

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2035

2001 SENATE JUDICIARY

SB 2035

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2035

Senate Judiciary Committee

Conference Committee

Hearing Date January 15th, 2001

Tape Number	Side A	Side B	Meter #
2	X		29.2
January 16, 2001 (tape 2)		X	3.3-29.5
Committee Clerk Signature			

Minutes: SENATOR TRAYNOR opened the hearing on SB 2035: A BILL FOR AN ACT TO CREATE AND ENACT SECTIONS 12.1-20-05.1 AND 12.1-20-12.2 AND A NEW SECTION TO CHAPTER 29-04 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO SEXUAL OFFENSES, THE LURING OF MINORS BY COMPUTER, AND A STATUTE OF LIMITATIONS FOR GROSS SEXUAL IMPOSITION; TO AMEND AND REENACT SECTIONS 12.1-20-04, 12.1-20-05, AND 12.1-20-12.1, SUBDIVISION E OF SUBSECTION 1 OF SECTION 12.1-32-15, AND SUBDIVISION C OF SUBSECTION 5 OF SECTION 15-36-15.1 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO SEXUAL OFFENSES; TO REPEAL SECTION 12.1-22-03.1 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO SURREPTITIOUS INTRUSION; AND TO PROVIDE A PENALTY. REPRESENTATIVE MAHONEY, representing district 33 and interim criminal justice committee, is in favor of SB 2035. Main idea of 2035 is to go over bugs of the Internet. People who go after minors in cyberspace and commit sex crimes against youth. First part of bill deals

Page 2

Senate Judiciary Committee

Bill/Resolution Number SB 2035

Hearing Date January 15th, 2001

with hazing, an added section 12.1-20-04 under sexual imposition. It relates to hazing of criminal street gangs. Section 2 goes to the heart of the bill, soliciting minors into sexual activities and it relates to communications to have minors perform sex with adults. Section 4 deals with disorderly conduct. Section 5 deals with updated technology: Using modern technology and invading private property. Serpitious intrusion, a new crime. Section 6 deals with time to serve for crime. Statute deals with constitution rights and standards and upholds to the standards.

SENATOR TRENBEATH raising the classification of offense. Is that the intent of the committee?

REPRESENTATIVE MAHONEY no.

SENATOR TRENBEATH with respect to section 1; what used to be a class C felony is now a class B am I reading that right?

REPRESENTATIVE MAHONEY Ladd can explain that better

SENATOR TRENBEATH MR. Chairman that was my second comment was regard to section 3 12.1-20.05 subsection 3 it appears that the person soliciting is 18 and the person solicited is 14, that's a felony. If a person is 22 soliciting a 15 year old its a misdemeanor, that's not right.

REPRESENTATIVE MAHONEY the committee could change that.

VONETTE RICHTER, attorney with the legislative council, neutral regarding SB 2035.

Believes REPRESENTATIVE MAHONEY described the bill well.

SENATOR TRAYNOR what's criminal trespass doing in the robbery section.

SENATOR BERCIER yes, why?

VONETTE RICHTER regardless of where the penalties are in the bill they all apply.

Page 3

Senate Judiciary Committee

Bill/Resolution Number SB 2035

Hearing Date January 15th, 2001

REPRESENTATIVE THORESON, in favor of section SB 2035. Wants to deal only with section 4 of the bill relating to indecent exposure. With a person exposing themselves to a child in a school bathroom. Believes the bill is handled quite nicely.

REPRESENTATIVE BYRON CLARK, testifying in favor of SB 2035. Shocked to find that a misdemeanor of a man exposing himself in a school.

SENATOR NELSON has there been a problem with the regular sex offender at NDSU.

LADD ERICKSON, assistant state attorney, testifying in favor of SB 2035. (testimony/new amendments attached). Went on to explain amendments. (meter # 4.0-# 20)

SENATOR TRAYNOR have you discussed the current changes with the attorney general?

LADD ERICKSON no, not yet.

SENATOR TRAYNOR any constitutional challenges on the proposed amendments.

LADD ERICKSON there is one, "discusses," page 2, section 3, line 13; I could not find where that had been litigated. The word discusses was not in the New York law. I thought maybe if we used discusses we would be getting in bad ground.

SENATOR BERCIER, between here and Anamose I might need to relieve myself.

LADD ERICKSON I believe intent, and matter of discretion.

SENATOR TRAYNOR I was interested in the reference to criminal street gangs on page 1 of the bill which refers to 12.1-06.2-01. Does that mean there has to be a pattern.

LADD ERICKSON that's a tough question to answer.

CRYSTAL DUEKER, resident of Fargo ND, testified against SB 2035. (testimony attached)

JOHNATHAN BYERS, speaks on behalf of the attorney general, testifies in favor of SB 2035.

(testimony attached)

Page 4
Senate Judiciary Committee
Bill/Resolution Number SB 2035
Hearing Date January 15th, 2001

SENATOR TRAYNOR closed the hearing on SB 2035, until Tuesday the 16th of January at 2:30 PM..

✓ January 16th, 2001 tape 2 meter # 2.1

LADD ERICKSON, (proposed amendments attached and explains his position). Needs to explain intrusion to states attorney.

SENATOR TRAYNOR page 1 section 4 and 5, you would like those withdrawn.

LADD ERICKSON section 3, luring minors. Agreed to delete this to facilitate this, according to MR BYERS. Page 2 line 17 insert words "person adult believes to be a minor," after "a." Same on line 18 after "induces" a person adult believes to be a minor. Same language. Final place on line 23 appropriate wording would be "years of age or older or the adult reasonably believes the minor is under 15 years of age." Then delete amendment I proposed.

Reason we wrote this differently is for law enforcement purposes. The penalty section is where determination is made whether the person knows they are talking to a minor, or not talking to a minor. To prevent a minor from luring the adult. Section 1 and 2 is for investigation (police involvement) guy stalking doesn't know he's dealing with a minor. Law enforcement must clarify this. Withdraw any disorderly conduct amendments.

MR BENNETT, representing the attorney general, testifies in favor of SB 2035. Legitimate concerns are inferences we would like to clear up. We would like to define "sexual contact" with proper language. An argumentative rule of application and evidence.

SENATOR TRAYNOR subplant last page of MR ERICKSONS.

BOB BENNETT yes. Makes language clearer.

SENATOR LYSON where is this in the bill?

BOB BENNETT a new section, maybe section 10.

Page 5
Senate Judiciary Committee
Bill/Resolution Number SB 2035
Hearing Date ~~January 16th, 2001~~

1-16-01

SENATOR TRAYNOR don't need to change the body of the bill?

BOB BENNETT no. Need to amend subsection C: with intent to harass or annoy. Want to propose after word language knowing exposes ones penis, vulva, or anus. Can get it to committee in a short time.

SENATOR TRAYNOR CLOSED THE HEARING ON SB 2035. After the discussion, **SENATOR WATNE MOTIONED TO ADOPT BENETTE'S AND ERICKSON'S AMENDMENTS. SECONDED BY BERCIER. VOTE INDICATED 7 YEAS, 0 NAYS, AND 0 ABSENT AND NOT VOTING. SENATOR LYSON MOTIONED TO DO PASS AS AMENDED. SECONDED BY SENATOR BERCIER. VOTED INDICATED 7 YEAS, 0 NAYS, AND 0 ABSENT AND NOT VOTING. SENATOR WATNE VOLUNTEERED TO CARRY THE BILL.**

FISCAL NOTE
 Requested by Legislative Council
 12/14/2000

Bill/Resolution No.: SB 2035

Amendment to:

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0		\$0		\$0
Appropriations	\$0	\$0		\$0		\$0

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0		\$0	\$0		\$0	\$0

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill increases the penalties for a number of sexual offenses. It also creates a new offense "luring minors by computer" and establishes penalties for this crime. These changes in penalties could result in a number of sex offenders receiving more lengthy sentences. Both county jails and the North Dakota Department of Corrections and Rehabilitation(DOCR) could be affected by this bill. County budgets will be affected if offenders receive more lengthy jail sentences and the DOCR's budget will be affected if additional offenders are sentenced to incarceration with the DOCR or if offenders receive more lengthy sentences of incarceration. It is not possible however to estimate the fiscal effect of this bill since it is not possible to estimate the number of offenders who would receive stiffer sentences because of the penalty changes included in the bill.

Therefore the Department is not able to project the impact on expenditures and appropriations for the 2001-2003 and 2003-2005 biennia.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

No impact on revenues.

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

See narrative above.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

See narrative above.

Name:	Elaine Little	Agency:	DOCR
Phone Number:	328-6390	Date Prepared:	12/22/2000

