

2019 SENATE HUMAN SERVICES COMMITTEE

SB 2222

2019 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2222
1/29/2019
Job # 31648

- Subcommittee
 Conference Committee

Committee Clerk Signature: Justin Velez / Carie Winings

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact section 12.1-36-01 of the North Dakota Century Code, relating to female genital mutilation; and to provide a penalty.

Minutes:

Attachments: 1

Madam Chair Lee: Opens the hearing on SB 2222

(00:00-01:53) Senator Myrdal, District 10: Introduced the bill and gave a brief description. I bring this bill forward because 2 medical professionals have come to me over the last couple of years concerned about this issue. Of course, genital mutilation under this section is already illegal, however, they found it difficult to report in cases where they saw evidence of this. There was no mechanism or clarity for prosecutors on how to deal with it. It is a form of child abuse. Even though this is a very complicated issue, it is a clear addition to the section in the code. There are others that will explain the more legal technicalities.

Senator Hogan: Years ago when I worked county social service we had several of these cases that were prosecuted as child abuse/neglect. It had been the practice. Have you met with the department about the practice of this in their department and have they changed policies?

Senator Myrdal: I was unaware of that. No I have not met with them. Both of the physicians that I met with were both OBGYN and they saw it a little later in minors, and they did not feel like they had a mechanism to report it.

Madam Chair Lee: I am sure we have others that will address that. It had been federal law and the court said it had to be a state's opinion.

Senator Hogan: Mentioned that it may be the individual circumstances under which it may have happened; possibly in another country etc.

Senator Myrdal: We worked with legislative council and went through a lot of questions such as these and we felt like this language would answer some of that.

(04:28-08:05) Christopher T. Dodson, Executive Director of the North Dakota Catholic Conference: Testified in favor of SB 2222. See Attachment #1 for testimony.

Senator Anderson: If my child wants to change from a man to a woman or vice versa would that be included in this statute?

Madam Chair Lee: If it is an adult it would be different than being a child.

Christopher Dodson: That doesn't go into this bill. This bill deals with the child abuse statute. (Reads definition of female genital mutilation.)

Senator Hogan: Having worked with many new Americans who came out of groups where this was a practice; it happens when a girl was 8 or 10 and then comes here when she's 15 or 16. Would that need to be reported then? Would the physician have to report the mutilation the first time they are seen and would it have to be investigated?

Christopher Dodson: That is how I interpret this amendment applying. If the evidence of it is seen at a later date, and it doesn't matter if it was done here or elsewhere. Sometimes the physical effects will happen when the girl reaches puberty. It would be reported as possible child abuse and be investigated. It would be an issue for the States Attorney as far as statute of limitations etc.

Senator Roers: It seems like a big old mess there. How do you convict someone for child abuse for something that was legal where it happened?

Christopher Dodson: We deal with that often. That is already something that we deal with in the criminal prosecution structure. All this would do would basically start the investigation so that we can determine the facts. That is an issue for the justice system. This bill doesn't touch that. All it makes it clear is that it is child abuse under the statute so it can be investigated.

Senator Anderson: If we understand that the intent is to make this a reportable condition and make it a crime, I think we need to check with legislative council. I think there is a separate section for reportable condition. This does not seem to address adding it to the reportable conditions list that health care professionals are required to report. If that is our intention, we need to ask that question.

Christopher Dodson: The way the statute works is that reporting requirement does not list every type of act. It simply goes to the work suspected child abuse and refers back to Chapter 14. I thought that the best way would be to add it to Chapter 14 and legislative council agreed with that.

Senator Clemens: When I look at the bill, Number 2, it says a surgical operation is not a violation of this section, if a licensed medical practitioner performs the operation to correct an anatomical abnormality or to remove diseased tissue. If a person was to go through a sex change operation as a minor, they would be in violation of this law as I read this.

Madam Chair Lee: That is current statute.

Christopher Dodson: It is not the intention to change the definition under the code for the crime of female genital mutilation. This is only adding clarification that it is child abuse under Chapter 14 so it is mandatory reporting.

Senator Hogan: When you look at line 13 and 14 (reads); I believe that is essentially what this was. It is current statute. Have you met with the attorneys at DHS about their interpretation of these reports in terms of the child protection system?

Christopher Dodson: No, I really thought at some point they would ask questions and contact me.

Senator Hogan: I think that is something we need to know.

Madam Chair Lee: We can check with Jonathan Alm to see if he has any comments to add.

Senator Larsen: (Asked a question to clarify the intent of the bill.)

Christopher Dodson: The intent is to only to deal with this particular act. It is not addressing any particular ethnic group. Our state, long ago, decided that this act was so horrendous that it should be a crime in and of itself. This bill makes it clear that if there is evidence of it, then it is child abuse.

Madam Chair Lee: Closed the hearing on SB 2222.

2019 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2222
1/29/2019
Job # 31655

- Subcommittee
 Conference Committee

Committee Clerk Signature: Justin Velez / Carie Winings

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact section 12.1-36-01 of the North Dakota Century Code, relating to female genital mutilation; and to provide a penalty.

Minutes:

No Attachments

Madam Chair Lee: Opened SB 2222 for committee discussion. The intern researched and stated that the committee did not need to pull in any additional definitions for child abuse because the definitions are vague and defined as child abuse. A potential issue was discovered that in 50-25.1-03.1 that makes any mandated reporter take color photographs of trauma on the abused or neglected child. That is complicated and maybe not advisable if you are talking about genital mutilation. Unlike a bruise it would not go away. An exception could be made for this type of child abuse for this requirement.

Senator Hogan: I still think we should get CPS to explain that. I think the legal frame is good.

Committee Discussion: The committee discussed who they needed to talk to for clarification.

Madam Chair Lee: Closed the discussion.

2019 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2222
1/29/2019
Job # 31716

- Subcommittee
 Conference Committee

Committee Clerk Signature: Justin Velez / Carie Winings

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact section 12.1-36-01 of the North Dakota Century Code, relating to female genital mutilation; and to provide a penalty.

Minutes:

No Attachments

Madam Chair Lee: Opened SB 2222 for committee discussion.

Marlys Baker, Child Protection Services Administrator, Department of Human Services: Came before the committee to answer any questions the committee may have.

Senator Hogan: So if a child experiences genital mutilation when they were in another country and then came here, would this bill require that a report be filed and be investigated? The way that we read it is that any time a physician saw a child, regardless of the timing, it would still be reportable and have to be investigated.

Marlys Baker: There is no time period after which a report of suspected abuse or neglect would not have to be filed; so long as the child remains under the age of 18. Once they are an adult, they no longer fall under child abuse and neglect law.

Senator Hogan: Would they automatically be guilty of committing this crime then?

Marlys Baker: They are innocent until proven guilty. Guilt or innocence is a decision that is made in the criminal court.

Senator Hogan: Assuming it is fact that the genital mutilation has occurred several years before, then it would be proceeded?

Madam Chair Lee: If it happened before they came to this country? Christopher Dodson stated that it would have to be reported.

Marlys Baker: If you are a mandated reporter of child abuse and neglect and you have a reasonable suspicion that this injury was caused by child abuse and neglect, then you must make a report. Then there would have to be an assessment of the circumstances of this

injury or procedure. If it was a medical procedure, then that assessment might likely be terminated. If they are in our state, no matter where they came from, it has to be treated the same as any other.

Senator Anderson: You are saying to protect the child and so forth. In this kind of a thing, if the home country approved this, there is no longer need to protect the child. The question is if the family will automatically have been prosecuted for something that happened in their home country when there is no longer a danger to the child.

Marlys Baker: Prosecution for criminal acts is a determination made by the county and state's attorney or the prosecutor. When you go to a criminal court, the standard of evidence that the prosecutor has to establish is that a crime occurred beyond a reasonable doubt. I think in the scenario of what you are describing, it would be very difficult for a prosecutor to prove beyond a reasonable doubt that this was a crime that occurred in the jurisdiction where you are located.

Senator Roers: I struggle with the flag that we are putting up for every time this is seen, and that it is mandated to be reported. How does it not get reported on the child multiple times every time they see someone different? I get the intent of this, but I am worried about downstream effects.

Marlys Baker: We have a process for when a report comes into a social service office. There is an analysis of that report. Where we look at whether it meets the criteria to go forward. One of those criteria is if this is something that has not been previously assessed. (Gave an example of another condition that could be commonly seen and how it would be dealt with.)

Madam Chair Lee: this bill has the support of the county states attorneys and the medical association, and neither of those folks were able to be here for the discussion today. I would like to know if you find this bill to be helpful? It is very hard for us to vote against reporting mutilation. It is up to you and your office to figure out where it goes when it is reported to you. There is no basis for some of the fears we discussed earlier because there is protection or not requirements for certain things to be done. Do you feel this is helpful to the children we are talking about and the families that you serve?

Marlys Baker: I don't know if helpful would be the word that I would use. Certainly, it is more clear.

Madam Chair Lee: Is there value to the bill the way it is presented to us?

Marlys Baker: I believe there is value to the bill. I have been at federal meetings where we have had presentations on this issue from the US Department of Justice. I believe this is child abuse and particularly if it occurs in this country.

Senator Hogan: I know that we had several of these complaints that we investigated in the late 90's and early 2000's. Do you think it is covered under current child protection rules?

Marlys Baker: I believe that it could be, but putting it specifically into the definition of an abused child makes it very clear that it does.

Senator Hogan: Do you think there is any value in clarifying the genital mutilation that occurs in this country vs. coming here with it?

Marlys Baker: My concern is then if I take this child out of this country simply for the purpose of that surgery and return them to this country, I am no longer liable. I feel like it is more to do with the recentness of it than the location.

Senator Anderson: The other question that we had was if the child is undergoing a sex change operation, if that falls under this category?

Marlys Baker: I think we would have a very difficult time showing that a medical procedure done in a hospital is criminal. Unless there is some very clear language in a law somewhere that tells us that it is. When I read the letter of the law in 1 and 2 of this, what is current law, it says "except" in regards to correcting an anatomical abnormality or to remove diseased tissue that is an immediate threat to the health. If someone wanted to take this to the next level, this could be narrowly interpreted.

Madam Chair Lee: If there is a family that is arguing about whether a child under the age of 18 is having a sex change operation, they have a bigger problem than these this statute here. That is a huge decision that needs to be made by an adult. I am not willing to eliminate the rest of the benefits that may come from clarifying this statute for that outlier. We are getting the weeds folks.

Senator Clemens: Would it help if we included minor in number 2 and maybe 3.

Madam Chair Lee: This is in the child abuse statute. Legislative council thought this belonged here.

Senator Anderson: Moved a Do Pass.

Senator Larsen: Seconded.

A Roll Call Vote Was Taken: 5 yeas, 1 nay, 0 absent.

Senator Roers will carry the bill.

2019 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2222

Senate Human Services Committee

Subcommittee

Amendment LC# or Description: _____

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 Sen. Anderson Seconded By Sen. O. Larsen

Senators	Yes	No	Senators	Yes	No
Chair Lee	X		Senator Hogan		X
Vice Chair Larsen	X				
Senator Anderson	X				
Senator Clemens	X				
Senator Roers	X				

Total (Yes) 5 No 1

Absent 0

Floor Assignment Sen. K. Roers

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

REPORT OF STANDING COMMITTEE

SB 2222: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO PASS** (5 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2222 was placed on the Eleventh order on the calendar.

2019 HOUSE HUMAN SERVICES

SB 2222

2019 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

SB 2222
3/5/2019
33218

- Subcommittee
 Conference Committee

Committee Clerk: Nicole Klamann

By: Elaine Stromme

Explanation or reason for introduction of bill/resolution:

Relating to female genital mutilation; and to provide a penalty

Minutes:

Attachment 1

Chairman Weisz: Opened the Hearing on SB 2222

Senator Myrdal: Introduced bill (Child Abuse)
(0:01:27)

Chairman Weisz: Currently the penalty is for the person who performs the surgery?

Senator Myrdal: Yes, we are adding any parent, adult family or household member, guardian or other custodian of any child who willfully allows surgical alteration on a child. It would be under child abuse.

Christopher T. Dodson, Executive Director ND Catholic Conference: In support, (see written testimony attachment 1). Current statute only convicts the individual committing the act. This bill makes clear that female genital mutilation is child abuse and is subject to mandatory reporting provisions.
(0:07:28)

Representative Todd Porter: Is Section 14-09-22 a felony?

Christopher T. Dodson: It is a Class B Felony if the child is 6 or older. A Class A felony if the child is under the age of 6.

Representative Kathy Skroch: Is there a statute of limitations for prosecution?

Christopher T. Dodson: This is child abuse, not sexual abuse and it starts the time it's discovered. The physical damage may not show until puberty or pregnancy. Bjerst is going to get back to me on the years.

Chairman Weisz: Any more Support? Opposition? Seeing none
We will close the Hearing on SB2222.

2019 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

SB 2222
3/5/2019
33219

- Subcommittee
 Conference Committee

Committee Clerk: Nicole Klaman	By: Elaine Stromme
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Explanation or reason for introduction of bill/resolution:

Minutes:

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Chairman Weisz: Opened the Meeting on SB 2222

Rep. Skroch: Made a motion to Do Pass SB 2222

Rep. Rohr: Seconded

A Roll Call Vote was taken: Yes - 13 No - 0 Absent - 1

Do Pass carried on SB 2222

Rep. Skroch will carry SB 2222

Meeting closed.

2019 HOUSE STANDING COMMITTEE MINUTES

Human Service Committee
Fort Union Room, State Capitol

SB 2222
3/12/2019
33591

- Subcommittee
 Conference Committee

Committee Clerk Signature Risa Bergquist by Nicole Klaman

Minutes:

Chairman Weisz: Called the meeting to order for SB 2222, went through the legislative council's opinion.

There were some questions raised and some statements made during the hearing which may not be completely accurate. We can decide if the bill needs to come back or not.

1. Under ND Century Code prosecution for any felony, other than murder, must be commenced within 3 years after its commission.

Section 12.1-36, surgical alteration, is not exempted from the 3 year statute of limitation. There was testimony that stated it would start when it was discovered, which is not the case. The statute of limitations is going to start when it happens.

Another question that came up; What happens if you were out of jurisdiction? It states that ND would not have jurisdiction to prosecute the offense, due to it occurring out of state. The one exception is if the child and the parent were ND residents and specifically took the child on an international trip for the purpose of having it done.

Rep. Kathy Skroch: Let's say the child showed up in the doctor's office with the mutilation and it becomes an ongoing health problem. Would it fall under this?

Chairman Weisz: I don't think so, statute of limitations would already be passed. The statute of limitations does start for sexual abuse at the time it's discovered.

Rep. Todd Porter: Did they say how we go about making it the point of discovery instead of the point of the actual mutilation itself? How would we accomplish changing it to upon discovery?

Chairman Weisz: If it's the wish of the committee to have the statute of limitations start at point of discovery, I think it's just a matter of amending it to specifically state that.

Rep. Porter: The problem with this act of mutilation is it would almost always go past the current statute of limitations. I don't think it pays to have the law at all unless we have it start at the point of discovery.

Chairman Weisz: I am assuming most of these mutilations aren't happening in the state of North Dakota.

(0:08:01)

Rep. Schneider: I worry about the language you read us too. You stated the exception, "If the child and the parent were ND residents and specifically took the child on an international trip for the purpose of having it done."

This would be so easy for the parent/guardian to get around this by stating they went back on other business. We would want to say somehow, "that as long as they are residents of North Dakota, even if it is performed internationally, it would still be punishable."

(0:09:15)

Chairman Weisz: I don't disagree. If it's occurring outside the state, for the most part, the State of ND wouldn't have jurisdiction.

Rep. Schneider: I would think "if the parent willfully allows" portion would permit us pulling it into ND. Maybe Legislative Council doesn't feel that way.

Chairman Weisz: They might just need some language that pulls it back.

Rep. Schneider: Also to remove "the purpose being" portion.

Chairman Weisz: Right, I understand. Is it the committees wishes that we see if Legislative Council can come up with different language to 1. Would make exempt this statute exempt from the Statute of limitations and make it start from the point of discovery and 2. Clarify culpability even if it occurs outside the state.

Rep. Dobervich: After talking to legislative council after the hearing I asked how we can address the out of state since that is what the eastern part of ND is experiencing. They stated if it's reported and investigated, my understanding was that ND could work with the other state for prosecution.

Chairman Weisz: But the other state would still have to be the prosecuting state

Rep. Dobervich: Correct.

Rep. Porter: There would be two things, sub 1 would go after the person who did the procedure in the other state, if possible. Sub 3, deals with the parent/guardian that allowed it to happen. Even if it happened outside of the state I believe ND could still prosecute. They may need to call in or have assistance from outside, but I think ND could prosecute because it's child abuse.

(0:12:50)

Chairman Weisz: If a doctor or butcher was doing it in MN, we wouldn't have jurisdiction to prosecute for the surgical mutilation.

Rep. Porter ND could report it to the state it occurred.

Chairman Weisz: But we couldn't extradite for it.

Rep. Tveit: We would be showing diligence by passing the law regardless of jurisdictional issues that may arise. If other states mirror our effort and do the same, there is some merit in that alone.

Chairman Weisz: I think we can all agree, if we are going to pass this, lets make sure it's something with teeth. In the event of an occurrence it will insure that it is punishable. The implication of the caregiver and their liability, even if they took the child out of state, we could go after them. At the surface, they could argue, their out of state purpose was other than that of the surgical mutilation. However, the fact will remain, if it was done. So we also want some language for the statute of limitations as well.

Rep. Dobervich: I have a proposed amendment that I worked on with Legislative council, it addresses the intent portion. So regardless of the intent of the trip to another state, customs, spiritual or religious belief or simply the

consent of parent or guardian is not defense. That is what the wording is in the amendment 19.0971.01001

Rep. Porter: On the bottom side of sub 2 starting on line 12-14 it basically says the same thing. Is this being added as a separate subsection? Does that need to be removed or it seems like it's in duplication.

Rep. Dobervich: I would like to see us take that out of there and put this in, I think this is stronger language because it specifically states consent of the parent is enough where this just says standard practice. I would be okay with the wording of "consent of the parent or guardian of the minor"...I did run it across Senator Myrdahl and she felt the language was fine. She said anything we did to strengthen it was great.

Chairman Weisz: Let's get LC to fix statute of limitations and we will take it all up at once.

Rep. Schneider: Could we also ask them to add behind paragraph 3: "regardless of where the act is performed." This would address the jurisdiction.

Rep. Devlin: Did LC have any thoughts about us trying to regulate a religious practice or concerns about the constitutionality of that?

Rep. Dobervich: We didn't talk real in depth about it as there are practices that are outlawed. Fundamentalist LDS not allowed to have multiple marriages, Rastafarians not allowed to smoke marijuana. There are several practices that violate state and federal law. The child isn't consenting to participate as part of a religious act.

Rep. Schneider: This is international human rights law too.
(0:19:18)

Chairman Weisz: Closed meeting

2019 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

SB 2222 A
3/19/2019
33992

- Subcommittee
 Conference Committee

Committee Clerk: Nicole Klamann

Explanation or reason for introduction of bill/resolution:

Relating to female genital mutilation; and to provide a penalty

Minutes:

Chairman Weisz: Opened meeting

Chairman Weisz: Need a motion for reconsider.

Rep. M. Ruby: Move to reconsider

Rep. Karen Rohr: Second

Voice Vote: Motion Carries for reconsider.

Chairman Weisz: We now have SB 2222 back in front of us. The Amendments came from LC. This addresses the issue of when the statute of limitations comply. Per the testimony, statute of limitations started when the offense was discovered. This is not true. It is when the offense occurs. This would adjust that. What are the committee's wishes?

Rep. Kathy Skroch: I move a Do Pass on these two proposed amendments. (19.0971.01002)

Rep. Rohr: Second

Voice Vote: Motion carries to adopt amendments

Chairman Weisz: What are the committee's wishes?

Rep. Skroch: I move a Do Pass as amended

Rep. Mary Schneider: Second

Roll Call 14 Yes 0 No 0 Absent
Motion Carries, Do Pass as amended

Chairman Weisz: closes meeting

March 19, 2019

DA 3/19/19

PROPOSED AMENDMENTS TO SENATE BILL NO. 2222

Page 1, after line 17, insert:

- "4. A custom, ritual, religious practice, or the consent of the parent or guardian of a minor is not a defense against a violation under this section.
5. Notwithstanding the limitations of section 29-04-02, prosecution for a violation of subsection 3 must be commenced within three years of the date of the offense or within three years after the offense is reported to law enforcement, whichever is later."

Renumber accordingly

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. SB 2222**

House Human Services Committee

Subcommittee

Amendment LC# or Description: _____

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 Representative Skroch Seconded By Representative Rohr

Representatives	Yes	No	Representatives	Yes	No
Robin Weisz - Chairman	X		Gretchen Dobervich	X	
Karen M. Rohr – Vice Chairman	X		Mary Schneider	X	
Dick Anderson	X				
Chuck Damschen	X				
Bill Devlin	X				
Clayton Fegley	X				
Dwight Kiefert	X				
Todd Porter	X				
Matthew Ruby	X				
Bill Tveit	A				
Greg Westlind	X				
Kathy Skroch	X				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Representative Skroch

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

Date: 3-19-19
 Roll Call Vote #: 1

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL 2222**

House Human Services Committee

Subcommittee

Amendment LC# or Description: _____

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. Ruby Seconded By Rep. Rohr

Representatives	Yes	No	Representatives	Yes	No
Robin Weisz - Chairman			Gretchen Dobervich		
Karen M. Rohr - Vice Chairman			Mary Schneider		
Dick Anderson					
Chuck Damschen					
Bill Devlin					
Clayton Fegley					
Dwight Kiefert					
Todd Porter					
Matthew Ruby					
Bill Tveit					
Greg Westlind					
Kathy Skroch					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Reconsider
Motion Carries

Date: 3-19-19
 Roll Call Vote #: 2

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL — 2222**

House Human Services Committee

Subcommittee

Amendment LC# or Description: _____

- 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. Skroch Seconded By Rep. Rohr

Representatives	Yes	No	Representatives	Yes	No
Robin Weisz - Chairman			Gretchen Dobervich		
Karen M. Rohr – Vice Chairman			Mary Schneider		
Dick Anderson					
Chuck Damschen					
Bill Devlin					
Clayton Fegley					
Dwight Kiefert					
Todd Porter					
Matthew Ruby					
Bill Tveit					
Greg Westlind					
Kathy Skroch					

Motion carries

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

*Adopt #5. of Proposed Amendment
 - Statute of Limitations - Prosecution for a violation must be commenced 3 years after or within 3 years after offense reported to law enforcement authorities.*

Date: 3-19-19
 Roll Call Vote #: 3

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL — 2222**

House Human Services Committee

Subcommittee

Amendment LC# or Description: 19.0971.01002 Title 02000

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. Skroch Seconded By Rep. Schneider

Representatives	Yes	No	Representatives	Yes	No
Robin Weisz - Chairman	X		Gretchen Dobervich	X	
Karen M. Rohr – Vice Chairman	X		Mary Schneider	X	
Dick Anderson	X				
Chuck Damschen	X				
Bill Devlin	X				
Clayton Fegley	X				
Dwight Kiefert	X				
Todd Porter	X				
Matthew Ruby	X				
Bill Tveit	X				
Greg Westlind	X				
Kathy Skroch	X				
	X				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Skroch

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

REPORT OF STANDING COMMITTEE

SB 2222: Human Services Committee (Rep. Weisz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2222 was placed on the Sixth order on the calendar.

Page 1, after line 17, insert:

- "4. A custom, ritual, religious practice, or the consent of the parent or guardian of a minor is not a defense against a violation under this section.
5. Notwithstanding the limitations of section 29-04-02, prosecution for a violation of subsection 3 must be commenced within three years of the date of the offense or within three years after the offense is reported to law enforcement, whichever is later."

Renumber accordingly

2019 TESTIMONY

SB 2222

SB 2222
1/29/19
#1 pg.1

To: Senate Human Services
From: Christopher T. Dodson, Executive Director
Subject: Senate Bill 2222 - Female Genital Mutilation as Child Abuse
Date: January 29, 2019

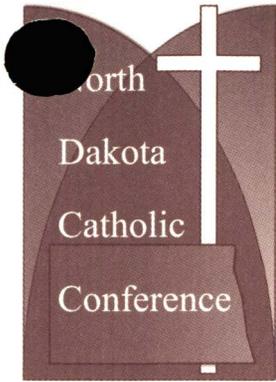
The North Dakota Catholic Conference supports Senate Bill 2222 to make female genital mutilation child abuse under North Dakota law.

In 1995 North Dakota became one of the first states in the nation to criminally prohibit female genital mutilation. The statutory structure, however, does not explicitly state that female genital mutilation is child abuse and is subject to the mandatory reporting requirements. Senate Bill 2222 addresses that oversight.

The statutory structure works like this:

- North Dakota Century Code Section 12.1-36-01 makes female genital mutilation a crime. The crime only applies to the individual actually committing the act.
- North Dakota Century Code Chapter 50-25.1 is the mandatory reporting chapter. It requires certain professionals to report suspected instances of child abuse, as defined under in Section 14-09-22.
- Section 14-09-22 defines child abuse as when a parent, adult family or household member, guardian, or other custodian of a child willfully inflicts or allows to be inflicted on a child "bodily injury" as defined by Section 12.1-01-04. It does not encompass any other acts under the criminal code.¹
- Section 12.1-01-04 defines "bodily injury" as any "impairment of physical condition, including physical pain."

Reading these statutes together, there is no clear inclusion of female genital mutilation under the definition of child abuse. An argument could be made that female genital mutilation is "impairment of a physical condition." However, if that was the case, the legislature would not have needed to pass Section 12.1-36-01



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since the act would have already been a crime. Indeed, one of the purposes for a enacting separate law on female genital mutilation was to make the act a crime in itself and not dependent on proof of bodily impairment.²

Senate Bill 2222 makes clear that female genital mutilation is child abuse and, therefore, also subject to the mandatory reporting provisions. It does this by adding a subsection to the existing law expressly stating that any parent, adult family or household member, guardian, or other custodian of any child who willfully allows a child to be surgically altered under this section is guilty of child abuse under the child abuse statute.

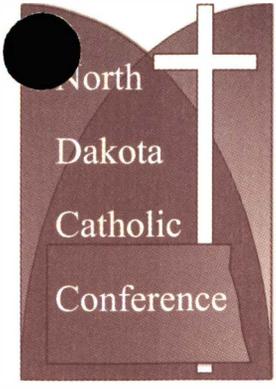
Passage of SB 2222 would not only give state's attorneys a clear tool to prosecute parents or household members who allow female genital mutilation to occur, but it would also give guidance to mandated reporters so that instances of suspected female genital mutilation could be thoroughly investigated.

We urge a **Do Pass** recommendation.

¹ Child sexual abuse is addressed in a different subsection.

² It also distinguishes the act from male circumcision, which some have argued is also "bodily impairment."

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To: House Human Services Committee
From: Christopher T. Dodson, Executive Director
Subject: Senate Bill 2222 - Female Genital Mutilation as Child Abuse
Date: March 5, 2019

The North Dakota Catholic Conference supports Senate Bill 2222 to make female genital mutilation child abuse under North Dakota law.

In 1995 North Dakota became one of the first states in the nation to criminally prohibit female genital mutilation. The statutory structure, however, does not explicitly state that female genital mutilation is child abuse and is subject to the mandatory reporting requirements. Senate Bill 2222 addresses that oversight.

The statutory structure works like this:

- North Dakota Century Code Section 12.1-36-01 makes female genital mutilation a crime. The crime only applies to the individual actually committing the act.
- North Dakota Century Code Chapter 50-25.1 is the mandatory reporting chapter. It requires certain professionals to report suspected instances of child abuse, as defined under in Section 14-09-22.
- Section 14-09-22 defines child abuse as when a parent, adult family or household member, guardian, or other custodian of a child willfully inflicts or allows to be inflicted on a child "bodily injury" as defined by Section 12.1-01-04. It does not encompass any other acts under the criminal code.¹
- Section 12.1-01-04 defines "bodily injury" as any "impairment of physical condition, including physical pain."

Reading these statutes together, there is no clear inclusion of female genital mutilation under the definition of child abuse. An argument could be made that female genital mutilation is "impairment of a physical condition." However, if that was the case, the legislature would not have needed to pass Section 12.1-36-01

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since the act would have already been a crime. Indeed, one of the purposes for a enacting separate law on female genital mutilation was to make the act a crime in itself and not dependent on proof of bodily impairment.²

Senate Bill 2222 makes clear that female genital mutilation is child abuse and, therefore, also subject to the mandatory reporting provisions. It does this by adding a subsection to the existing law expressly stating that any parent, adult family or household member, guardian, or other custodian of any child who willfully allows a child to be surgically altered under this section is guilty of child abuse under the child abuse statute.

Passage of SB 2222 would not only give state's attorneys a clear tool to prosecute parents or household members who allow female genital mutilation to occur, but it would also give guidance to mandated reporters so that instances of suspected female genital mutilation could be thoroughly investigated.

We urge a **Do Pass** recommendation.

¹ Child sexual abuse is addressed in a different subsection.

² It also distinguishes the act from male circumcision, which some have argued is also "bodily impairment."

PROPOSED AMENDMENTS TO SENATE BILL NO. 2222

Page 1, after line 17, insert:

"4. A custom, ritual, religious practice, or the consent of the parent or guardian of the minor is not a defense to prosecution for a violation under this section."

Renumber accordingly