

2017 HOUSE JUDICIARY

HB 1236

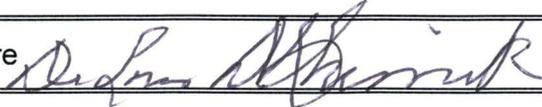
2017 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

HB 1236
2/1/2017
27732

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to prosecution of gross sexual imposition and sexual abuse of minors.

Minutes:

1,2

Chairman K. Koppelman: Opened the hearing on HB 1236.

Rep. Brandenburg: Introduces the bill. There are two parts of it. This committee last session added the DNA into the data base dealing with sexual abuse. We are here today to talk about statute of limitations dealing with the use of DNA and also the time frames without DNA.

Representative Klemin: Section 1 changes this from 7-9 years. Section 2 changes it from 10 to 9 years. Why is that?

Rep. Brandenburg: Dealing with statues of limitations we are trying to make a move to give more time. We make a small move to give more time so when a person does come around to the knowledge that this happened; it gives them more time for prosecution.

Chairman K. Koppelman: It makes the Statue of Limitations consistent. wither the charge is against an adult or minor. With respect to DNA evidence; why should that evidence take precedence over the other evidence? When you have fingerprints, why should DNA be special and have a different statute of limitations?

Rep. Brandenburg: I understand the situation when the prisons are full. DNA is sound science and that could be used to remove the Statue of Limitations.

Chairman K. Koppelman: Normally DNA would be collected at or near the time of the offense? Does it show up 20 years later and can be used?

Rep. Brandenburg: There are people who know more about DNA that will be here.

Rep. Hogan: (#1) (9:51-15:30) Went over attached testimony.

Chairman K. Koppelman: In Section 1 of the bill; lines 20 & 21 you are overstriking this, why?

Rep. Hogan: The drafter said to me the or, or comma you didn't need that. I am open to amendments.

Representative Vetter: How do they get DNA so much later?

Rep. Hogan: It is likely in that period of time not to have things except maybe clothes. I think the likelihood of getting a prosecution of anybody or if it has been used at all?

Representative Vetter: Why are you extending the Statue of Limitations? Because they were a minor? So they didn't have the capacity to do that?

Rep. Hogan: Yes that is right.

Lovice Brandenburg, Citizen: I am speaking to you about the Statue of Limitations in ND. Last session we worked on HB 2331 and added DNA and we have made progress. Rape and sexual assault are the least reported violent crimes. The reason is an overwhelming fear of not being believed by police or family. I can still hear my dad's voice that his boys would never do such a thing and he called me a liar and sent me back outside. And the incense continued for years by two brothers. An end to the Statue of Limitations would also allow prosecutors more time to build their cases against a predator instead of rushing because of the statute of limitations timeframe. It takes decades for victims to come forward. I am asking today to end the statues of limitations in ND. With years of hard work and therapy I am not a victim; I am a survivor.

Paula Condol, Executive Director of the Children's Advocacy Centers of ND: (#2)
(22:50- 26:00)

Eddie Aamold, Director of ND State Crime Lab: It becomes relative when the DNA collected shortly after the time of assault. Once it is collected and analyzed it can then be stored electronically for years. Unfortunately, in a number of sexual assault cases that DNA profile which is stored in our DNA database searched within all other DNA profiles within the state of ND as well as the FBI's national DNA database which encompasses over 12 million DNA profiles throughout the country. Even though we have that DNA evidence the Statue of Limitation may run out on that case because no perpetrator is even attached to it. The crime lab does support this. It is a good measure for being able to give law enforcement and prosecutors an option to prosecute these cases years after the assault took place.

Representative Satrom: Is the DNA sampling random?

Eddie Aamold: The DNA data base in ND; we have 33,000 profiles. These are from offenders which means anyone arrested of a felony,

Representative Paur: It seems this focus has been on child abuse. Twenty or thirty years later they come out about it. How is this going to help this long after the incident?

Eddie Aamold: There is a chance that individuals who younger children are submitted this abuse do occasionally store items from the past and there is the possibility that the evidence that was stored that it would still contain DNA evidence. It would be cases where a sexual assault kit is collected at the time of assault whether it be at a hospital or at a children's advocacy center.

Representative Klemin: I was the prime sponsor of the DNA collection bills that required it to be collected. How is the back log going?

Eddie Aamold: We are 30 days behind.

Representative Klemin: How are we doing on hits? How successful is the program doing?

Eddie Aamold: We get 3,000 to 4,000 DNA's in the system per year. We are getting 100 KOTIS hits per year. It is a valuable tool for law enforcement to tie crimes together.

Representative Satrom: In light of the Justice Reinvestment thing some of the things we are talking about will become lessor offenses and not felony's anymore and I think we should keep that in mind. Do you have any recommendations?

Chairman K. Koppelman: I am not sure many sexual assault offenses have been dealt with in that way. That is low level property crimes and drug possession.

Representative Nelson: Once something is run and it is in a data base you don't have to maintain anything. How long can that generic material last?

Eddie Aamold: If it is stored properly it is possible to get DNA information for an undetermined amount of time.

Representative Jones: How much misuse of DNA are you seeing?

Eddie Aamold: That is something I can't provide much insight into that. We don't really have much history on that.

Chairman K. Koppelman: The idea of storing the DNA samples indefinitely. You also talked about the John Doe warrant. If there is a cold case with electronic DNA are john doe warrants issued or how does that work.

Eddie Aamold: We will check periodically and I don't know how many prosecuting attorneys are doing that. We want to make sure that is an option on some of those cases. This bill would eliminate them from making that decision because they would always have the option to prosecute years later.

Jonathan Byers, Ass't to Attorney General: Discussed case of Mindy Morgan. Another example if the campus four rapes in Grand Forks. (41:15-44:04)

Chairman K. Koppelman: A fingerprint would have been that same?

Representative Klemin: Is there a constitutional issue here when we are changing the rules now.

Jonathan Byers: Yes there is. We can only apply this to cases where they have not run out.

Chairman K. Koppelman: On the John Doe warrants

Jonathan Byers: I think it is unusual.

Opposition: None

Neutral: None

Hearing closed.

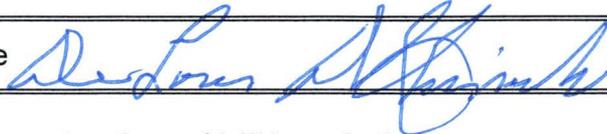
2017 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

HB 1236
2/6/2017
27955

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to prosecution of gross sexual imposition and sexual abuse of minors.

Minutes:

1

Chairman K. Koppelman: Opened the meeting on HB1236. Passed out (#1) proposed amendment. The idea of statute of limitations is two things; after a period of time passes it is more difficult to prove a case in court. Also if there is finality.

Representative Klemin: I am not sure it will be workable in practice with the DNA. DNA is combined with other evidence to prove a person committed a crime. I am not so sure about the language that is in here. Maybe we are putting something in here that isn't possible?

Chairman K. Koppelman: I always thought DNA was unique.

Representative Paur: My wife knows something about this and she says it depends on who is running the tests.

Representative Jones: As I read that wording if they are conclusively identified by DNA that allows an investigation to commence. Prosecution may commence and you will get at the other things.

Representative Klemin: My concern is with the word conclusive.

Representative Roers Jones: Identical twins can be tested through DNA but they can do testing on twins further and they heat the DNA samples they have different identify them that way.

Motion Made by Representative Paur to remove conclusive on line 11, page 1. Seconded by Rep. Jones.

Discussion:

Representative Vetter: I think conclusively makes it a little stronger.

Representative Klemin: We are talking about taking out the Statue of Limitations here. It is the word conclusively is a pre requisite to even commencing the prosecution.

Representative Jones: I like taking conclusively out.

Voice vote carried.

Discussion:

Motion made to move the amendment by Rep. Hanson for the fingerprints; Seconded by Rep. Satrom

Discussion:

Chairman K. Koppelman: In the old days the fingerprint was probably the most conclusive type of evidence.

Voice vote carried.

Motion made to amend by Representative Klemin line 20 remove the overstrike on 10 and overstrike 9. Remove the overstrikes on line 20-21. Seconded by Rep. Satrom

Voice vote carried.

Representative Nelson: (mike not on)

Chairman K. Koppelman: Do you want to do something with lines 20 & 21?

Do Pass as Amended by Rep. Simons; Seconded by Rep. Satrom

Roll Call Vote: 15 Yes 0 No 0 Absent Carrier: Rep. Satrom

Closed.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1236

Page 1, line 11, after "acid" insert "or a fingerprint"

Page 1, line 12, after "testing" insert "or fingerprint authentication"

Page 1, line 24, after "acid" insert "or a fingerprint"

Page 2, line 4, after "testing" insert "or fingerprint authentication"

Renumber accordingly

2/6/17 DR

17.0596.01002
Title.02000

Adopted by the House Judiciary Committee

February 6, 2017

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1236

- Page 1, line 11, after "acid" insert "or a fingerprint"
 - Page 1, line 11, remove "conclusively"
 - Page 1, line 12, after "testing" insert "or fingerprint authentication"
 - Page 1, line 20, remove the overstrike over "ten"
 - Page 1, line 20, remove "nine"
 - Page 1, line 20, remove the overstrike over "if the"
 - Page 1, line 21, remove the overstrike over "~~victim failed to report the offense within this limitation period,~~"
 - Page 1, line 24, after "acid" insert "or a fingerprint"
 - Page 2, line 1, overstrike "conclusively"
 - Page 2, line 4, after "testing" insert "or fingerprint authentication"
- Renumber accordingly

Date: 2-6-17
Roll Call Vote: 1

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1236

House Judiciary Committee

Subcommittee

Amendment LC# or Description: Am 11 gets ride of Conclusive

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Rep Paur Seconded By Rep Jones

Representatives	Yes	No	Representatives	Yes	No
Chairman K. Koppelman			Rep. Hanson		
Vice Chairman Karls			Rep. Nelson		
Rep. Blum					
Rep. Johnston					
Rep. Jones					
Rep. Klemin					
Rep. Magrum					
Rep. Maragos					
Rep. Paur					
Rep. Roers-Jones					
Rep. Satrom					
Rep. Simons					
Rep. Vetter					

Vote carried

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

**2017 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO 123L**

House Judiciary Committee

Subcommittee

Amendment LC# or Description: 17.05.9L.01001-Fingerprints

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Rep Hanson Seconded By Rep Satrom

Representatives	Yes	No	Representatives	Yes	No
Chairman K. Koppelman			Rep. Hanson		
Vice Chairman Karls			Rep. Nelson		
Rep. Blum					
Rep. Johnston					
Rep. Jones					
Rep. Klemin					
Rep. Magrum					
Rep. Maragos					
Rep. Paur					
Rep. Roers-Jones					
Rep. Satrom					
Rep. Simons					
Rep. Vetter					

Vote carried

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

2017 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1236

House Judiciary Committee

Subcommittee

Amendment LC# or Description: Remove overstrike on 10 + overstrike
9. Remove overstrike on line 20 + 21.

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Rep. Klemin Seconded By Rep. Satrom

Representatives	Yes	No	Representatives	Yes	No
Chairman K. Koppelman			Rep. Hanson		
Vice Chairman Karls			Rep. Nelson		
Rep. Blum					
Rep. Johnston					
Rep. Jones					
Rep. Klemin					
Rep. Magrum					
Rep. Maragos					
Rep. Paur					
Rep. Roers-Jones					
Rep. Satrom					
Rep. Simons					
Rep. Vetter					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

*Vote
 carried*

Date: 2-6-17
 Roll Call Vote 4

**2017 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO 1236**

House Judiciary Committee

Subcommittee

Amendment LC# or Description: 17.0596.01002

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Rep Simons Seconded By Rep Satrom

Representatives	Yes	No	Representatives	Yes	No
Chairman K. Koppelman	✓		Rep. Hanson	✓	
Vice Chairman Karls	✓		Rep. Nelson	✓	
Rep. Blum	✓				
Rep. Johnston	✓				
Rep. Jones	✓				
Rep. Klemin	✓				
Rep. Magrum	✓				
Rep. Maragos	✓				
Rep. Paur	✓				
Rep. Roers-Jones	✓				
Rep. Satrom	✓				
Rep. Simons	✓				
Rep. Vetter	✓				

Total (Yes) 15 No 0

Absent 0

Floor Assignment : Rep. Satrom

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

REPORT OF STANDING COMMITTEE

HB 1236: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1236 was placed on the Sixth order on the calendar.

Page 1, line 11, after "acid" insert "or a fingerprint"

Page 1, line 11, remove "conclusively"

Page 1, line 12, after "testing" insert "or fingerprint authentication"

Page 1, line 20, remove the overstrike over "ten"

Page 1, line 20, remove "nine"

Page 1, line 20, remove the overstrike over "if the"

Page 1, line 21, remove the overstrike over "victim failed to report the offense within this limitation period,"

Page 1, line 24, after "acid" insert "or a fingerprint"

Page 2, line 1, overstrike "conclusively"

Page 2, line 4, after "testing" insert "or fingerprint authentication"

Renumber accordingly

2017 SENATE JUDICIARY

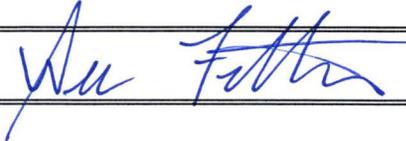
HB 1236

2017 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

HB 1236
3/8/2017
28871

- Subcommittee
 Conference Committee

Committee Clerk Signature 

Explanation or reason for introduction of bill/resolution:

Relating to prosecution of gross sexual imposition and sexual abuse of minors.

Minutes: **Testimony attached #**

1,2

Chairman Armstrong called the committee to order on HB 1236. All committee members were present.

Mike Brandenburg, North Dakota State Representative District 28, introduced and testified in support of the bill. No written testimony. Representative Brandenburg briefly went over the bill.

Chairman Armstrong (2:00): “Are we taking away the three years after the day of identification?”

Representative Brandenburg: “I’m not sure.”

Kathy Hogan, North Dakota State Representative District 21, testified in support of the bill. (see attachment 1)

Chairman Armstrong (7:15): “The theory behind when we passed it originally last time was if you have new evidence and you discover who the perpetrator is, he shouldn’t get the benefit of being anonymous for 15/16 years and having the statutes of limitations trigger. If he pops up in the system for something else from committing a crime, and now all of a sudden we can ID him through DNA and/or fingerprints; once he’s identified, what would be the public policy reason for not forcing the states attorney’s office to prosecute that case in a timely manner? I guess that’s my question to why that language is struck. Once law enforcement identifies him, the public policy should be to force law enforcement to prosecute that man in a timely manner, and that’s what statutes of limitations do.”

Representative Hogan: “This came out of the house committee and we weren’t party to that discussion. So I don’t know if we know the answer to that, but I think if there was not only new evidence but also multiple victims, I think that’s the other thing we would like you to look at.”

Chairman Armstrong (8:55): "I think that's how some of these people get caught, by doing this conduct with someone else and then old crimes get tied into them."

Representative Hogan: "I don't think that's allowed under current statute and I'd like you to look at that. I think what we're learning is that this is a new area of law that we haven't really studied."

Lois Brandenburg, North Dakota citizen, testified in support of the bill. No written testimony. Lois described a story of how she was sexually assaulted as a child from both of her brothers, and her dad didn't believe her and would just send her outside. The incest continued for years.

"This would allow prosecutors more time to build their cases against the perpetrator, instead of rushing because of the statute of limitations and a timeframe. Victims take years, if not decades to come forward. It took me decades to come forward."

Paula Condol, Executive Director of Children's Advocacy Centers of North Dakota, testified in support of the bill. (see attachment 2)

Senator Luick (15:40): "It seems like there's more and more sex abuse going on. Do you know if there are educational programs at the lower levels of elementary schools that educate younger students about this?"

Paula Condol: "Yes, there are programs. We as adults need to be trained how to protect kids, so we can notice if things seem off with them. I believe we need to be proactive and continue those programs and training of young children."

Senator Myrdal (22:25): "How do you ascertain when an accusation from a child is false?"

Paula Condol: "There's a number of things. We don't ever do these cases in a vacuum, there's a whole team that work on this. There are law enforcement individuals going out to find things that corroborate the child's statement, but we also rely on research, and the research is low that the child is lying."

Aaron Birst, Association of Counties, testified in support of the bill. No written testimony.

"We do support this bill but we are a little bit confused on the language. It says if they are identified by DNA there's no statutes of limitations? To us if they are identified by DNA we'd want to prosecute them. So I think we are on the right path but the interpretation is kind of confusing."

Chairman Armstrong (29:38): "Well, I don't understand why in 2.1 we go to nine years, and in 3.1 we're at 10 years. In everything else we are trying to do we are trying to get more consistency in the code and not less. If nine years is good enough in 2.1 than why is it 10 years in 3.1?"

Aaron Birst: "We will offer our assistance in terms of our state attorney's if there are questions. Again, we want to increase the statute of limitations time and we do agree with that."

Chairman Armstrong: "What was it before the bill went in last year?"

Aaron Birst: "It was three years."

Chairman Armstrong: "And then we went to seven?"

Aaron Birst: "Right."

Chairman Armstrong: "And now in a span of two years we are going to nine?"

Aaron Birst: "Yes, under this bill that's how I interpret it."

Chairman Armstrong: "Can you find out how many cases have been prosecuted in the last two years under this statute that wouldn't have been prosecuted in North Dakota?"

Aaron Birst: "I'd be happy to."

Senator Luick (34:10): "The last few lines there that are crossed out on paged two, in your opinion should those lines be put back in there?"

Aaron Birst: "I'm not really sure why those were taken out of there."

Chairman Armstrong closed the hearing on HB 1236.

No motions were made.

2017 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

HB 1236 Committee Work
3/13/2017
29081

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to prosecution of gross sexual imposition and sexual abuse of minors.

Minutes: **No written testimony**

Chairman Armstrong began the discussion on HB 1236. All committee members were present.

The committee briefly went over the bill.

Chairman Armstrong: "For the newer committee members, last session we moved from three years to seven years, they tried for 10. We went down to seven. If you remember I asked Aaron Birst how many cases have been prosecuted in two years that wouldn't have been prosecuted before and I'm convinced that no matter what we do with this bill, we will see a future bill to get rid of this completely. I don't know why we're going from seven to nine unless there is some data that we have to. the way the law currently reads, you could have a 20-year-old sexual assault case with DNA. Then 21 years later you can identify whose DNA that is and he could get arrested in Florida if his fingerprints or DNA are in the system.

Under current law, you have three years then from that date to prosecute the case. This would get rid of that three-year metric. I have concerns of allowing an identification of a potential defendant and then saying, yeah, but we can charge him whenever we want. I think there's a valid argument to say to law enforcement that they know who the guy is, let's charge him and get him locked up as opposed to saying we can just go forever."

Senator Larson: "The thing that I keep coming back to on that issue is like a couple months ago, due to circumstances in our community. Our judge's said that they are moving their court cases into 2018. And that's just for the simple cases. My concern is if the courts are backed up and the lawyers can put things back longer. If we are going to run into a situation where something won't be prosecuted because logistically they cannot get it done in that length of time; then in that case it would make sense to me to just let it be open."

Chairman Armstrong: "The only thing I'd argue on that is that the statute of limitations is ruled upon charging and not conviction. All the sheriff has to do is charge them with a crime to keep it open."

Chairman Armstrong said he was going to work on some amendments and the meeting will discuss this further when that is done.

Chairman Armstrong ended the discussion on HB 1236.

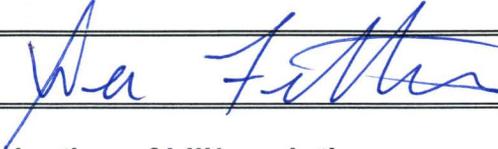
2017 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

HB 1236 Committee Work
3/20/2017
29430

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to prosecution of gross sexual imposition and sexual abuse of minors.

Minutes:

Attachments

1

Chairman Armstrong began the discussion on HB 1236. All committee members were present.

Chairman Armstrong went over his proposed Amendment. (see attachment 1)

Senator Nelson: "So in a nutshell, you leave the seven years and if you find DNA or fingerprints you got three years no matter when it happens?"

Chairman Armstrong: "Yeah. Not three years of collecting the DNA or fingerprints, three years from identifying who that DNA or fingerprint belongs too. Remember, the statute of limitations for these cases are already the longest ones we have outside of murder."

Senator Luick motioned to Adopt the Amendment. **Senator Myrdal** seconded.

A Roll Call Vote was taken. Yea: 5 Nay: 1 Absent: 0.
The motion carried.

Senator Luick motioned for Do Pass as Amended. **Senator Myrdal** seconded.

A Roll Call Vote was taken. Yea: 6 Nay: 0 Absent: 0.
The motion carried.

Chairman Armstrong carried the bill.

Chairman Armstrong ended the discussion on HB 1236.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1236

Page 1, line 1, replace "sections 29-04-02.1 and" with "section"

Page 1, line 2, replace "of gross sexual imposition and" with "for"

Page 1, remove lines 5 through 13

Page 1, line 23, remove the overstrike over "if;"

Page 1, line 23, remove "There is no limitation of the time within which a prosecution must be commenced if."

Page 2, line 1, remove the overstrike over "conclusively"

Page 2, remove the overstrike over lines 2 and 3

Page 2, line 4, remove the overstrike over "deoxyribonucleic acid testing"

Renumber accordingly

**2017 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. HB 1236**

Senate Judiciary Committee

Subcommittee

Amendment LC# or Description: 17.0596.02001

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Senator Luick Seconded By Senator Myrdal

Senators	Yes	No	Senators	Yes	No
Chairman Armstrong	X		Senator Nelson	X	
Vice-Chair Larson		X			
Senator Luick	X				
Senator Myrdal	X				
Senator Osland	X				

Total (Yes) 5 No 1

Absent 0

Floor Assignment _____

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

**2017 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. HB 1236**

Senate Judiciary Committee

Subcommittee

Amendment LC# or Description: 17.0596.02001

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Senator Luick Seconded By Senator Myrdal

Senators	Yes	No	Senators	Yes	No
Chairman Armstrong	X		Senator Nelson	X	
Vice-Chair Larson	X				
Senator Luick	X				
Senator Myrdal	X				
Senator Osland	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Chairman Armstrong

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

REPORT OF STANDING COMMITTEE

HB 1236, as engrossed: Judiciary Committee (Sen. Armstrong, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1236
was placed on the Sixth order on the calendar.

Page 1, line 1, replace "sections 29-04-02.1 and" with "section"

Page 1, line 2, replace "of gross sexual imposition and" with "for"

Page 1, remove lines 5 through 13

Page 1, line 23, remove the overstrike over "If,"

Page 1, line 23, remove "There is no limitation of the time within which a prosecution must
be commenced if."

Page 2, line 1, remove the overstrike over "~~conclusively~~"

Page 2, remove the overstrike over lines 2 and 3

Page 2, line 4, remove the overstrike over "~~deoxyribonucleic acid testing~~"

Renumber accordingly

2017 TESTIMONY

HB 1236

91
1236
2-1-17

TESTIMONY
House Judiciary Committee
HB 1236
February 1, 2017
Representative Kathy Hogan

Chairman Koppelman and members of the House Judiciary Committee, my name is Kathy Hogan, and I represent District 21 the heart of Fargo. This morning I am bringing you an old friend.

The statute of limitations regarding child sexual abuse and human trafficking has been an issue in many states in light of cases such as happened at Penn State. Current statistics indicate that 1 in four girls and 1 in six boys are sexually abused by the time they are 18 years old.

This bill extends the statute of limitation on human trafficking cases from **seven to nine years**. It also extends the statute of limitation on child sexual abuse cases to three years from the time the allegations were reported to law enforcement.

What would that actually mean? It would mean that law enforcement would need to seriously listen to the victim and at least consider a formal investigation. If there is only one victim with a *he said/she said* situation the case is likely to not proceed because there is not enough evidence for a state's attorney to proceed. But if there are multiple victims or external witnesses, prosecution could be considered. There are not currently available legal options for either law enforcement or the victims to pursue.

I became involved in this issue in my first campaign, when a constituent who had been sexually abuse at age 10 by a dentist explained his situation. He had first disclosed this abuse in his 40's. He asked me why he did not have any redress. He had filed a complaint with law enforcement and was told the statute of limitation had expired. He then began doing some research on his own and found at least four other victims of the same dentist. He talked to the

receptionist who indicated that she was aware of the abuse but hadn't known what do to. If this option were available and law enforcement could do a formal investigation and the victim would have had an option to be heard and the perpetrator could have been held responsible.

We as a community need to first acknowledge that we are not currently protecting our children well. This is one way to publically say that sexual abuse of children in not acceptable and that perpetrators need to be held accountable if there is adequate evidence.

Thank you Mr. Chair and I would be more than willing to answer any questions.

#2
1236
2-1-17

House Judiciary Committee
Testimony In Support of House Bill #1236
2-1-17

Chairman and Members of the Committee.

For the record my name is Paula Condol and I am the Executive Director of the Children's Advocacy Centers of North Dakota. I am testifying today to voice the Children's Advocacy Center's support of eliminating the statute of limitations for child sexual abuse victims.

When a victim of child sexual abuse comes forward to disclose the details of their abuse they are showing immense courage. They have to overcome many obstacles. One of these obstacles is the negative impact on their family or on a trusted relationship. At the North Dakota Children's Advocacy Centers we have found that 25% of alleged offenders are parents and 57% of the offenders are family members. Clearly the complexity of disclosing abuse is compounded when the abuser is your parent or someone you have a close relationship with, like a family friend.

Likewise, other obstacles to a child disclosing abuse are the child's perception of personal shame, a fear of not being believed, a fear of the offender causing harm to the child victim or someone they care about, or a feeling of being personally responsible for the sexual abuse. London, Bruck, Ceci and Shuman (2005).

When you think of the gravity of these obstacles to a young child or youth, a delay of time between the incident and the disclosure is not surprising. In fact, approximately two-thirds of child victims delay disclosing their abuse and about half of those do not disclose until

adulthood (Finkelhor, Hotaling, Lewis, & Smith, 1990; Goodman et al., 2003; London, Bruck, Wright, & Ceci, 2008).

Perhaps the most serious obstacle to the timing of disclosure is the psychological effects of child sexual abuse on the victim. Research tells us that children who are sexually abused typically accommodate to it psychologically by coping mechanisms such as denial, minimization, dissociation and or traumatic amnesia regarding the sexual abuse. The result of these psychological effects are that many victims do not disclose the abuse or even begin to perceive its impact on their lives until many years later, often well into adulthood (Miselman, 1991).

Given that there is ample research on the numerous obstacles to a child's early disclosure of sexual abuse, compounded with the likelihood of psychological effects from the abuse, it seems imperative on a system that seeks justice to eliminate the statute of limitations for these crimes.

Serious crimes in our legal system, like murder, do not have any statute of limitations in recognition of their serious impact on the victim and society. Child sexual abuse is an equally devastating and heinous crime. Its impact on the victim is immediate and long-term and often one consequence of the seriousness of the crime is that the victim does not disclose for many years. We would ask that you consider eliminating the statute of limitations for child sexual abuse and the categories of crimes set forth in the Bill.

Chairman and Members of the Committee, thank you for allowing me the opportunity to testify before you today and I will be happy to try and answer any of your questions.

17.0596.01001
Title.

Prepared by the Legislative Council staff for
Representative K. Koppelman
February 2, 2017

#1
1234
2-2-17

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1236

Page 1, line 11, after "acid" insert "or a fingerprint"

Page 1, line 12, after "testing" insert "or fingerprint authentication"

Page 1, line 24, after "acid" insert "or a fingerprint"

Page 2, line 4, after "testing" insert "or fingerprint authentication"

Renumber accordingly

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3/8/17

TESTIMONY
Senate Judiciary Committee
HB 1236
March 7, 2017
Representative Kathy Hogan

Chairman Armstrong and members of the Senate Judiciary Committee, my name is Kathy Hogan, and I represent District 21 the heart of Fargo. This morning I am bringing you an old friend.

The statute of limitations regarding child sexual abuse and human trafficking has been an issue in many states in light of cases such as happened at Penn State. Current statistics indicate that 1 in four girls and 1 in six boys are sexually abused by the time they are 18 years old.

This bill extends the statute of limitation on human trafficking cases from seven to nine years. In the first version of this bill, it also extends the statute of limitation on child sexual abuse cases to three years from the time the allegations were reported to law enforcement. That section was removed in the House but they did add fingerprint evidence.

What would that actually changing the statute of limitation mean? It would mean that law enforcement would need to seriously listen to the victim and at least consider a formal investigation. If there is only one victim with a *he said/she said* situation the case is likely to not proceed because there is not enough evidence for a state's attorney to proceed. But if there are multiple victims or external witnesses, prosecution could be considered. There are not currently available legal options for either law enforcement or the victims to pursue.

I became involved in this issue in my first campaign, when a constituent who had been sexually abuse at age 10 by a dentist explained his situation. He had first disclosed this abuse in his 40's. He asked me why he did not have any redress.

He had filed a complaint with law enforcement and was told the statute of limitation had expired. He then began doing some research on his own and found at least four other victims of the same dentist. He talked to the receptionist who indicated that she was aware of the abuse but hadn't known what to do. If this option were available and law enforcement could do a formal investigation and the victim would have had an option to be heard and the perpetrator could have been held responsible. Law enforcement could have responded.

We as a community need to first acknowledge that we are not currently protecting our children well. This is one way to publically say that sexual abuse of children is not acceptable and that perpetrators need to be held accountable if there is adequate evidence.

Thank you Mr. Chair and I would be more than willing to answer any questions.

Senate Committee

Testimony In Support of House Bill #1236

3-8-17

Chairman and Members of the Committee.

For the record my name is Paula Condol and I am the Executive Director of the Children's Advocacy Centers of North Dakota. I am testifying today to voice the Children's Advocacy Center's support of eliminating the statute of limitations for child sexual abuse victims.

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Likewise, other obstacles to a child disclosing abuse are the child's perception of personal shame, a fear of not being believed, a fear of the offender causing harm to the child victim or someone they care about, or a feeling of being personally responsible for the sexual abuse. London, Bruck, Ceci and Shuman (2005).

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Given that there is ample research on the numerous obstacles to a child's early disclosure of sexual abuse, compounded with the likelihood of psychological effects from the abuse, it seems imperative on a system that seeks justice to eliminate the statute of limitations for these crimes.

Serious crimes in our legal system, like murder, do not have any statute of limitations in recognition of their serious impact on the victim and society. Child sexual abuse is an equally devastating and heinous crime. Its impact on the victim is immediate and long-term and often one consequence of the seriousness of the crime is that the victim does not disclose for many years. We would ask that you consider eliminating the statute of limitations for child sexual abuse and the categories of crimes set forth in the Bill.

Chairman and Members of the Committee, thank you for allowing me the opportunity to testify before you today and I will be happy to try and answer any of your questions.

3/20/17

①

HB 1236

17.0596.02000

Sixty-fifth
Legislative Assembly
of North Dakota

INTERN DRAFT AMENDMENT TO EHB 1236

Page 1, line 10, remove over strike on "seven"

Page 1 line 10, remove "nine"

Page 1 line 10, remove "If evidence"

Page 1, remove lines 11-13

Page 1, line 23, remove overstrike on "if,"

Page 1, line 23, remove "There is no limitation of the time within which a prosecution must be commenced if,"

Page 2, line 1, remove overstrike on "conclusively"

Page 2, remove the overstrike on lines 2-4 "~~after the time period prescribed in subsection 1 has expired, a prosecution may be commenced within three years after the suspect is conclusively identified by the deoxyribonucleic acid testing~~"