

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2219

2001 SENATE JUDICIARY

SB 2219

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2219

Senate Judiciary Committee

Conference Committee

Hearing Date January 22nd, 2001

Tape Number	Side A	Side B	Meter #
1	x	x	58.9-end/0-end
2 (January 24, 2001)	X		
Committee Clerk Signature			

Minutes: **Senator Traynor** opened the hearing on SB 2219: A BILL FOR AN ACT TO AMEND AND REENACT SECTION 25-03.1-11 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO INVOLUNTARY TREATMENT AND COMMITMENT PROCEDURES.

Senator Mathern, representing district 11 of Fargo, supports SB 2219. Reduction of 7 days to 4 days when a preliminary hearing must be held. Issue is not simple when we deprive a person of their liberty, there are problems. A person who was involuntarily held asked me to address this problem. (Tape 1, side B)

Senator Lyson: In larger communities 4 days is plenty of time. But in rural communities it is not enough time. I would like some leeway in rural areas.

Senator Mathern, I understand that concern. I addressed the bill some time ago. However, modern technological advances have allowed us to speed up this process. These people are held in a care facility that feels like a prison.

Senator Trenbeath: I feel that four days is enough with my experience of this.

Senator Mathern: I would like to show the committee line 10 and 11. I think this would be the situation. Lets get to the business faster. This is also not rigid enough to say that there are no exceptions.

Senator Nelson: Holidays are addressed on page 1 line 10.

Senator Trenbeath: The time frame is short.

Senator Joel Heltkamp, representing district 27, is on record for supporting SB 2219.

Representative Audrey Cleary, representing district 49, is on record for supporting SB 2219.

Terryl Ostmo, homemaker testifies in favor of SB 2219. (Testimony attached)

Senator Traynor: What happened at the preliminary hearing?

Terryl Ostmo: I didn't get one.

Senator Traynor closed the hearing on SB 2219.

JANUARY 24TH, 2001 TAPE 2 SIDE A METER # 30.1

Senator Traynor opened the hearing on SB 2219.

Thomas Mayer submitted testimony on SB 2389 which was heard in 1989, regarding scheduling a preliminary hearing within seven days rather than seventy-two hours, exclusive of weekends and holidays.

John Olson, appearing on behalf of the peace officers. It is best to keep this at seven days.

Important that a preliminary hearing be there. I don't know what your doing by reducing the days.

Senator Traynor are days defined in the code?

John Olson I don't know, I assume its defined in the bill I think we can assume if the fourth day

fell on on a Saturday we could postpone until following Monday. I think this is a potential out. I think its a good point but it doesn't always work.

Senator Watne did you hear Mrs. Ostmos testimony? It was very devastating.

John Olson I agree that it is hard on individual cases in. But, routine situations must be conducted or the system will be strained. This is not the way.

Senator Watne nothing can be assessed in four days?

Senator Trenbeath Mrs. Ostmo wasn't criticizing the court system, she was criticizing that she was held the maximum number of days.

John Olson I came from a very strong interest in this. I believe people should be given their rights. I agree with you. If you reduce the number of days to 4 you'll put a hardship on the system.

Senator Lyson I can tell you shortening the days will not work. Sometimes 7 days isn't enough time. 4 days is not enough.

Senator Nelson do I hear this right? It will go back to 7 days if this bill is not passed?

Tom Mayer if you make changes you'll have technical problems elsewhere. A large task force came up with a bill which your now undoing. The present law states 7 days.

Senator Watne you have an amendment which would allow a person to be heard in their residence?

Tom Mayer if a hearing was in 4 days that would help. For other places you may need 7 days, because a preliminary hearing is done in the county of residence.

Senator Traynor that would be a new change.

Tom Mayer there would need to be a new section to make it consistent.

Page 4
Senate Judiciary Committee
Bill/Resolution Number SB 2219
Hearing Date January 22nd, 2001

Alex C. Schweltzer, appearing on behalf of the North Dakota State Hospital. (testimony attached)

Senator Traynor are you familiar with Mrs. Ostmos lawsuit?

Alex Schweltzer no I am not. A 24 hour preliminary hearing was not heard.

Senator Dever if Mrs. Ostmo came to your hospital would she have been treated differently?

Alex Schweltzer yes.

Senator Traynor we can't help Mrs. Ostmo with this bill. It may help someone in the future. However, the problem was not to do with the amount of days. It had to deal with the person signing her to the Hospital.

SENATOR WATNE MOVED TO DO NOT PASS. SECONDED BY SENATOR TRENBEATH. VOTE INDICATED 6 YEAS, 1 NAYS, AND 0 ABSENT AND NOT VOTING. SENATOR LYSON VOLUNTEERED TO CARRY THE BILL.

Senator Nelson motioned to draft a resolution to study the area of involuntary commitment procedures. Seconded by Senator Bercler. VOTE INDICATED 7 YEAS, 0 NAYS AND 0 ABSENT AND NOT VOTING.

Date: 1/24/01
Roll Call Vote #:

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2219

Senate Judiciary Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Watne Seconded By Trenbeath

Senators	Yes	No	Senators	Yes	No
Traynor, J. Chairman	X		Bercier, D.	X	
Watne, D. Vice Chairman	X		Nelson, C.		X
Dever, D.	X				
Lyson, S.	X				
Trenbeath, T.	X				

Total (Yes) 6 No 1

Absent 0

Floor Assignment Lyson

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

Date: 1/24/01
Roll Call Vote #: 2

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2219.

Senate Judiciary Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken to start a resolution on prohibiting Keviss.

Motion Made By _____ Seconded By _____

Senators	Yes	No	Senators	Yes	No
Traynor, J. Chairman	X		Bercier, D.	X	
Watne, D. Vice Chairman	X		Nelson, C.	X	
Dever, D.	X				
Lyson, S.	X				
Trenbeath, T.	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

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

REPORT OF STANDING COMMITTEE (410)
January 25, 2001 2:22 p.m.

Module No: SR-13-1639
Carrier: Lyson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2219: Judiciary Committee (Sen. Traynor, Chairman) recommends DO NOT PASS
(6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2219 was placed on the
Eleventh order on the calendar.

2001 TESTIMONY

SB 2219

57th (2001) Legislative Assembly

SENATE BILL NO. 2219 Changes to Involuntary Commitment Statutes

Testimony of Terryl Ostmo, Wahpeton, ND

Mr. Chairman and members of the committee, my name is Terryl Ostmo from Wahpeton, ND. I am a homemaker and decorative painter, and my husband is a family practice physician. We have two children who are now in high school. Those of you who subscribe to The Forum may recall the headlines on Sunday, December 12, 1999, which read: "Terryl Ostmo, who was held against her will in two psychiatric hospitals for seven days without judicial review, wants law changed" and "Woman says her 'stay' in hospital 'abuse of power'".

What was done to me during those seven days nearly destroyed my life. My whole family has been deeply affected. I do not believe that my experience of involuntary commitment is an isolated one. If there is anything isolated about my case, it is that I have come forward to publicly share my story. It is my hope that this legislature will see that the involuntary commitment laws need to be changed. These changes will prevent others from suffering the trauma my family and I suffered. This legislature should not expect a flood of victims of the involuntary commitment process to come forward with their stories. The stigma associated with mental illness is just too great.

On April 3, 1997, I was accused of being mentally ill. For five days I was held against my will at MeritCare Hospital by Psychiatrist Samy Karaz. My medical record documents that I complained of being a "prisoner".

After five days, under Dr. Karaz's orders, I was transferred to Altru Hospital in Grand Forks. Sheriff's deputies from Cass County handcuffed me in the psychiatric ward, led me through the hospital lobby out into the street in front of MeritCare Hospital and drove me to

Grand Forks where I was again held against my will for two more days. My insurance company was billed nearly \$1,000 for each day I was held against my will.

The law needs to be changed so that the psychiatric evaluation period is no longer seven days. A study by a California psychologist at the Langley Porter Institute in San Francisco has shown that psychiatrists will hold a patient, almost without exception, for the maximum period allowed under the law.

My case dramatically illustrates the irresponsible use and abuse of the special authority entrusted to physicians and other mental health professionals by the North Dakota legislature. The commitment papers that had been prepared were never filed with the Court. My rights to an attorney, to an independent medical evaluation, to be present at a hearing, and to be free from unnecessary restraint and isolation were all violated. The findings of North Dakota's Protection and Advocacy Project substantiated neglect. Mr. Paul F. Richard, General Counsel for MeritCare Health System, in his response to those findings wrote:

"Ms. Ostmo was ultimately released from Altru prior to the 7 day period for the preliminary hearing, thus the filing of a petition became unnecessary." (I was released only within several hours of having been held a full seven days.)

Involuntary commitment is "a massive curtailment of liberty." Being denied liberty for up to seven days when accused of mental illness is devastating to one's mental health. Mental health patients are discriminated against in North Dakota by having the longest confinement before seeing a judge. Individuals being held for sexual crimes will have a preliminary hearing within 72 hours, according to the Sexual Predator Law. Individuals being held for felonies will be in court without unnecessary delay. It is fact that in North Dakota a person accused of being mentally ill can be locked up for five, six or seven days, which is worse than jail sentences for most first-offense misdemeanors. This is clearly punitive. Punishing the mentally ill, or those accused of

mental illness, should not be a result of the involuntary commitment process.

It is wrong for the law to allow seven days before an individual being held for mental health allegations and accusations will see a judge. The existing law already allows a delay or continuance of the preliminary hearing if concurred with by the respondent or if extended by the magistrate for good cause shown. Therefore, we do not need to arbitrarily jeopardize the mental health and liberty of all persons by allowing incarceration for a full seven days.

If it takes more than three days to do an evaluation to justify the extreme measure of taking away a person's liberty, the problem lies with the examiner doing the evaluation. Geographically, there isn't anyplace in North Dakota that can't be reached easily within 24 hours. Involuntary commitment is only appropriate for a very small subset of people with mental illness, and then only if the person is at imminent risk of danger to themselves or others, or substantially incapable of self-care. This requires circumstances of an extreme nature, and as such will become apparent very quickly. Unnecessary deprivation of liberty for any period of time is devastating. Seven days is far too long. I ask for your positive recommendation on SB2219 to the Senate and your yes vote when it goes to the Senate floor for a final vote.

Respectfully yours,



Terryl Ostmo

