

2017 SENATE HUMAN SERVICES

SB 2153

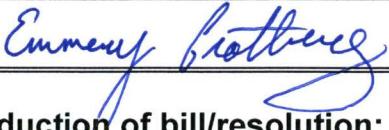
2017 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2153
1/17/2017
Job Number 26944

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A bill relating to emergency care for minors.

Minutes:

Attachments: #1 - 2

Vice Chair Larsen: Opened the hearing for SB 2153.

Senator C. Nelson, District 12: Introduced SB 2153 and introduced Janelle Moos to provide more information on the bill.

Janelle Moos, Director, CAWS: Testified in Support of SB 2153 (See Attachment #1).

(5:08) **Senator Anderson:** The previous language seemed clear now this exclusion says if the child is 13 years of age or younger you have to get the parent consent. Is that the intention? What if the parents are unavailable to consent to emergency care?

Janelle Moos: Minor is defined as under the age of 18. Our intent was only for ages 13 – 17. This change adding a “minor who is at least thirteen years of age” only applies to forensic medical exam. Last legislative session we made a change to say reasonable steps have to be made to notify a parent and that has been working well. Our intent here is if you are 13 – 17, you can make the decision to have a forensic exam or not without parent consent. Parents must be notified if the child is 12 or under. Often with sexual assault cases, 85% of the cases we know of are often perpetrated by someone close to the victim.

Senator Piepkorn: It appears as though the minor may make an agreement for an examination. If that minor needs emergency medical attention, they can ask for an examination but if an emergency medical procedure is required then you have to make an attempt to contact the parent or guardian?

Janelle Moos: I think you are right in terms of your examination of that piece of legislation and nothing changes for that piece of legislation. Our intent is to make the clarification under number 2.

Senator Kreun: Why are we singling out sexual assault from other types of assault or emergencies?

Janelle Moos: The reason we initiated the change in 2015 is because this was brought to us as a concern. It is not that we are unconcerned with other emergencies, but this was brought to us as a concern.

Vice Chair Larsen: Where is the examination administered?

Janelle Moos: Most often, victims of sexual assault may present themselves to a hospital, ER, or a clinic. They may come to a crises center after the sexual assault but all of the forensic is collected at a medical facility. Our advocates are only there for support and they help the children understand what may have happened to them and what the forensic exam entails.

Vice Chair Larsen: So are we cutting out victims under?

Janelle Moos: With any victim of sexual assault, it is a matter of procedure. Younger victims go to children's advocacy centers; older victims go with a sexual assault nurse examiner. We are not narrowing the scope in which forensic services are offered to victims of sexual assault; it is really clarifying the law. We are still advocating all victims to come forward and report to receive the services they need, but it will ultimately be their decision in those situations.

(11:38) **Senator Clemens:** In item 2 and 1, it says reasonable steps must be made to notify the minor's parent or guardian of the care provided. Are the parents notified before the care is given?

Janelle Moos: That is the intent; that language was added on during conference committee last legislative session. There was concern about how parents are notified. They are usually notified with a phone call before the care is offered.

Senator Clemens: The last line makes it look like notification is after the fact. My concern is that steps be made to notify the parents before the care is offered.

Janelle Moos: That was the concern last legislative session. The concern brought forward was that when victims of sexual assault come forward are assaulted by someone they know so if you have a parent who doesn't want them to have the forensic exam, they are likely to deny it. We wanted to allow victims to come in and receive the care and then steps would be made to notify if that care was received. It has been implemented both ways, but our intent was that a child over 13 could ask for a forensic exam and the parent or guardian would be notified.

Vice Chair Larsen: What is the time frame that these exams have to take place?

Janelle Moos: There is a time frame and immediate care is vital to collect the evidence. We know victims wait for various reasons to come forward but there often is evidence still available. As an advocacy organization we will help the victim understand what happens next if the victim chooses not to go to law enforcement.

Vice Chair Larsen: I have read in same states where they store the information and it gets lost. Where do we warehouse our evidence and how long is it kept on record?

Janelle Moos: The state does a good job in keeping forensic medical exams. They are numbered and law enforcement keeps them in custody until they are sent to the crime lab. We don't have backlog problems in ND. Last year, there was a short time where we had a backlog for a couple weeks.

Vice Chair Larsen: So the state does not have one location to keep the information?

Janelle Moos: Up until the time when they send the kit to the crime lab to be tested, it is in possession of the sheriff department until it is sent to be tested in Bismarck. The information is put into a national database to see if there are hits so they can track long term sexual assault offender.

Chair J. Lee: Asked Miss Moos to repeat information she had provided in previous testimony.

Senator Kreun: How many sexual assault victims are males and how many are females?

Janelle Moos: I don't have those numbers but male child sexual abuse is pretty predominate.

Senator Kreun: So we are just limiting this to sexual assault. I think there's more to it in this realm of assault. I'd appreciate those numbers because I think those are rising in a pretty dramatic rate.

Senator Piepkorn: So the only change to this bill is the addition of "who is at least thirteen years of age?" Can you restate why you want that?

Janelle Moos: Reiterated the concerns and their origin.

(21:30) **Marnie Walth, Sanford Health:** Testified on SB 2153. I don't exactly want to stand in opposition but I have a question. When visiting with our emergency medicine medical officer said that the way he reads this is that if a child who comes in who is 12 and has been sexually assaulted and has a medical emergency that this says he can't care for them.

Chair J. Lee: We absolutely do not want that so we will look to see if we need to amend the language.

Senator Anderson: It seems to me that prior to this change, we allowed the forensic examination for any child. It seems now that we have restricted that and I wonder if that is the intent.

Janelle Moos: This the 2nd draft of the bill; there was an earlier version that would have changed the entire section and that was not our intent. I can see why there is some confusion so we will look at it.

Senator Anderson: I am concern that children under 12 have to have parental consent prior to a forensic exam and prior to this change that was not true.

Chair J. Lee: I do not see the advantage of limiting it to those at least 13 years of age.

Janelle Moos: Our intent was not trying to restrict the population; we were trying to clarify, but maybe we've caused more problems. The concern came from nurses and doctors that with parents are often involved in helping with younger children and we did not want to interfere with that. We were only looking at the population that is at higher risk for assault.

Chair J. Lee: But the option is there for any age without that language. If it doesn't say at least 13, they don't have to be 13. It's up to the professional to determine how to perceive. What was the problem you were trying to fix?

Janelle Moos: We were trying to clarify the law and the intent because there was confusion about whether younger children qualified. Current law defines minors as anyone under the age of 18 but we often need the parent's support system with younger victims.

Vice Chair Larsen: Asked how the procedure would work.

Senator Anderson: It looks like with this change if the child is under 13 you need permission.

Chair J. Lee: I do not want to create a problem if there is not one; but if there is language that needs to be cleaned I am willing change it.

Committee Discussion: Senator Anderson asked if there were any practitioners present. There were not. He suggested inserting the word "any" before minor. He said there may be parents opposed but he wanted to relieve the minds of the practitioners. Miss Moos discussed her original intent with the bill. The committee decided to work individually with Miss Moos and care providers to fix problems with the bill.

Senator Anderson: Asked for portions of century code (See Attachment #2).

Steve Riser, Director, Social Services: Testified on SB 2153. He asked the committee to consider the implications of the bill and not make it more restrictive.

Chair J. Lee: Closed the hearing on SB 2153.

2017 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2153
1/18/2017
27050

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A bill relating to emergency care for minors.

Minutes:

1 Attachment

Chair J. Lee: Opened the hearing on SB 2153.

After feedback from several organizations (please see attachment #1), the committee decided that the bill would not do what it was intended to do.

Senator Anderson: I move do not pass SB 2153.

V-Chair Larsen: I will second.

A roll call vote was taken.

Motion passed 7-0-0.

Sen Anderson will carry SB 2153.

Chair J. Lee: Closed the hearing on SB 2153.

Date: 1/18 2017

Roll Call Vote #: 1

**2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES**

Senate Human Services Committee

Subcommittee

Amendment LC# or Description:

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

Other Actions: Reconsider

Motion Made By Sen. Anderson Seconded By Sen. Larsen

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen Anderson

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

REPORT OF STANDING COMMITTEE

SB 2153: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2153 was placed on the Eleventh order on the calendar.

2017 TESTIMONY

SB 2153

SB 2153

Attachment # 1

4/17

Testimony on SB 2153
Senate Human Services Committee
January 17, 2017

Chair Lee and Members of the Committee:

My name is Janelle Moos and I am the Executive Director of the CAWS North Dakota. Our Coalition is a membership based organization that consists of 20 domestic violence and rape crisis centers that provide services to victims of domestic violence, sexual assault, and stalking in all 53 counties and the reservations in North Dakota. I'm speaking this morning on their behalf in support of SB 2153.

Adolescents are at substantial risk for rape and sexual assault. According to the National Juvenile Justice Center, adolescents 12-17 years old are the largest group of sexual assault victims and they are twice as likely to be sexually victimized as adults (Snyder, 2000; Snyder & Sickmond, 2006). Thirty-two percent of the sexual assault victims surveyed in the National Violence Against Women Survey (NVAWS) were first assaulted between the ages of 12-17.

Last year alone in North Dakota over 900 victims of sexual assault sought services from one of the twenty crisis centers; 40% of those victims were under the age of 18 at the time of the assault. Some adolescent sexual assaults are of course reported to the police, either by the victims themselves or by someone they disclosed to, such as a parent. In North Dakota, 70% of sexual assault victims report the assault to law enforcement.

SANE programs provide 24-hour-a-day, first response crisis intervention and medical forensic exams for adolescent and adult sexual assault victims. SANE nurses are often one of the first responders in cases involving teen victims of sexual assault and work as part of a team that involves advocates and law enforcement. When a victim comes in to receive medical and forensic services SANE nurses call on the others to provide information related to reporting options and to walk victims through the process. One of the first questions is whether a victim wants to receive a forensic exam to collect evidence of the assault.

Up until the 2015 legislative session, under ND law victims under the age of 18 could not consent to or decline a forensic exam after a sexual assault. HB 1314 changed that. Testimony offered during the last session illustrated have been several instances where victims have

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chosen not to have the forensic exam and parents have required them to do so and other cases where victims have selected to have the exam and the parents do not consent. Victims often feel powerless and responsible for the assault and need to feel like they have the ability to decide what happens to them and their body after the assault. Until 2015, adolescent victims don't have that ability to make that decision on their own.

The original intent behind HB 1314 was to allow victims (age 14 and up) to consent to a forensic exam without parental consent. SB 2153 makes it clear what the original intent of the bill was under subsection 2 line 15 of section 14-10-17.1. The original bill from 2015 and SB 2153 was and continues to be an important step that allow victims the ability to choose what is right for them especially in cases where the offender is someone that the victim knows such as an uncle, father which is the case about 85% of the time. Often times when victims have that choice they do move forward with the exam and receive additional services from advocates. This bill doesn't change that therefore we encourage a DO PASS on SB 2153.

Thank you.

14-10-13. Minor may not disaffirm statutory contracts.

A minor cannot disaffirm an obligation, otherwise valid, entered into by the minor under the express authority or direction of a statute.

14-10-14. Undertaking by minors for release on bail.

A minor is capable of entering a binding undertaking for the purpose of securing the minor's release on bail in the same manner and with the same effect as if the minor were an adult.

14-10-15. Unborn child - When deemed existing person.

A child conceived but not born is to be deemed an existing person so far as may be necessary for its interests in the event of its subsequent birth.

14-10-16. Identification cards - Application - Misrepresentation of age - Falsifying cards - Penalty.

Repealed by S.L. 1977, ch. 342, § 2.

14-10-17. Minors - Treatment for sexually transmitted disease - Drug abuse - Alcoholism.

Any person of the age of fourteen years or older may contract for and receive examination, care, or treatment for sexually transmitted disease, alcoholism, or drug abuse without permission, authority, or consent of a parent or guardian.

14-10-17.1. Minor's emergency care.

1. A minor may contract for and receive emergency examination, care, or treatment in a life-threatening situation without the consent of the minor's parent or guardian. If a minor has an emergency medical condition or the potential for an emergency medical condition, consent to emergency examination, care, or treatment of the minor is implied if reasonable steps to contact the minor's parent or guardian are unsuccessful. This subsection does not authorize a minor to withhold consent to emergency examination, care, or treatment.
2. A physician or other health care provider may provide emergency medical care or forensic services to a minor who is a victim of sexual assault without the consent of the minor's parent or guardian. Reasonable steps must be made to notify the minor's parent or guardian of the care provided.

14-10-18. Blood donations by minors.

Repealed by S.L. 1983, ch. 82, § 154.

14-10-18.1. Blood donation - Minors.

An individual who is at least sixteen years of age may donate blood on a voluntary and noncompensatory basis without obtaining the consent of the individual's parent or guardian. Any notification of a medical condition must be mailed to the donor and the donor's parent or guardian.

14-10-19. Minor's consent for prenatal care and other pregnancy care services.

1. a. A physician or other health care provider may provide pregnancy testing and pain management related to pregnancy to a minor without the consent of a parent or guardian.
- b. A physician or other health care provider may provide prenatal care to a pregnant minor in the first trimester of pregnancy or may provide a single prenatal care visit in the second or third trimester of pregnancy without the consent of a parent or guardian.
- c. A physician or other health care provider may provide prenatal care beyond the first trimester of pregnancy or in addition to the single prenatal care visit in the

Anderson, Jr., Howard C.

From: Janelle Moos <jmoos@cawsnorthdakota.org>
sent: Tuesday, January 17, 2017 7:26 PM
To: Anderson, Jr., Howard C.
Cc: Lee, Judy E.; Nelson, Carolyn C.; Paula Condol; Anna Frissell
Subject: Re: SB 2153

***** CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe. *****

Senator Anderson,

Yes, I see that now and obviously that wasn't our intention. I had a conversation with Anna Frissell and Paula Condol with the Children's Advocacy Centers (CAC) this afternoon and we are all now in agreement that the change in SB 2153 would limit their ability (in addition to SANE nurses) to provide care and believe the change we initiated last session is more inclusive of all sexual assault victims that may come forward seeking emergency care and a forensic exam. At this time we weren't able to identify a solution and I feel it may be the best choice to recommend a do not pass recommendation as what is currently in law now accomplishes what we intended- that all victims have the right to choose whether to have an exam or not after an assault. We feel like the concerns that have been brought up by providers regarding age (which was the reason this bill was initiated) can better be addressed by protocol and training.

I hope this is helpful. Thank you for your thoughtful questions today and for following up with me. I will try to be at the hearing for the bill tomorrow at 10:30 but have a prior commitment to speak on a panel.

If you or any other committee member need to get in touch with me you can reach me via email or on my cell at 471-3146.

Have a nice evening!

Janelle

Sent from my iPhone

> On Jan 17, 2017, at 4:09 PM, Anderson, Jr., Howard C. <hcanderson@nd.gov> wrote:
>
> Dear Ms. Moos:
>
> The current language in the law seems to allow a forensic exam for any minor, with an effort to contact the parents.
>
> Your change seems to limit that opportunity to those 13 to 18 years old.
>
> Sincerely,
>
> Howard
>
> Howard C. Anderson Jr., R.Ph.
District 8 Senator
2701 7th St NW
> Turtle Lake ND 58575-9667