

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2033 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2034

2001 SENATE JUDICIARY

SB 2034

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2034

Senate Judiciary Committee

Conference Committee

Hearing Date January 15th, 2001

Tape Number	Side A	Side B	Meter #
1		X	14.8-end
2	X		0-29.2
January 17th, 2001 (tape 3)	X		0.0-26.5
Committee Clerk Signature			

Minutes: SENATOR TRAYNOR opened the hearing on SB 2034: A BILL FOR AN ACT TO CREATE AND ENACT TWO NEW SECTIONS TO CHAPTER 25-03.3 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO THE REFERRAL OF INMATES FOR CIVIL COMMITMENT AND RULEMAKING; AND TO AMEND AND REENACT SECTIONS 25-03.3-01, 25-03.3-02, 25-03.3-03, 25-03.3-07, AND 25-03.3-08, SUBSECTION 2 OF SECTION 25-03.3-09, SECTIONS 25-03.3-10, 25-03.3-11, 25-03.3-12, AND 25-03.3-13, SUBSECTION 1 OF SECTION 25-03.3-18, AND SECTION 25-03.3-19 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO THE CIVIL COMMITMENT OF SEXUAL PREDATORS.

REPRESENTATIVE JOHN MAHONEY, representing district 33, favors SB 2034. Looking at people mentally retarded that can't stand through trial proceedings. Allow for civil commitment for sexual predators, which includes mentally retarded people. Includes a plethora of protection rights to these people so their due process is given. Records in these proceedings will be

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confidential. However, when they become committed it will be out for the public. This is in section 4 page 3. Due process requirements are scattered throughout the bill. Section 4 referring to state's attorneys on release of the committed six months thereafter. Facilities are covered on page 6. Not all locality can take in these individuals. Change made in section 11 extends 30 to 90 days for hearing, finding probable cause for commitment hearing. Evaluation of 30 days was found to be not appropriate.

SENATOR TRAYNOR this not only covers mentally retarded but other areas that are required?

REPRESENTATIVE MAHONEY, yes.

VONETTE RICHTER, attorney for legislative council. (testimony attached:Recommmendations), neutral on SB 2034. (meter # 23.0-28)

SENATOR LYSON under section page 5 where it gives notification where the inmates meet the definition of sexual predators. Everything is in singular there and I'm not so sure the notification should be going to the county of the prosecution, because he's going to be going back and forth.

VONETTE RICHTER in terms of drafting we always use the singular.

SENATOR WATNE do you know anything about the fiscal note?

VONETTE RICHTER I don't.

JOHN OLSON, appearing on behalf of the North Dakota State Attorneys association also representing peace officers association, favors the bill. On page 6 line 7 which relates to the filing of the petition. All we want to do is take out the language after respondents choice.

SENATOR TRAYNOR if respondent doesn't have right to choose would the state's attorney?

JOHN OLSON that, I believe, would be left to the court. The states attorney wouldn't choose.

JEAN MULLEN, assistant attorney general, in favor of SB 2034. (testimony attached)

SENATOR TRAYNOR does the amendment speak to the precautions you mentioned?

JEAN MULLEN yes. We do oppose an amendment that would require a hearing whenever any individual committed to the care custody control of the executive director. It says anytime an individual is moved to a less restrictive environment there must be a hearing for them to be moved to a more restrictive environment, and we believe that this interferes with the professional judgment of the treatment staff. This would interfere with them and would make them hesitate to get involved in any process. (Tape 2:side A) This was enacted not to take place of state penalty, it was never intended to do this. We want civil commitment no detention. Want to have choice for individual. In regard to Mr. Olson's I would like to look at it.

SENATOR TRYANOR would you discuss this with MR. OLSON?

JEAN MULLEN yes I can.

SENATOR TRAYNOR I appreciate that.

DAVID BOECK, state employee and lawyer for the Protection & Advocacy Project. (testimony attached) Neutral in regards to SB 2034.

SENATOR TRAYNOR your position is the constitution right of the respondent to have a hearing at that point.

DAVID BOECK right.

SENATOR TRAYNOR and the attorney general disagrees.

JEAN MULLEN no. We would agree to some degree of hearing. I disagree in regards to the transfers to the dept. of corrections and rehabilitation. Until the dept. of human services issues regulations that the professions will design about release. After care for the patient and continuation of it and until we see it I would like to wait and see what the medical profession does.

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SENATOR TRAYNOR do you think that the language submitted by MR BOECK could be modified to satisfied to fulfill your needs and his intentions.

JEAN MULLEN um...it probably could be.

SENATOR TRAYNOR would you be willing to work with him?

JEAN MULLEN certainly.

SENATOR TRAYNOR would you be willing to work with MS. MULLEN

DAVID BOECK certainly.

SENATOR TRAYNOR we want a satisfactory amendment for both parties.

ALEX SWITZER, Superintendent of the North Dakota State Hospital in Grafton, in favor of SB 2034. Finds nothing wrong with the bill. Excluding the hearings of the treatment of JOHN OLSONS, which we haven't read yet.

CRYSTAL DUEKER, resident of Fargo ND, concerned about bills including the naked body. Using universal terms. Sex predators and nudists may or may not be put in same category.

JOHNATHAN BYERS, testifying on behalf of the attorney general, testifies in favor of SB 2034, offender A 34 years old assaults a three year old girl. Civil commitment was dismissed because of retardation. Criminal charges dismissed because of his retardation, and was deemed not competent to assist in his own defense. Offender B, has same examples as above.

SENATOR TRAYNOR you feel SB 2034 addresses this vacancy?

JOHNATHAN BYERS I do.

TOM WALLNER, executive director of the North Dakota State Council on Developmental Disabilities, supports SB 2034. (testimony attached)

SENATOR WATNE are you supportive of MR. BOECK'S amendments.

TOM WALLNER yes.

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JOHN EMTER, Laws can be opposed. Is neutral about the bill. Tried to commit him. Spent 4 years in navy. Laws can be used against innocent people. Extreme cases like the ones I use can be used as entrapment.

SENATOR TRAYNOR closed the hearing on SB 2034. (meter # 27.1)

January 17th, 2001, page 3, meter # 0.0-26.5

JEAN MULLEN, presented the committee with proposed amendments and explained them to the committee. Protections are covered in the bill. I disagree with putting them in an insitution as an alternative to prison. This is language that I prefer to theirs.

SENATOR LYSON why won't this work?

JEAN MULLEN these are individual who are in state hospital.

SENATOR WATNE you were going to meet with those two men?

JEAN MULLEN all other amendments, we don't oppose Mr. Boeck's amendments.

The reason we oppose him is the language which he hasn't seen. Attorney general would prefer the language I have suggeseted.

SENATOR NELSON lets go one step further. Would the attorney general rather see the bill passed as now, rather than the five added amendments.

JEAN MULLEN Attorney General is not opposed, he might find some useful.

SENATOR TRAYNOR is there a fiscal note attached to Mr. Boeck's amendments?

JEAN MULLEN I'm sure there would be.

SENATOR TRAYNOR page 6, line 7, Mr Olson moved rewards of respondants choice. We both read that this could be removed. Attorney General can work with State Attorney.

SENATOR TRAYNOR purpose was to have attorney present.

JEAN MULLEN that's why we would like this bill.

2-17-01

SENATOR LYSON we have Federal regulations with holding mentally retarded people.

SENATOR TRENBEATH page 4 of 5 of Mr. Boeck's. Designed to replace 2nd sentence.

JEAN MULLEN entire paragraph.

SENATOR NELSON if we accepted yours and Mr Boeck's amendments. How would this bill look?

JEAN MULLEN 30 days is to short. Pg. 8 line 18 under section 13 pg 3 Mr Boeck's changes 90 to 60 days. I don't agree.

Page 5 of Mr Boeck's, lists every individual right. I said you can't do that. Its not necessary. It gives you the rights we don't think is necessary; Mail, Telephone, TV. I redrafted amendment to limit there rights which is in accordance with their penalty.

SENATOR TRAYNOR would Mr. Boeck's pg 5 of 5 address sexual predators.

JEAN MULLEN yes.

SENATOR TRAYNOR closed the hearing on SB 2034.

SENATOR NELSON MOTIONED TO AMEND WITH OLSON AMENDMENTS.

SECONDED BY SENATOR WATNE. VOTE INDICATED 7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING. SENATOR WATNE MOTIONED TO DO PASS AS AMENDED.

SECONDED BY SENATOR BERCIER. VOTE INDICATED 7 YEAS, 0 NAYS, AND 0 ABSENT AND NOT VOTING.

