

1999 SENATE JUDICIARY

SCR 4048

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SCR4048

Senate Judiciary Committee

Conference Committee

Hearing Date February 24, 1999

Tape Number	Side A	Side B	Meter #
1	x		2439 - 5620
Committee Clerk Signature <i>Jackie Follman</i>			

Minutes:

SCR4048 is to study the feasibility and desirability of revising the sections of the North Dakota Century Code which relates to sexual offenses and sentencing of sexual offenders.

SENATOR STENEHJEM opened the hearing on SCR4048 at 11:00 A.M.

All were present.

SENATOR STENEHJEM testified in support of SCR4048. There was a study done on this issue two years ago, but was not intensive enough. The statutes that relate to criminal sexual offenses are so interrelated that every time we try to change one, we realize that there are 4 or 5 statutes that need to be addressed. We need to look at what other states are doing and some other options. We may need to expand this study to take a look at what is happening with the offenders program at the State Hospital.

ALEX SCHWITZER, Superintendent of the State Hospital, testified in support of SCR4048.

There are a lot of issues to be looked at operationally, clinically and ethically. I would like you to look at the civil commitment of sexual offenders. The hospital will available to the Interim Committee with any suggestions. Many states are looking at the same issues.

SENATOR LYSON stated that we have got to have some type of civil commitment.

SENATOR STENEHJEM stated that one of the major issues that this treatment program is very expensive and we have to balance that against not having this program and the people who are victimized. We work quite hard to craft a statute that met Constitutional standards last session, if we move this program elsewhere we are going to have a Constitutional problem.

ANDREA MARTIN, North Dakota Council of Abused Women, testified in support of SCR4048.

Testimony attached.

BOB BENNETT, Attorney General's Office, testified in support of SCR4048. The Attorney General is very much in support of this resolution. This study will allow some type of evaluation of all of these factors and determine if there should be a change. I would assume that one of the major areas would be what is going to be the penalty for consensual acts between people between the ages of 15 and 18.

SENATOR STENEHJEM CLOSED the hearing on SCR4048.

Discussion on an amendment.

Line 14, as well as sexual offenders treatment and commitment, and

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

Motion carried. 5 - 0 - 1

Page 3

Senate Judiciary Committee

Bill/Resolution Number SCR4048

Hearing Date February 24, 1999

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

seconded. Motion carried. 5 - 0 - 1

SENATOR STENEHJEM will carry the resolution.

Date: 2-24-99
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SBK 4048

Senate Judiciary Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Motion on Amendments

Motion Made By Senator Lyson Seconded By Senator 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	X				
Senator Carolynn Nelson					

Total (Yes) 5 No 0

Absent 1

Floor Assignment ~~Senators~~

Date: 2-24-99
Roll Call Vote #: 2

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SCR 4048

Senate Judiciary Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass As Amended

Motion Made By Senator Watne Seconded By Senator Lyson

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

Total (Yes) 5 No 0

Absent 1

Floor Assignment Senator Stenehjem

REPORT OF STANDING COMMITTEE

SCR 4048: 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). SCR 4048 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "and" with a comma

Page 1, line 3, after "offenders" insert ", and sexual offender commitment treatment"

Page 1, line 13, replace "and" with a comma

Page 1, line 14, after "offenders" insert ", and sexual offender commitment treatment"

Renumber accordingly

1999 HOUSE JUDICIARY

SCR 4048

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 4048

House Judiciary Committee

Conference Committee

Hearing Date 3/15/99

Tape Number	Side A	Side B	Meter #
1	x		8.3-10.6
Committee Clerk Signature <i>Alan Friedman (by Robin Small)</i>			

Minutes: REP. DEKREY introduces the bill and discusses it with the committee. REP.

HAWKEN also is speaking on behalf of the bill. General discussion was amongst the committee. REP. DISRUD moves for a DO PASS, seconded by REP. KOPPELMAN. The roll call vote was taken with 10 YES, 0 NO, 5 ABSENT. The motion carries. The CARRIER of the bill is REP. KOPPELMAN.

Date: 3/15
Roll Call Vote #: _____

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 4048

House JUDICIARY Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number Do Pass

Action Taken _____

Motion Made By Disrud Seconded By Koppelman

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 10 No 0

Absent 5

Floor Assignment Koppelman

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

REPORT OF STANDING COMMITTEE (410)
March 15, 1999 10:24 a.m.

Module No: HR-46-4767
Carrier: Koppelman
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SCR 4048, as engrossed: Judiciary Committee (Rep. DeKrey, Chairman) recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR** (10 YEAS, 0 NAYS, 5 ABSENT AND NOT VOTING). Engrossed SCR 4048 was placed on the Tenth order on the calendar.



1999 TESTIMONY

SCR 4048

BISMARCK
Abused Adult Resource Center
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BOTTINEAU
Family Crisis Center
728
AKE
Safe Alternatives for
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DICKINSON
Domestic Violence and
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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
815-0078
WILLISTON
Family Crisis Center
642-2115
WILLISTON
Family Crisis Shelter
572-0757

Testimony on SCR4048
Senate Judiciary Committee
February 23, 1999

Chair Stenehjem and Committee Members,

My name is Andrea Martin and I am the Assistant Director of the ND Council on Abused Women's Services/Coalition Against Sexual Assault.

I am here on behalf of our Coalition to support an interim study that would provide an opportunity to consider the efficacy of existing sex offenses and their penalties.

I have attached a portion of a study that was conducted by NDCAWS/CASAND. Very briefly, the purpose of the study was to track offenders through the criminal justice system from the time the crime was initially reported to law enforcement all the way through to sentencing. The study was conducted over a three-year period. To the best of my knowledge this is the only study of its kind in ND.

We have not yet released the study in its entirety, but I have included a copy of the results from 123 sex offense cases that were followed through the system.

Essentially, we tracked 123 cases, 86 arrests were made, 71 offenders were found guilty and 7 of the guilty offenders spent a significant amount of time in jail (beyond a few days to a couple of weeks). Only 19 of them were ordered into sex offender treatment.

Our research indicates that very few sex offenders spent time in jail from 1995 - 1997 and we thought this information might be important to this committee as you consider SCR4048. We would be happy to participate in an interim study discussion of this important matter.

Thank you.



Andrea J. Martin, LPCC
Assistant Director
NDCAWS/CASAND

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



CRIMINAL JUSTICE SYSTEM MONITORING PROJECT 1995-1997

FUNDED BY OTTO BREMER FOUNDATION



**Data Collection, Analysis, and Reports by
ND Council on Abused Women's Services/
Coalition Against Sexual Assault in ND
418 E Rosser Avenue #320
Bismarck, ND 58501
701-255-6240**

Background and Introduction

In August of 1992, the ND Council on Abused Women's Services/Coalition Against Sexual Assault in ND (CAWS/CASAND) began a new initiative referred to as the Criminal Justice System Monitoring Project (CJSMP). The Project was part of the three year objectives of the Council's Volunteer in Service to America (VISTA) project.

As a result of the VISTA project, significant need to monitor the criminal justice system in ND emerged. Since then, the benefits of learning the strengths and weaknesses of the criminal justice system have become increasingly obvious. The Bremer project set about more systematically documenting the decisions of law enforcement and prosecutors, and court outcomes, as victims and perpetrators of domestic violence moved through the criminal justice system; the goal was to identify trends in our justice system regarding the disposition of violent criminal cases in North Dakota. From the VISTA efforts, a grant proposal for continued funding was developed.

Time parameters to successfully complete the project were identified as October 1994 through September 1997. Funding was gratefully received from the Otto Bremer Foundation and the project was underway.

Five major areas of study were identified in the project goals: Criminal Justice Agency Monitoring, Court Watch, Intentional Injury Monitoring, Data Analysis, and Educational and Networking Activities. As the project gained momentum, it became clear that many of the five goal areas were being addressed through the data collection process and analysis; therefore, many participating agencies discontinued some of the court watch, and gender bias monitoring activities, and allowed the tremendous volume of data to speak for itself. The remainder of this introduction includes brief summary statements about the activities of participating agencies in the five major areas over the life of the CJSMP.

Criminal Justice Agency Monitoring

Of the 19 domestic violence and sexual assault crisis centers throughout the state of North Dakota, 12 agencies participated in the criminal justice monitoring project for the period of October 1994 - September 1997. As would be expected, the agencies in the larger communities were responsible for the bulk of the data gathered. Bismarck, Fargo, Minot, and Grand Forks were responsible for 2,789 (88.3%) of the 3,158 cases in the project data base. Each participating agency designated a field monitor or monitors whose objectives were to follow as many cases of intimate violence as possible from the time law enforcement was involved with the case through the time of the court outcome. Monitors gathered information on arrests, charges, cases pursued or dropped, and anecdotal observations on incidents of perceived gender bias, injustice, or excellence. Data was gathered using standardized forms (see Appendix A). Once collected, the information was regularly sent to the State Networking Office (NDCAWS/CASAND)

where personnel entered the information into a database using the EpiInfo database software program.

Data Analysis

The bulk of the information collected was done so in a standardized fashion allowing the analysis of data to be conducted uniformly and precisely across all participating agencies. Field monitors received training at the outset of the project to ensure that data was being collected uniformly, and monthly reports were reviewed for inconsistencies. At the finish of the project, there were 3,158 records entered into the project database. Of those 3,158, 2,486 were analyzed and summarized. Specific information regarding project results can be located in Chapter One, sections one through four. A data project summary sheet introduces Chapter One, and includes the most significant data gleaned from the project over the three year time period.

Intentional Injury Monitoring

This section of the project was designed to monitor the number of victims who sought medical attention for injuries sustained in a personal injury crime, the type of injury, and how it was received. An in-depth report on the intentional injuries sustained by victims can be found in Chapter Two. Information on injuries was gathered from law enforcement reports, and victim reports, and advocates' observation and documentation of victims' physical injuries.

Court Watch

As intended, the court watch system did not function as a separate project but rather as a logical step in a continuum of integrated monitoring activities. Monitors were present in court while actual cases were being adjudicated. A section on the data collection form allowed the monitor to write in positive or negative comments as a means to fulfill the goals of the court watch component. In the vast majority of records, this section was not completed. The court watch portion of the project was subjective in nature as it included documentation by field monitors on observed comments made in court by prosecutors, judges, defendants, and victims, as well as outcomes monitors perceived to be noteworthy. See Chapter Three for examples of gender bias and other court observations.

Educational and Networking Activities

Since the inception of the CJSMP, NDCAWS/CASAND has been directly instrumental in a variety of other data collection projects. For example, during the 1994 legislative interim, NDCAWS/CASAND was invited to participate in a Data Forum sponsored jointly by the ND Supreme Court and the Attorney General's Office. To our great surprise, our coalition possessed the only consistent data on violent crime in North Dakota. Obviously, our focus was very narrow, but it was our hope that as law

enforcement agencies, the courts, and prosecutors' offices all joined forces, we could expand and improve upon what currently existed.

Unfortunately, the legislature did not share our enthusiasm and did not appropriate funds or give authorization for a proposed State Data Criminal Justice Commission. Networking has continued, but at a much slower pace.

Secondly, NDCAWS/CASAND has initiated the Uniform Data Collection Committee, whose members are comprised of officials from the Department of Corrections, the State Health Department, the Bureau of Criminal Investigation, the Victim/Witness Association, and NDCAWS/CASAND. We are working together to develop a uniform computerized system for the collection of domestic violence and sexual assault data for all 19 of NDCAWS/CASAND member crisis centers in North Dakota, as well as data on personal injury crimes collected by statewide victim/witness programs.

Thirdly, the North Dakota Attorney General received our assistance in the development of the Domestic Violence in North Dakota summary report for 1995, and we are working with the Attorney General and her assistants on the soon-to-be-released summary report for 1996. We have enclosed a copy of the 1995 report for your information.

We have also continued to contract with the ND State Health Department in collecting program data from the 19 crisis centers across the state on demographics and services for victims of domestic violence and sexual assault. We have enclosed copies of these reports as well.

In addition to the activities described above, we have been instrumental in statewide educational efforts over the past three years. NDCAWS/CASAND collaborated with criminal justice officials in providing training and education in areas such as:

1. A pilot project in Cass County (Fargo, ND) to gather data from a variety of criminal justice and victim service agencies relating to community response to domestic violence (federally funded Community Oriented Policing grant to NDCAWS/CASAND and the Division of Parole and Probation).
2. Quarterly law enforcement officer training at the Law Enforcement Academy.
3. Local coordinating councils focusing on domestic violence and sexual assault.

Sharing data has been vital in all of these endeavors.

Partnerships have included:

1. STOP (Violence Against Women) grant to assist with the development of a law enforcement training curriculum and guidebooks/checklists for law enforcement response.

2. Gender Bias Task Force - Ten years ago, the ND Supreme Court made its first preliminary investigation of gender bias in ND courts. NDCAWS/CASAND provided input and devised a survey of its own members, which it shared with the Supreme Court Committees.

Nine years later ('96-'97), the initiative was revived and a full-scale effort was made by the Court to determine the extent of gender bias, if any at all. NDCAWS/CASAND members prepared testimony and participated in focus groups across the state. A report was issued in late 1997. In January of 1998, NDCAWS/CASAND received a letter from the Court indicating that we would be an appropriate entity for pursuing any changes relating to gender bias in relationship to domestic violence and sexual assault.

We have also recognized the need to accomplish new goals to best make use of the information revealed by the CJSMP. As one can quickly see by perusing the many pages of data in this report, we are now at a very momentous Stage Two. We are painfully aware of how sensitive some of this information may be. We are also aware that since it was gathered by an advocacy organization such as ours, we risk having it dismissed as "biased" or worse.

In order to determine the most effective way in which to release, and more importantly, to use this data in order to improve our criminal justice system, we are convening a small committee comprised of judges, prosecutors, law enforcement officers, legislators, and victim advocates to look at the data and give their input on what we should do next in respect to their particular professions.

We have already made preliminary inquiries to potential committee members, and the response has been encouraging. We hope to hold our first meeting in early summer of 1998.

Summary of Data for Sex Offenses -- 123 Cases Reported as Primary Incident

(Includes cases listed as "sexual assault", "other sex offenses", "corruption of a minor", and "incest" for '95 and '96.)

- **Age:** 4 (3.3%) of the victims were juveniles aged 0-12; 44 (35.8%) were 13-17 years old; 48 (39%) were 18-29 years old; 19 (15.4%) were 30-44 years old; 3 (2.4%) were 45-64 years old and 4 (3.3%) were of unknown age. 4 (3.3%) of the suspects were 13-17 years old; 57 (46.3%) of the suspects were 18-29 years old; 33 (26.8%) were 30-44 years old; 15 (12.2%) were 45-64 years old; 1 (.8%) was over 65 years and 13 (10.6%) were of unknown age.
- **Gender:** 117 (95.1%) of the victims were female and 6 (4.9%) were known to be male. 121 (98.3%) of the suspects were male and 1 was known to be female.
- **Relationship between victim and suspect:** 8 (6.5%) of the suspects were spouses or former spouses; 57 (46.3%) were friends/acquaintances; 5 (4.1%) were a co-worker/employer; 6 (4.9%) were adults in authority role; 13 (10.6%) were strangers; 8 (6.5%) were a parent; 10 (8.1%) were a present or former boy/girlfriend; and 9 (7.3%) were unknown. In 13 (10.6%) cases the victim and suspect were known to be cohabitating.
- **Weapon Use:** Weapons were known to have been used in 7 (5.7%) of the incidents; 5 knives, one firearm, and one blunt object.
- **Alcohol/Drug Use:** 34 (27.6%) of the cases reported both suspect and victim using alcohol, 3 (2.4%) cases where only the victim was known to have used alcohol and 13 (10.6%) reported that only the suspect used alcohol. Alcohol use was unknown in 39 (31.7%) of the cases. Drug use by the victim was known to have occurred in 1 (.8%) case, by suspect in 1 case, and by both victim and suspect in 1 case. For 69 (56.1%) cases drug use was unknown.
- **Injuries:** The victim was known to have been injured in 52 (42.3%) of the cases.
- **Location:** 27 (22%) occurred in the victim's home; 30 (24.4%) in the suspect's home; 9 (7.3%) in a home shared by victim and suspect; 6 (4.9%) were at work/business; 14 (11.4%) at an outside area; 8 (6.5%) at other's home; 6 (4.9%) in a car; 8 (6.5%) other location; 1 (.8%) at a bar; and for 11 (8.9%) cases the location was unknown.
- **Law Enforcement and Prosecution Information:** The suspect was known to have been arrested in 86 (70%) of the cases. Of those, prosecution was declined in 2 (2.3%) of the cases. 23 (27.4%) were plea bargained to a lesser charge.
 - 43 (53%) of the suspects were charged with gross sexual imposition, 23 (28.4%) with sexual assault, 1 (1.2%) with indecent exposure, 1 (1.2%) with burglary, 1 (1.2%) with incest, 3 (3.7%) with corruption of a minor, 2 (2.5%) with simple assault, 5 (6.2%) with disorderly conduct, and 4 (4.9%) other.
 - 66 (81.5%) of the suspects pled guilty and 14 (17.3%) pled not guilty.
 - 8 (9.9%) were dismissed by the court, 2 (2.5%) were found not guilty, and 71 (87.7%) were found guilty.
 - Of the 71 guilty offenders, 60 (84.5%) were sentenced to some jail time. 52 (73.2%) had some or all of their jail time suspended.
 - 12 (16.9%) offenders received deferred imposition of sentences.
 - 41 (66.1%) of those receiving probation time were on supervised probation, and 21 (33.9%) on unsupervised probation.
 - 33 (46.5%) were required to pay some fine or fee. 5(7%) were required to pay some restitution.
 - 15 (21.1%) victims were known to have submitted written impact statements to the court. 17 (23.9%) of the offenders were known to have given a statement to the court.
 - A pre-sentence investigation was known to have been done for 20 (28.2%) cases.
 - 35 guilty offenders were mandated to counseling in the 96-97 reporting period. 19 to sex offender treatment and 16 to other types of treatment or evaluation
- * *The summaries in each section show the data from the categories with larger or more significant numbers. Some of the minor data has not been included as it is determined insignificant.*

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Testimony on SCR4048
House Judiciary Committee
March 15, 1999

Chair DeKrey and Committee Members,

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I am writing on behalf of our Coalition to support an interim study that would provide an opportunity to consider the efficacy of existing sex offenses and their penalties.

I have attached a portion of a study that was conducted by NDCAWS/CASAND. Very briefly, the purpose of the study was to track offenders through the criminal justice system from the time the crime was initially reported to law enforcement all the way through to sentencing. The study was conducted over a three-year period. To the best of my knowledge this is the only study of its kind in ND.

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Thank you.



Andrea J. Martin, LPCC
Assistant Director
NDCAWS/CASAND

