

1999 SENATE JUDICIARY

SB 2306

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2306

Senate Judiciary Committee

Conference Committee

Hearing Date January 27, 1999

Tape Number	Side A	Side B	Meter #
1	x		0 - 1304
Committee Clerk Signature <i>Jackie Follman</i>			

Minutes:

SB2306 relates to arrest without warrant in domestic violence assaults.

SENATOR STENEHJEM opened the hearing on SB2306 at 9:00 A.M.

All were present.

SENATOR KRESBACH, District 40, testified in support of SB2306. Testimony attached.

BONNIE PALECEK, North Dakota Council on Abused Women, testified in support of SB2306.

Testimony attached.

ROSELLEN SAND, Attorney General's Office, testified in support of SB2306. I would like to echo what Bonnie Palecek said. If you don't need it, don't use it. But if it's there to use if needed.

SENATOR WATNE asked if it's put on the officer for probable cause for arrest. Why not write this bill with no limits.

ROSELLEN SAND stated that you need to look at other people's rights. We need to strike a balance. No limit at all is problematic.

SENATOR WATNE stated that she would like to see the time extended.

ROSELLEN SAND stated that she saw no reason that it can't be. We just need a balance.

SENATOR TRAYNOR stated the District Judges have authority to issue warrants and also City Judges, is there anyone else?

SENATOR STENEHJEM stated that Magistrates can also issue warrants.

DICK PECK, North Dakota Peace Officers Association, testified that the Association is neutral on SB2306. Personally, I think 12 hours is fine.

SENATOR STENEHJEM CLOSED the hearing on SB2306.

Discussion.

SENATOR LYSON made a motion for DO PASS, SENATOR TRAYNOR seconded.

Motion carried.

SENATOR LYSON will carry the bill.

Date: 1-27-99
 Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2306

Senate Judiciary _____ Committee

Subcommittee on _____
 or

Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS

Motion Made By Lyson Seconded By Traynor

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

Total (Yes) 5 No 0

Absent 1

Floor Assignment Lyson

REPORT OF STANDING COMMITTEE

SB 2306: Judiciary Committee (Sen. W. Stenehjem, Chairman) recommends **DO PASS**
(5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2306 was placed on the
Eleventh order on the calendar.

1999 HOUSE JUDICIARY

SB 2306

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2306

House Judiciary Committee

Conference Committee

Hearing Date : March 9, 1999

Tape Number	Side A	Side B	Meter #
1	X		34.2
Committee Clerk Signature <i>Alan Gindberg</i>			

Minutes:

SEN. LYSON As a retired sheriff, I support this bill. Four hours to arrest a domestic violence suspect seems to work in cities, but it doesn't work in rural areas. Often, the officer doesn't even get to the scene in four hours. Then, if he has to get a warrant he can't find a judge.

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

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

DICK PECK (NDPOA) The Peace Officers Association support this bill. The extra time is needed, especially in the rural areas.

COMMITTEE ACTION

REP. DELMORE moved that the committee recommend that the bill DO PASS. Rep. Disrud seconded and the motion passed on a roll call vote with 11 ayes, 0 nays and 4 absent. Rep.

Gunter was assigned to carry the bill.

46

Date: 3/9
 Roll Call Vote #: _____

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1306

House JUDICIARY Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number Do pass

Action Taken _____

Motion Made By Delmore 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 11 No 0

Absent 4

Floor Assignment Gunter

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

REPORT OF STANDING COMMITTEE (410)
March 9, 1999 11:07 a.m.

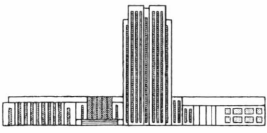
Module No: HR-42-4318
Carrier: Gunter
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2306: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS
(11 YEAS, 0 NAYS, 4 ABSENT AND NOT VOTING). SB 2306 was placed on the
Fourteenth order on the calendar.

1999 TESTIMONY

SB 2306



Senator Karen K. Krebsbach
District 40
P.O. Box 1767
Minot, ND 58702-1767

NORTH DAKOTA SENATE

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



COMMITTEES:
Industry, Business
and Labor
Government and
Veterans Affairs,
Chairman

JUDICIARY COMMITTEE January 27, 1999

SB2306

Chairman Stenehjem & Committee Members:

For the record my name is Karen K. Krebsbach, State Senator District 40.

SB2306 is a bill which resulted from a need experienced by rural law enforcement agencies in the state when it comes to making arrests on domestic violence related assaults without a warrant.

Those agencies are finding it increasingly difficult to find the offenders in order to arrest them within a four-hour time frame. After that time, they can still arrest with a warrant, but obtaining warrants is becoming more difficult because of the reduced number of judges in rural areas.

I urge you to consider giving law enforcement the extra edge granted in this bill.

BISMARCK
Abused Adult Resource Center
222-8370
BOTTINEAU
Family Crisis Center
228-2028
DEER LAKE
Services for
Abused Families
1-888-662-7378
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Abuse Resource Network
683-5061
STANLEY
Domestic Violence Program,
NW, ND
628-3233
VALLEY CITY
Abused Persons Outreach
Center
845-0078
WALHEIM
Therapists Crisis Center
645-7757
WILLISTON
Family Crisis Shelter
72-0757

Testimony SB2306
Senate Judiciary Committee
January 27, 1999

Chair Stenehjem and Members of the Committee:

My name is Bonnie Palecek and I am speaking on behalf of the ND Council on Abused Women's Services/Coalition Against Sexual Assault in North Dakota.

The Rural Committee of the Council on Abused Women's Services is comprised of the directors of nine rural and remote crisis centers. Several of these centers facilitate county-wide or multi-county task forces which discuss a variety of issues affecting community responses to domestic violence.

One of the issues brought forward within these task forces was an increasing difficulty with serving protection orders within the four hour period allowed before a warrant was required. With fewer rural judges available, getting the warrants was also becoming problematic. That was the impetus for SB2306.

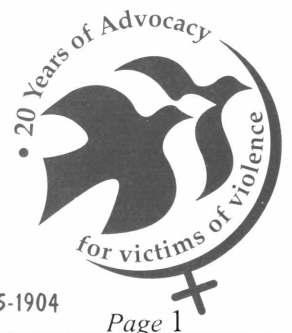
The committee conducted a survey of sixteen rural law enforcement agencies in North Dakota. Eleven responded. Two of those agencies felt the current limit was adequate. The other nine all felt a longer limit would be useful.

A question was raised regarding constitutional issues surrounding longer time frames. The committee then contacted other states which have similar rural caucuses within their coalitions. It was surprising to learn that a number of those states have no limits at all. None indicated that any constitutional challenges had been raised.

A modest increase in the time allowed for warrantless arrests in domestic violence situations would provide another tool for law enforcement to make sure these orders are served. We would appreciate your support.

Thank you,

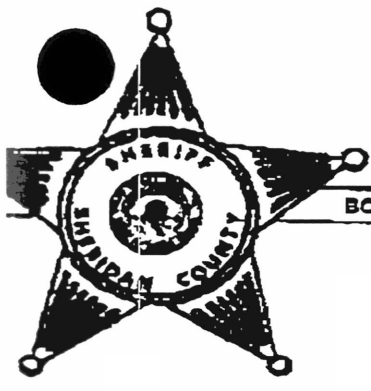

Bonnie Palecek
NDCAWS



WARRANTLESS ARREST
INFORMAITON
FROM OTHER STATES

Where possible, the Rural Caucus was surveyed

<u>STATE</u>	<u>PHONE</u>	<u>CONTACT</u>	<u>STATUS</u>
1. <u>Florida</u>	850-769-7989	Joan Wilson	No time limit on warrantees arrest.
2. <u>California</u>			No Limit
3. <u>Colorado</u>	303-831-9632		No Limit
4. <u>Louisiana</u>	504-752-1296		No time limit in their state. They can even go a week.
5. <u>Missouri</u>	573-634-4161	Katheryn Fee 314-622-4941	20 hours
6. <u>Pennsylvania</u>	717-291-5826 ext 816	Daneen Miller Smith	No Limit
7. <u>Tennessee</u>		Kathy Engle	No Limit
8. <u>Wyoming</u>			24 hours



Sheridan County Sheriff's Department

BOX 866 • TELEPHONE 363-2200 • McCLUSKY, NORTH DAKOTA 58463

LAWRENCE P. GEISNER
SHERIFF

TO: BONNIE
SUBJECT: TIMEFRAME FOR DOMESTICE VIOLENCE ARREST

BONNIE, IT WAS MY INTENTION TO BE AT THIS HEARING TO TESTIFY IN PERSON BUT THE WEATHER HAS PREVENTED THAT. PLEASE FEEL FREE TO READ THIS LETTER TO THE SENATE COMMITTEE.

ALMOST EVERY LAW ENFORCEMENT OFFICER I KNOW OR HAVE HEARD INTERVIEWED, HAS MADE THE STATEMENT " I BECAME AN OFFICER BECAUSE I WANTED TO HELP PEOPLE" I BELIEVE THIS WITH MY HEART. I RESPOND TO DOMESTICS WITH THAT VERY PROMISE IN MIND. MY DEPARTMENT IS MADE UP OF THREE DEDICATED INDIVIDUALS WHO WANT TO HELP THESE VICTIMS OF DOMESTIC ABUSE.

DOMESTIC VIOLENCE HAS, AND WILL CONTINUE TO BE A FRUSTRATING AND PERPLEXING EVENT FOR ALL PARTIES INVOLVED. IN SMALL DEPARTMENTS WHERE THERE ARE ONLY TWO OR THREE OFFICERS TO RESPOND, TIME FRAMES ARE CRUCIAL TO THE OFFICERS, VICTIM, AND STATES ATTORNEY.

IN MANY CASES THE DOMESTICS HAPPEN BETWEEN THE HOURS OF 1AM AND 3AM. THE OFFICERS RESPONDING TO THEM HAVE ALREADY WORKED A FULL SHIFT AND ARE NOW RESPONDING TO THE SCENE ONLY TO FIND THAT THERE ARE INJURIES TO THE VICTIM AND THE SPOUSE OR PERPATRATOR IS NOW MISSING. CURRENTLY THE OFFICER ONLY HAS 4 HOURS TO FIND THE OFFENDER. IF THE INCIDENT IS CONFIRMED AT 2AM THE CLOCK STARTS TICKING, AT 6AM THE SEARCH IS CALLED OFF AND THE OFFICERS RETURN HOME. AT 7AM THE VICTIM CALLS, AND REPORTS THAT THE PURPERTRATOR HAS RETURNED HOME, AND THE OFFICER NOW TELLS THE VICTIM THEY HAVE TO WAIT UNTILL THE STATES ATTORNEY COMES INTO WORK AT 9AM, WHERE THE VICTIM WILL FILL OUT AN AFFIDAVID, THEN AN ARREST WARRANT WILL BE ISSUED FOR ARREST OF THE PURPETRATOR.

IF THE TIME FRAME IS EXPANDED TO 12 HOURS THEN THE OFFICERS CAN NOW GO ARREST THE OFFENDER, AND THE VICTIM WILL BE ABLE TO HAVE THE PIECE OF MIND THAT THE PERSON WHO HIT THEM IS IN CUSTODY AND WILL NOT BE GETTING OUT OF JAIL UNTIL THEY ARE BROUGHT BEFORE THE JUDGE.

IN LARGER DEPARTMENTS THIS 4-HOUR TIME FRAME DOES NOT SEEM TO BE A PROBLEM BECAUSE THEY HAVE DIFFERENT SHIFTS TO HANDLE THE CASE. IN THE SMALLER DEPARTMENTS IT IS VERY DIFFICULT TO HAVE AN OFFICER RETURN HOME

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SHERIDAN COUNTY SS 1

PAGE 03

AFTER 4 HOURS AND THEN WAIT UNTIL THE STATES ATTORNEYS OFFICE OPENS, THEN WAIT FOR THE WARRANT AND GO MAKE THE ARREST.

IT SEEMS TO ME, THAT ANYTIME A TIME FRAME CAN BE INCREASED IN WHICH THE OFFICER HAS MORE TIME TO PERFORM A DUTY THAT IS HELPING SOMEONE, THEN IT SHOULD BE GIVEN EVERY OPPORTUNITY THAT CAN BE AFFORDED. I HAVE HAD TO LOOK THOSE VICTIMS IN THE EYE AND TELL THEM THAT I COULD NOT DO ANYTHING UNTIL A WARRANT WAS ISSUED. I BELIEVE IN SOME CASES THAT THE VICTIM FELT ABANDONED AND DID NOT FOLLOW THROUGH AT THE STATES ATTORNEY'S OFFICE. PLEASE HELP THESE VICTIMS BY EXTENDING THE TIME FRAME TO 12 HOURS.

RESPECTFULLY YOURS



LAWRENCE F. GESSNER

SHERIFF

SHERIDAN COUNTY SHERIFF'S DEPT.

City of Powers Lake

POWERS LAKE, NORTH DAKOTA 58773

Auditor's Office - Phone 464-5601

Police Office - Phone 464-5602

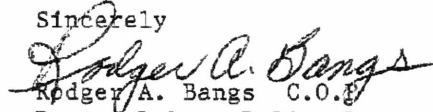
To: Bonnie Pollecek
Re: S B 2306

Fax 255-1904

This letter is offered as my support for SB2306. I beleive that this is a good idaa as there will be many times that we as Law Enforcement officers may not have access to the victim in the four hours that we now have. There may be times when the victim of abuse may not have access to us either.

Extending the time limit fron four hours to twelve hours would make it more effective for us and would make it a lot easier for the victim to get help from our agencies.

Sincerely



Rodger A. Bangs C.O.E.
Powers Lake , Police Department
Powers Lake, North Dakota
P.O. Box 137 Telephone 1-701-464-5602

JUDICIARY COMMITTEE
March 9, 1999

SB2306

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Thank you,

Bonnie Palecek
NDCAWS

