dekrey- Yes

Representative Disrud- Yes

Representative Scot Kelsh- Yes

March 24, 1999

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2212

That the House recede from its amendments as printed on page 69 of the (S) and page 786 of the (H) and that Engrossed (S) No. 2212 be amended as follows: L 697

Page 1, line 16, remove the overstrike over "class A misdemeanor for a"

Page 1, line 17, remove the overstrike over "first", remove the overstrike over "offense and a", and remove the overstrike over "for a subsequent offense" and after "offense" insert *immediately* *thereafter* set "within three years"

Renumber accordingly

(Bill Number) SB 2212 (, as (re)engrossed):

Your Conference Committee

For the Senate:

Senator Bob Stenehjem
Senator Cook
Senator O'Connell

For the House:

Representative Alekrey
Representative Alisrud
Representative S. Kelsch

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) 697 - _____

and place _____ on the Seventh order.
727

, adopt (further) amendments as follows, and place
SB 2212 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: 03/25/99

CARRIER: Senator Thompson

LC NO. 90451 . 0402 of amendment

LC NO. 90451 . 0400 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 2212, as engrossed: Your conference committee (Sens. B. Stenehjem, Cook, O'Connell and Reps. DeKrey, Disrud, S. Kelsh) recommends that the **HOUSE RECEDE** from the House amendments on SJ page 697, adopt amendments as follows, and place SB 2212 on the Seventh order:

That the House recede from its amendments as printed on page 697 of the Senate Journal and page 786 of the House Journal and that Engrossed Senate Bill No. 2212 be amended as follows:

Page 1, line 16, remove the overstrike over "~~class A misdemeanor for a~~"

Page 1, line 17, remove the overstrike over "~~first~~", remove the overstrike over "~~offense and a~~", and remove the overstrike over "~~for a subsequent offense~~" and insert immediately thereafter "within three years"

Renumber accordingly

Engrossed SB 2212 was placed on the Seventh order of business on the calendar.

1999 TESTIMONY

SB 2212

NORTH DAKOTA SENATE

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



COMMITTEES:
Judiciary,
Vice Chairman
Political Subdivisions

Senator Darlene Watne
District 5
10th Avenue SW
Bismarck, ND 58701-7065

January 15, 1999

Chairman Stenehjem and Members of the Transportation Committee:

Senate Bill 2212 relates to penalties for fleeing a police officer in high speed chases. It raises the charges from a Class A misdemeanor to a Class C felony for the first offense and from a Class C to a Class A felony for subsequent offenses. If a death is caused as a result of that chase, it is a Class A felony under this bill.

Attached is a letter I received from a Minot police officer that outlines the problem quite clearly. Let me share that with you.

It seems there is a need for this law and I hope you will all agree with me and vote a do pass recommendation. Thank you.

Respectfully,

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

Darlene Watne
Senator Fifth District



POLICE DEPARTMENT

Date: 12-13-98

To: The Honorable Darlene Watne, State Representative

From: Officer Mike Marchus, Minot Police Department

Re: Possibly Amending North Dakota Century Code subsection 39-10-71 to make fleeing a police officer in a motor vehicle a Class C Felony for the first and second offence and a Class A Felony for any following offences. (add) An operator who violates this subsection, and while so doing, causes death or serious bodily injury to another person is guilty of a Class A Felony.

Because of the litigious society we live in today, many law enforcement agencies are putting restriction on their pursuit of fleeing vehicles. Numerous law enforcement agencies have been successfully sued for injuries to innocent third parties in such pursuits. Because of these law suits, many law enforcement agencies have written and implemented detailed pursuit policies spelling out when officers can pursue and when they will terminate the pursuit.

As a police officer for the City of Minot, I can recall two recent pursuits where I have been the primary pursuing officer. In both of these cases, the pursuit was terminated because of the suspect's total disregard for human life. In both of these cases, the reason I was trying to stop the suspects was for a minor traffic violation. In the first case, the suspect was traveling at speeds that I can only estimate in excess of 80 miles per hour in a residential area right at school closing time. In the second incident, the individual ran a red light. Again at speeds that I can only estimate, in excess of 65 miles per hour. In both of these incidents, the suspects continued driving recklessly even after I quit pursuing them. Luckily in both cases no one was hurt and I was able to identify and charge both drivers after an investigation.

In another recent incident in Minot, a single individual led the Minot Police Department and the Ward County Sheriff's Officers on four different pursuits within a month and one half time period. This individual was picked up on warrants after the first three times and spent a short time in the State Hospital in Jamestown. After getting out of the State Hospital, we got into one more pursuit with the same individual. All four pursuits were terminated because of the suspect's disregard for human life. In this case, the suspect can only be charged with a Class A Misdemeanor because he has to have two prior convictions for Fleeing before he can be charged with the Class C Felony under the current Fleeing Law. Because all four incidents are tied up in the court process, he still does not have a conviction for fleeing.

BYRON L. DORGAN
NORTH DAKOTA
713 HART BUILDING
WASHINGTON, DC 20510-3405
202-224-2551
202-224-9378 TDD

COMMITTEES:
APPROPRIATIONS
ENERGY, SCIENCE & TRANSPORTATION
INDIAN AFFAIRS

ASSISTANT DEMOCRATIC FLOOR LEADER

United States Senate

WASHINGTON, DC 20510-3405

January 21, 1999

STATE OFFICES:

312 FEDERAL BUILDING
THIRD AND ROSSER AVENUE
P.O. BOX 2579
BISMARCK, ND 58502
701-250-4618
1-800-666-4482 TOLL-FREE

112 ROBERTS STREET, ROOM 110
P.O. BOX 2250
FARGO, ND 58107
701-239-5389

102 NORTH 4TH STREET, ROOM 108
GRAND FORKS, ND 58201
701-746-8972

100 1ST STREET, S.W., ROOM 105
MINOT, ND 58701
701-852-0703

Senator Darlene Watne
Senator Randy Schobinger
Representative Matthew Klein
Representative Kim Koppelman
State Capitol Building
Bismarck, North Dakota 50505

Dear Legislators:

I want to commend you for the legislation you have introduced in the 56th Legislative Assembly of North Dakota that would make it a class A felony for an individual to flee police officers, thereby initiating a potentially deadly high speed pursuit. Your legislation addresses a very serious public safety issue and I firmly hope that your bill will be passed and signed into law.

Some years ago, my mother was killed by a drunk driver who was fleeing from the police. There are estimates that up to 1,000 persons a year, many of them innocent bystanders, lose their lives as a result of high speed police pursuits. The state Legislature can send a message to all drivers that if you flee from the police, you will pay a heavy price. I believe the penalties should include forfeiture of the vehicle and mandatory jail time, and I hope you will consider strengthening your bill.

I urge all Senators and Representatives to support this legislation and help put an end to the needless deaths and injuries caused by high speed police chases.

Thank you for your work in this area. Please call upon me at any time if I can be of any assistance to your efforts.

Sincerely,


Byron L. Dorgan
U.S. Senator

BLD:njk

TESTIMONY FOR SENATE TRANSPORTATION COMMITTEE

ON SB 2212

BY MIKE MARCHUS, POLICE OFFICER

CITY OF MINOT POLICE DEPARTMENT

January 22, 1999

Mr. chairman, members of the committee, my name is Mike Marchus. I am an officer with the Minot Police Department.

I am speaking on behalf of the Minot Police Department in support of SB 2212 which calls for an upgrade to the penalty of North Dakota Century Code Section 39-10-71, Fleeing or attempting to elude a peace officer. This proposed change would upgrade a violation of this section to a class C felony for the first and second offense and a class A felony for any subsequent offenses. The Minot Police Department is also in favor of the addition of a new section to chapter 12.1-17 of the North Dakota Century Code. This new section would allow for charging a person who negligently causes the death of another or causes serious bodily injury to another while in violation of North Dakota Century Code 39-10-71 with a class A felony.

As a Police Officer for the City of Minot, I can recall two recent pursuits where I have been the primary pursuing officer. In both of these cases, the pursuit was terminated because of the suspect's total disregard for human life. In both of these cases, the reason I was trying to stop the suspects was for a minor traffic violation. In the first case, the suspect was traveling at speeds

that I can only estimate in excess of 80 miles per hour in a residential area right at school closing time. In the second incident, the individual ran a red light, again at speeds that I can only estimate in excess of 65 miles per hour. In both of these incidents, the suspects continued driving recklessly even after I quit pursuing them. Luckily in both cases no one was hurt and I was able to identify and charge both drivers after an investigation.

In another recent incident in Minot, a single individual led the Minot Police Department and the Ward County Sheriff's Officers on four different pursuits within a month and one half time period. The first pursuit with this individual started when the suspect drove into the police department parking lot and waited for an officer to come outside. When the officer came outside the suspect threw a beer can at him and took off at a high rate of speed. This individual was picked up on warrants after the first three times and spent a short time in the State Hospital in Jamestown. After getting out of the State Hospital, we got into one more pursuit with the same individual. All four pursuits were terminated because of the suspect's total disregard for human life.

These incidences I just spoke about are perfect examples of why we need more stringent penalties for fleeing or attempting to elude a peace officer. The suspect's choice of refusing to stop while driving their 2000 pound weapon recklessly, and in total disregard of any traffic laws, shows their disregard for their own life, my life, and the life of any innocent person who happened to be in the path of the fleeing suspect. Because of the potential harm shown by the suspect's intentional and chosen act of fleeing I feel an upgrade in the penalty from a class A misdemeanor to a class C felony is appropriate. If the actions of the suspect who chose to flee

causes death or serious bodily injury of another, they should be held to even a higher standard of accountability for their crime.

Because of the restrictions and the accountability of the pursuing officers and their agencies, I would hope that these changes to the North Dakota Century Code will hold the suspect to a higher degree of accountability for their actions. By enacting these changes to the North Dakota Century Code I believe this will act as a deterrent in eliminating some future pursuits. Fleeing is such a senseless and potentially harmful crime that can be avoided if the suspect would just stop their vehicle when signaled to do so. Punishing the suspects for his actions also reinforces the perception that they initiated the pursuit, not the police.

Because of the increased numbers in the individuals who are attempting to flee or elude a peace officer it is the opinion of the Minot Police Department that there is a real need to stiffen the penalty. If the suspect chooses to violate this law and cause death or serious bodily injury they should be held to an even higher degree of accountability for their choice. I would ask that you seriously consider a "Do Pass" on Senate Bill 2212 to increase these penalties.

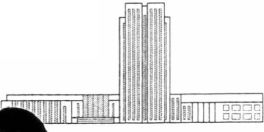
Mr. Chairman, members of the committee, thank you for allowing me this time before you. If you have any questions I would be happy to answer them.

NORTH DAKOTA SENATE

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



COMMITTEES:
Judiciary,
Vice Chairman
Political Subdivisions



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

Chairman Keiser and Members of the House Transportation Committee:

Senate Bill 2212 relates to penalties for fleeing a police officer in high speed chases. It raises the charges on first and subsequent offenses, and when a death results from such chase.

Attached is a letter I received from a Minot police officer, Mike Marchus, whose contact initiated this legislation. Mike will also testify here today. His letter outlines the problem quite clearly.

Also attached is a copy of a letter received from Senator Byron Dorgan, whose mother was killed by a driver involved in a chase with the police while he was fleeing the officers.

It seems there is a need for this law and I hope you will all agree with me and vote a Do Pass recommendation. Thank you.

Respectfully,

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

Darlene Watne
Senator Fifth District

TESTIMONY FOR HOUSE JUDICIARY COMMITTEE

ON SENATE BILL 2212

BY MIKE MARCHUS, POLICE OFFICER

CITY OF MINOT POLICE DEPARTMENT

March 9, 1999

Mr. chairman, members of the committee, my name is Mike Marchus. I am an officer with the Minot Police Department.

I am speaking on behalf of the Minot Police Department in support of Senate Bill 2212 which calls for an upgrade to the penalty of North Dakota Century Code Section 39-10-71, fleeing or attempting to elude a peace officer. This proposed change would upgrade a violation of this section to a class C felony. The Minot Police Department is also in favor of the addition of a new section to chapter 12.1-17 of the North Dakota Century Code. This new section would allow for charging a person who negligently causes the serious bodily injury of another while in violation of North Dakota Century Code 39-10-71 with a Class B felony. This new section would also allow for charging a person who causes death of another while in violation of North Dakota Century Code 39-10-71 with a class A felony.

As a police officer for the City of Minot, I can recall two recent pursuits where I have been the primary pursuing officer. In both of these cases, the reason I was trying to stop the

suspect was for a minor traffic violation. In the first case, the suspect was traveling at speeds that I can only estimate in excess of 80 miles per hour in a residential area right at school closing time. In the second incident, the individual ran a red light, again at speeds that I can only estimate in excess of 65 miles per hour. In both of these incidents, the suspects continued driving recklessly even after I quit pursuing them. Luckily in both cases no one was hurt and I was able to identify and charge both drivers after an investigation.

In another recent incident in Minot, a single individual led the Minot Police Department and the Ward County Sheriff's Officers on four different pursuits within a month and one half time period. The first pursuit with this individual started when the suspect drove into the police department parking lot and waited for an officer to come outside. When the officer came outside the suspect threw a beer can at him and took off at a high rate of speed. This individual was picked up on warrants after the first three times and spent a short time in the State Hospital in Jamestown. After getting out of the State Hospital, we got into one more pursuit with the same individual. All four pursuits were terminated because of the suspect's total disregard for human life.

These incidences I just spoke about are perfect examples of why we need more stringent penalties for fleeing or attempting to elude a peace officer. The suspects choice of refusing to stop, while driving their 2000 pound weapon recklessly, and in total disregard of any traffic laws, shows their disregard for their own life, my life, and the life of any innocent person who happened to be in the path of the fleeing suspect. Because of the potential harm shown by the suspects intentional and chosen act of fleeing I feel an upgrade in the penalty from a class A misdemeanor

to a class C felony is appropriate. If the actions of the suspect who chose to flee causes death or serious bodily injury of another, they should be held to even a higher standard of accountability for their crime.

Because of the restrictions and the accountability of the pursuing officers and their agencies, I would hope that these changes to the North Dakota Century Code will hold the suspect to a higher degree of accountability for their actions. By enacting these changes to the North Dakota Century Code I believe this will act as a deterrent in eliminating some future pursuits. Fleeing is such a senseless and potentially harmful crime that can be avoided if the suspect would just stop their vehicle when signaled to do so. Punishing the suspects for their actions also reinforces the perception that they initiated the pursuit, not the police.

Because of the increased numbers in the individuals who are attempting to flee or elude a peace officer it is the opinion of the Minot Police Department that there is a real need to stiffen the penalty. If the suspect chooses to violate this law and cause death or serious bodily injury they should be held to an even higher degree of accountability for their choice. I would ask that you seriously consider a "Do Pass" on Senate Bill 2212 to increase these penalties.

Mr. Chairman, members of the committee, thank you for allowing me this time before you. If you have any questions I would be happy to answer them.