

2019 SENATE JUDICIARY COMMITTEE

SB 2185

2019 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2185
1/15/2019
30773 (16:28)

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Meghan Pegel

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact subsection 1 of section 27-20-44 of the North Dakota Century Code, relating to termination of parental rights.

Minutes:

2 Attachments

Chair Larson opened the hearing on SB 2185.

JoNell Bakke, District 43 Senator, testifies in favor of the bill (see attachment #1)

(3:10) Senator Luick: In your testimony you say “the increased funding is provided for a two-year time period, but may not be awarded to the same state more than four times”. What does that mean?

Senator Bakke: That means you can apply four times to receive that money, and then after that they don’t provide it to you.

Senator Luick: So the state as a whole applies for the dollars?

Senator Bakke: Correct.

Senator Luick: How much is that amount?

Senator Bakke: Every year I think it’s been a different amount depending on what they’ve appropriated at the national level, but one of the other testifiers might be able to answer that.

(4:57) Janelle Moos, Executive Director of the CAWS ND, testifies in favor of the bill (see attachment #2)

(8:10) Chair Larson: The offender will have to have been identified and probably found guilty of the offense in order for this to follow. It cannot be just an accusation, correct?

Moos: Correct. Line 21- the offender has to plead guilty or no contest to the sex offense. This isn’t just accusations. It has to work through the process to make sure the offender has either been found guilty or won’t admit and/or deny that it happened. It helps us be in line with federal law as well as make us eligible for additional funding. Currently there is a funding stream that comes through the violence against women act. It’s called the Stop Violence

Against Women program. It's about \$875,000 that comes to North Dakota through the health department and funds a variety of different services such as law enforcement to have investigators, prosecutors to have a victim witness staff, and crisis centers to do those basic services. We anticipate if we pass this law and verify to the feds that we do have this law in place, it will be on a formula basis so they would apply for it. They normally distribute those funds based on your population as a state. Because we're a smaller state, we get a smaller amount of that funding. It won't be a lot, but it will definitely help our crisis centers. Right now they work on a patchwork funding basis and always looking for additional resources.

(10) Vice Chairman Dwyer: Looking at the bill, someone has plead or been found guilty and lead to the birth of a child. Wouldn't that be enough, those facts right there, rather than have to prove that it's in the best interest of the child? You may have situations in which it's contested and how does the court decide it?

Moos: Those two pieces should be enough for the termination of parental rights, but we have a long history of looking at the best interest factors in making child custody decisions. There are a number of factors that come into play that judges can consider. We want to make sure they're taking those in context. It's a past precedence that we look at all of the factors that come into play when a judge decides. We hope that judges have discretion in these cases. I think ultimately, they will have enough based on that no contest or guilty plea to make that termination of the rights, but we want to make sure it's in line with current practice.

Senator Myrdal: It says in subsection 1 "the court by order may terminate if" so what we're adding here is basically a rapist. If a lady finds herself pregnant, she at times may not name or know the perpetrator. Maybe a few years later she needs money, names the person and wants child support. If these rights are terminated under law, that women could not go and ask for child support. Please address this.

Moos: Some states have gone as far as to carve that piece out as well regarding child support. I don't have a good answer for that; I'm still looking into what other states have done. Other states have also included some other form of restriction of parental rights. I can dig into that more in terms of how that would that play out and what would be potential negative impacts.

Senator Luick: If it should happen that you go through the process of terminating any type of connection with the assailant, years pass, and those two end up together again, is there a reversal of that termination order? What happens at that point?

Moos: I hadn't considered that. It could happen, but we're looking at the victims who come forward and choose to carry the baby to term. Ultimately this is about choice- if I'm a survivor and I choose to carry the baby and choose not to have the perpetrator in mine or my child's life. I should have that option, and that is what this bill is concerning.

Chair Larson closes the hearing on SB 2185.

Senator Luick: Moved a Do Pass.

Vice Chairman Dwyer: Seconded.

A Roll Call Vote Was Taken: 6 yeas, 0 nays, 0 absent. Motion carries.

Senator Bakke will carry the bill.

**2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2185**

Senate Judiciary 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 Senator Luick Seconded By Vice Chairman Dwyer

Senators	Yes	No	Senators	Yes	No
Chair Larson	X		Senator Bakke	X	
Vice Chair Dwyer	X				
Senator Luick	X				
Senator Myrdal	X				
Senator Osland	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Bakke

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

REPORT OF STANDING COMMITTEE

SB 2185: Judiciary Committee (Sen. D. Larson, Chairman) recommends **DO PASS**
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2185 was placed on the
Eleventh order on the calendar.

2019 HOUSE JUDICIARY

SB 2185

2019 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

SB 2185
3/13/2019
33631

☐ Subcommittee
☐ Conference Committee

Committee Clerk: DeLores D. Shimek

Explanation or reason for introduction of bill/resolution:

Relating to termination of parental rights.

Minutes:

1,2

Chairman Koppelman: Opened the hearing on SB 2185.

Senator Bakke: Introduced the bill. (Attachment #1) Read testimony. This is funding that will go directly to our domestic violence centers that we have throughout the state.

Rep. Paur: How does this Justice for Victims of Trafficking Act tie in with this?

Senator Bakke: If your state has in its century code or laws that a rapist has no parental rights in your state; then you can apply for grant funds.

Rep. McWilliams: There is between 17,000 and 32,000 rape related pregnancies in the US each year. How many resulted in a birth?

Senator Bakke: Most of them? I am not sure.

Rep. Bob Paulson: How does this interrelate to child support?

Senator Bakke: In most cases the rapist hasn't been asked for child support because in order for that to happen you have to be on the birth certificate and most women who conceived a baby through rape do not list the person on the birth certificate. In order to provide financial support, you have to be on that birth certificate.

Chairman K. Koppelman: The bill says the court may do this? If something like that occurred do you think the court would use their discretion appropriately.

Senator Bakke: Sometimes a rape can be between a husband or an ongoing relationship. I think when you put the may in there it gives the court discretion.

Chairman K. Koppelman: I had not even thought about that. Maybe we want to exclude those kinds of circumstances. There is still a procedure to terminate parental rights.

Senator Bakke: I was excited when I found out this would be a funding opportunity for the domestic violence centers. They are always having to write grants and raise money and this would be a nice source and it is a source for four years if they qualify.

Representative Simons: Could you give me a couple court cases on husband-wife rape? So I can study what that means exactly.

Senator Bakke: I don't have any, but I know there has been cases where there has been domestic violence and the wife has been raped and has charged her husband with rape. I think Janelle from CAWS will have more information.

Janelle Moos, CAWS ND: (Attachment #2) Under state law right now; the victim can terminate the parental rights of the rapists. If someone had plead guilty or no contest to the rape; they can go in and ask the court to have those rights removed if they chose to carry a baby to term. This just allows the victims choices in those situations. Most rapes do happen because of someone they know. Either a former partner or current partner who is often a perpetrator of sexual assault. The question regarding rape within the context of marriage. We do training twice a year on this. It was in the early 1990's that we created the marital rape exemption in state law and it says it shouldn't matter the relationship; that you can still rape your husband or wife and be prosecuted for it. It is the nature of the assault that happens. The STOP funding is federal funding that comes through the Dept. of Justice. It is to provide crisis service but also to help law enforcement get better training on how to investigate these crimes.

Rep. McWilliams: Do you know what is available right now for restitution for rapists right now?

Janelle Moos: I don't, but I can check on that.

Rep. McWilliams: If we take this out and there is no child support back to the rapist might spend four or five years in prison and then they get out. That child is still there and we need 18 years of support. Is there any restitution beyond serving time and be on a list?

Janelle Moos: So you are looking more at the offender paying restitution. Some states have addressed this, but I don't know about restitution. If you are a victim of crime you can report to law enforcement within 96 hours on sexual assault crimes, you can apply for crime victim's compensation. That might cover medical expenses and some lost wages. Most often when sexual assaults happen and pregnancy results because of that; it is more about the crime; they want to make sure that they are able to make those decisions. I can check further for you on that.

Rep. McWilliams: If we take this out of the law do we provide any other opportunities for the perpetrator to pay child support or contribute back to the life of the child? If we take that tool away from the court; what other restitution do, we have?

Janelle Moos: I will visit with Jim Fleming with child support and get back to you.

Rep. Bob Paulson: What does CAWS stand for?

Janelle Moos: Counsel on Abused Women's Services. That is our formal name.

Chairman K. Koppelman: Sexual assault can occur the other way so the victim may not be a female?

Janelle Moos: Your points are correct. There are many cases where the person is male.

Opposition: None

Neutral: None

Hearing closed.

2019 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

SB 2185
3/27/2019
34302

☐ Subcommittee
☐ Conference Committee

Committee Clerk: DeLores D. Shimek

Explanation or reason for introduction of bill/resolution:

Relating to termination of parental rights.

Minutes:

1

Chairman Koppelman: Opened the meeting on SB 2185. Offered proposed amendment (Attachment #1) Went over amendment. This bill was dealing with the termination of parental rights and it has to do with circumstances where a rape has occurred and a child has been the result of that rape and it would create this provision in law where by the court can terminate parental rights of the perpetrator of the rape under those circumstances. Discussed what would happen if two people are married when the rape occurs.

Rep. Bob Paulson: I come back to the rights of the child. I think we could put stacks of paper in here that say that children do best with two parents. Domestic abuse where maybe a partner wants to leave and it swings to where a partner doesn't want to leave and where are you catching this going on. This concerns me with respect to the rights of the child to have two parents.

Rep. Roers Jones: Looking back at the bill itself. This leaves the discretion to terminate or not terminate in the court. It also includes the consideration of the best interest of the child. There is a set of standards the court has go through and weigh; I am comfortable with the bill and the amendment.

Motion Made to Move the amendment 19.0856.01001; Attachment 1 by Rep. Satrom; Seconded by Rep. Jones

Discussion:

Rep. Jones: This is a favorable amendment because this does say; as long as they are married it is going to be more difficult to sever that parents right.

Rep. Bob Paulson: Just to make the point marriage is a declining trend so there is a whole lot of people this is going to apply to.

Rep. Paur: This doesn't apply to a child of an in sexual relationship?

Chairman K. Koppelman: Yes, it could apply if they are not married people; if the perpetrator has plead guilty to a rape.

Voice vote carried.

Do Pass as Amended Motion Made by Rep. Jones; Seconded by Rep. Satrom

Discussion:

Rep. Roers Jones: In the drafting of the amendment did we verify whether or not this would affect the grant funding under the Violence Against Women's Act?

Chairman K. Koppelman: That was not discussed. I don't see how it would preclude that?

Rep. Roers Jones: The note I have says it increased excess to federal grant funding under the VWA for states who have a law permitting mothers of children conceived through rape to seek termination.

Chairman K. Koppelman: I don't think this would jeopardize that. it is a narrow exclusion. They are federal grants; they don't demand exact uniformity typically. They are just looking at a statute on the books that does what they are aiming at.

Roll Call Vote: 12 Yes 2 No 0 Absent Carrier: Rep. Roers Jones

Closed.

2019 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

SB 2185
4/1/2019
34409

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: DeLores D. Shimek

Explanation or reason for introduction of bill/resolution:

Relating to termination of parental rights.

Minutes:

--

Chairman Koppelman: Opened the meeting on SB 2185.

Motion Made to reconsider SB 2185 by Rep. Hanson: Seconded by Rep. Satrom

Discussion:

Voice vote carried.

Motion Made to remove the amendment on SB 2185 by Rep. Satrom; Seconded by Rep. Jones

Discussion:

Rep. Satrom: As legislators we are all regular people. We are not lawyers for the most part. We come here for 80 days to do our very best to serve our fellow man. This committee deals with some very sensitive and difficult topics and we all do our very best. Regardless of what party I know when I see something negative toward anybody, I feel bad regardless of the party. I realize they are human beings. This isn't a regular job and we are not trained professional; we are here on behalf of our constituents to do our very best. I was sorry to see that our chairman was unfairly criticized for our committee's amendment and I just wanted to affirm him and also affirm the rest of us. Many of you in this committee took some heat over this bill and I just want to thank you for what you do and realize that in the public people don't understand how difficult and complex this is. I want to apologize for the way the chairman in this particular case was treated and maybe some of the rest of you.

Rep. Hanson: I am glad we are reconsidering this action of adding the amendment. In addition to Rep. Satrom's comments, I think it is also important to think about the residence of ND who have been victims of rape and I think there is a lot surprise and feelings of being

offended at the actions of this committee. I think for the people of ND who have experienced sexual assaults it is important to go forth and remove this amendment.

Voice vote carried.

Do Pass Motion Made by Rep. Satrom; Seconded by Vice Chairman Karls

Discussion:

Chairman K. Koppelman: I am the sponsor of the original bill and certain support it in that form.

Roll Call Vote: 13 Yes 1 No 0 Absent Carrier: Rep. Roers Jones

Closed.

DR 3/27/19
10/2

PROPOSED AMENDMENTS TO SENATE BILL NO. 2185

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 27-20-44 of the North Dakota Century Code, relating to termination of parental rights.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 27-20-44 of the North Dakota Century Code is amended and reenacted as follows:

27-20-44. Termination of parental rights.

1. The court by order may terminate the parental rights of a parent with respect to the parent's child if:
 - a. The parent has abandoned the child;
 - b. The child is subjected to aggravated circumstances as defined under subsection 3 of section 27-20-02;
 - c. The child is a deprived child and the court finds:
 - (1) The conditions and causes of the deprivation are likely to continue or will not be remedied and that by reason thereof the child is suffering or will probably suffer serious physical, mental, moral, or emotional harm; or
 - (2) The child has been in foster care, in the care, custody, and control of the department, or a county social service board, or, in cases arising out of an adjudication by the juvenile court that a child is an unruly child, the division of juvenile services, for at least four hundred fifty out of the previous six hundred sixty nights; or
 - d. The written consent of the parent acknowledged before the court has been given.
 - e. The parent has pled guilty or nolo contendere to, or has been found guilty of engaging in a sexual act under section 12.1-20-03 or 12.1-20-04, the sexual act led to the birth of the parent's child, and termination of the parental rights of the parent is in the best interests of the child.
2. The court may not terminate the parental rights of a parent under subdivision e of subsection 1 if the parent is married to the victim of the sexual act.
3. If the court does not make an order of termination of parental rights, it may grant an order under section 27-20-30 if the court finds from clear and convincing evidence that the child is a deprived child."

Renumber accordingly

DA 3/27/19
2 of 2

Date: 8-27-19
Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES 2185

House Judiciary Committee

☐ Subcommittee

Amendment LC# or Description: 19.0856.01001 Attach #1

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 Satrom Seconded By Jones

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman			Rep. Buffalo		
Vice Chairman Karls			Rep. Karla Rose Hanson		
Rep. Becker					
Rep. Terry Jones					
Rep. Magrum					
Rep. McWilliams					
Rep. B. Paulson					
Rep. Paur					
Rep. Roers Jones					
Rep. Satrom					
Rep. Simons					
Rep. Vetter					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

*voice
vote
carried*

Date: 3-27-19
Roll Call Vote #: 2

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2185

House Judiciary Committee

☐ Subcommittee

Amendment LC# or Description: 19.0856.01001.02000

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 Jones Seconded By Satrom

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman	✓		Rep. Buffalo	✓	
Vice Chairman Karls	✓		Rep. Karla Rose Hanson	✓	
Rep. Becker	✓				
Rep. Terry Jones	✓				
Rep. Magrum		✓			
Rep. McWilliams	✓				
Rep. B. Paulson	✓				
Rep. Paur	✓				
Rep. Roers Jones	✓				
Rep. Satrom	✓				
Rep. Simons		✓			
Rep. Vetter	✓				

Total (Yes) 12 No 2

Absent 0

Floor Assignment Rep. Ryan Jones

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

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
SB 2185**

House Judiciary 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. Hanson Seconded By Rep. Satrom

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman			Rep. Buffalo		
Vice Chairman Karls			Rep. Karla Rose Hanson		
Rep. Becker					
Rep. Terry Jones					
Rep. Magrum					
Rep. McWilliams					
Rep. B. Paulson					
Rep. Paur					
Rep. Roers Jones					
Rep. Satrom					
Rep. Simons					
Rep. Vetter					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice vote carried.

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
SB 2185**

House Judiciary Committee

☐ Subcommittee

Amendment LC# or Description: Removed amendment

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. Satrom Seconded By Rep. Jones

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman			Rep. Buffalo		
Vice Chairman Karls			Rep. Karla Rose Hanson		
Rep. Becker					
Rep. Terry Jones					
Rep. Magrum					
Rep. McWilliams					
Rep. B. Paulson					
Rep. Paur					
Rep. Roers Jones					
Rep. Satrom					
Rep. Simons					
Rep. Vetter					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice vote carried.

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
SB 2185**

House Judiciary Committee

☐ Subcommittee

Amendment LC# or Description: Removed amendment

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. Satrom Seconded By Rep. Karls

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman	X		Rep. Buffalo	X	
Vice Chairman Karls	X		Rep. Karla Rose Hanson	X	
Rep. Becker	X				
Rep. Terry Jones	X				
Rep. Magrum		X			
Rep. McWilliams	X				
Rep. B. Paulson	X				
Rep. Paur	X				
Rep. Roers Jones	X				
Rep. Satrom	X				
Rep. Simons	X				
Rep. Vetter	X				

Total (Yes) 13 No 1

Absent 0

Floor Assignment Rep. Roers Jones

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

REPORT OF STANDING COMMITTEE

SB 2185: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **DO PASS**
(13 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2185 was placed on the
Fourteenth order on the calendar.

2019 TESTIMONY

SB 2185

#1
SB 2185
1/15/19

Testimony for SB2185

Senator JoNell Bakke

Over the last two decades, it is estimated that there were between 17,000 and 32,000 rape-related pregnancies in the United States each year. Legislatures across the country have been addressing the issue of parental rights and custody for the children conceived as a result of rape or sexual assault.

"Approximately 45 states and the District of Columbia have enacted legislation regarding the parental rights of perpetrators of sexual assault." Many states have more than one statute addressing this issue. For example, "Georgia has provisions for both juvenile dependency (child welfare) and adoption. Others have provisions for both the termination of parental rights and restrictions on custody and visitation."

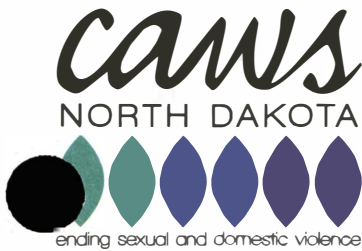
Here is the general breakdown:

- Thirty states allow for the termination of parental rights of perpetrators of sexual assault who conceive a child as a result.
- Twenty states allow for some form of restriction on the parental rights of perpetrators of sexual assault.
- Thirty bills were introduced in seventeen states during the 2017 legislative session addressing some aspect of parental rights of perpetrators.

The exciting news is that in May 2015, "Congress enacted the Justice for Victims of Trafficking Act. Title IV of that act, the Rape Survivor Child Custody Act, increases the amount of grant funding under the Violence Against Women Act for those states that have a law permitting mothers of children conceived through rape to seek termination of parental rights of their rapists." This increased funding is provided for a two year time period, but may not be awarded to the same state more than four times. This funding is up for reconsideration and may be available in 2019.

That concludes my testimony at this time and I stand for questions.

Information provided by the National Council of State Legislators, 444 North Capitol Street NW Suite 515, Washington, DC 20001 <http://www.ncsl.org/research/human-services/parental-rights-and-sexual-assault.aspx#2>



521 E. Main Ave. Suite 250, Bismarck, N.D. 58501
(P) 701.255.6240 (TF) 1.888.255.6240 (F) 701.255.1904
www.cawsnorthdakota.org
facebook.com/CAWSNorthDakota • [Twitter @CAWSNorthDakota](https://twitter.com/CAWSNorthDakota)

#2
SB 2185
1/15/19
page 1

Testimony on SB 2185
Senate Judiciary Committee
January 15, 2019

Chair Larson 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 2185.

Sexual assault is the most under reported crime in the United States and one in four women and one in six men will experience sexual violence at some point in their life. Last year, in one week, 101 victims of sexual assault received services, 69 hotline calls were answered and 13 victims received hospital or medical advocacy services in ND (reference: Sexual Violence Counts Survey, February 2018, CAWS North Dakota).

Various studies over the last two decades estimate that there are between 17,000 and 32,000 rape-related pregnancies in the United States each year. If a pregnancy is carried to term, and the victim chooses to raise the child, the perpetrator would have the parental rights to request custody or visitation with the child, requiring the victim and perpetrator to remain in contact indefinitely.

A 2017 report produced by the National Conference of State Legislatures indicated other state legislatures (including Montana and South Dakota) have taken up the issue. Nearly every state and the District of Columbia have enacted legislation regarding the parental rights of perpetrators of sexual assault. Thirty (30) states allow for termination of parental rights of perpetrators of sexual assault who conceive a child as a result and another twenty (20) states allow for some form of restriction of parental rights of perpetrators of sexual assault.

In May 2015, Congress enacted the Justice for Victims of Trafficking Act. Title IV of that act, the Rape Survivor Child Custody Act (U.S.C. 3796gg et seq.) increases the amount of STOP Formula grant funding under the Violence Against Women Act (VAWA) for those states that have laws permitting mothers of children conceived through rape to seek termination of parental rights of their rapist.

CAWS North Dakota 2018

Sexual Violence Counts

In 2018, CAWS North Dakota coordinated the second statewide census of the number and type of sexual violence services provided in the state during one week. The census was conducted February 12-19, 2018. Reports on the number and type of services provided were submitted by 95 percent of local programs in North Dakota (19 of 20 programs). It is likely that the actual number of individuals receiving sexual assault services during the census week exceeded the numbers reported. These numbers are a snapshot of services provided in one week. Numbers can vary week to week.

Most commonly reported services provided during census week (listed in descending order).

Crisis Intervention
Case Management
Law Enforcement Advocacy
Hotline
Court Advocacy/Legal Representation
Hospital/Medical Advocacy
Professional Therapy
Support Groups
Training/Public Education



521 E. Main Ave. Suite 250
Bismarck, ND 58501
Ph: (888) or (701) 255-6240
Fax: 701-255-1904
www.cawsnorthdakota.org



This project was supported by Grant No. 2015-MU-AX-0013 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, recommendations expressed in this publication are those of the author (s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.

101 VICTIMS OF SEXUAL VIOLENCE RECEIVED SERVICES DURING ONE WEEK

- 82 victims served were assaulted outside of an intimate partner relationship, including stranger, non-stranger, and relative/family member.
- 19 victims served were assaulted by intimate partners.

597 people were educated in prevention and education trainings.

During the census week, 597 individuals in North Dakota communities attended 31 training sessions provided by local sexual violence programs. The trainings provided information about sexual violence prevention and early intervention.

62 hotline calls were answered in one week.

Rape crisis hotlines are a lifeline for victims in the aftermath of an assault, and provide support, information and resources.

13 survivors received hospital or medical advocacy responses.

North Dakota organizations provided support to 13 sexual violence victims at a hospital or in the emergency room.

1 unmet request for services was made.

Due to a lack of staff and/or financial resources, requests for services by 1 victim of sexual violence were unable to be met.

CAWS North Dakota member programs offer examples of services provided during the census week:

"Several shelter residents started new jobs and found apartments. A mother was reunited with her young son by having a safe place to live."

"After one school presentation, a young woman approached our Advocate and asked for help. Our Advocate met with the young woman who is now utilizing a Safety Plan created to help her. Our Advocate continues to work with this young woman."

"One of our counselors worked with a 9-year-old girl who had been sexually abused at the hands of someone she trusted. After meeting with the child regularly, she began to exude confidence and personal pride in the work she was doing with her therapist."

There is a clear need for legislation to protect victims and children so they are not tied to their assailants for 18 years, therefore I encourage a DO PASS recommendation on SB 2185.

Thank you.

#2
SB 2185
1/15
page 3

Over the last two decades, it is estimated that there were between 17,000 and 32,000 rape-related pregnancies in the United States each year. Legislatures across the country have been addressing the issue of parental rights and custody for the children conceived as a result of rape or sexual assault.

"Approximately 45 states and the District of Columbia have enacted legislation regarding the parental rights of perpetrators of sexual assault." Many states have more than one statute addressing this issue. For example, "Georgia has provisions for both juvenile dependency (child welfare) and adoption. Others have provisions for both the termination of parental rights and restrictions on custody and visitation."

Here is the general breakdown:

- Thirty states allow for the termination of parental rights of perpetrators of sexual assault who conceive a child as a result.
- Twenty states allow for some form of restriction on the parental rights of perpetrators of sexual assault.
- Thirty bills were introduced in seventeen states during the 2017 legislative session addressing some aspect of parental rights of perpetrators.

The exciting news is that in May 2015, "Congress enacted the Justice for Victims of Trafficking Act. Title IV of that act, the Rape Survivor Child Custody Act, increases the amount of grant funding under the Violence Against Women Act for those states that have a law permitting mothers of children conceived through rape to seek termination of parental rights of their rapists." This increased funding is provided for a two year time period, but may not be awarded to the same state more than four times. This funding is up for reconsideration and may be available in 2019.

That concludes my testimony at this time and I stand for questions.



#2
SB 2185
3-13-19
521 E. Main Ave. Suite 250, Bismarck, N.D. 58501
(P) 701.255.6240 (TF) 1.888.255.6240 (F) 701.255.1904
www.cawsnorthdakota.org
facebook.com/CAWSNorthDakota • Twitter @CAWSNorthDakota

Testimony on SB 2185
House Judiciary Committee
March 13, 2019

Chair Koppleman 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 2185.

Sexual assault is the most under reported crime in the United States and one in four women and one in six men will experience sexual violence at some point in their life. Last year, in one week, 101 victims of sexual assault received services, 69 hotline calls were answered and 13 victims received hospital or medical advocacy services in ND (reference: Sexual Violence Counts Survey, February 2018, CAWS North Dakota).

Various studies over the last two decades estimate that there are between 17,000 and 32,000 rape-related pregnancies in the United States each year. If a pregnancy is carried to term, and the victim chooses to raise the child, the perpetrator would have the parental rights to request custody or visitation with the child, requiring the victim and perpetrator to remain in contact indefinitely.

A 2017 report produced by the National Conference of State Legislatures indicated other state legislatures (including Montana and South Dakota) have taken up the issue. Nearly every state and the District of Columbia have enacted legislation regarding the parental rights of perpetrators of sexual assault. Thirty (30) states allow for termination of parental rights of perpetrators of sexual assault who conceive a child as a result and another twenty (20) states allow for some form of restriction of parental rights of perpetrators of sexual assault.

In May 2015, Congress enacted the Justice for Victims of Trafficking Act. Title IV of that act, the Rape Survivor Child Custody Act (U.S.C. 3796gg et seq.) increases the amount of STOP Formula grant funding under the Violence Against Women Act (VAWA) for those states that have laws permitting mothers of children conceived through rape to seek termination of parental rights of their rapist.

There is a clear need for legislation to protect victims and children so they are not tied to their assailants for 18 years, therefore I encourage a DO PASS recommendation on SB 2185.

Thank you.

#1
SB 2185
3-27-19
P.1

PROPOSED AMENDMENTS TO SENATE BILL NO. 2185

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 27-20-44 of the North Dakota Century Code, relating to termination of parental rights.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 27-20-44 of the North Dakota Century Code is amended and reenacted as follows:

27-20-44. Termination of parental rights.

1. The court by order may terminate the parental rights of a parent with respect to the parent's child if:
 - a. The parent has abandoned the child;
 - b. The child is subjected to aggravated circumstances as defined under subsection 3 of section 27-20-02;
 - c. The child is a deprived child and the court finds:
 - (1) The conditions and causes of the deprivation are likely to continue or will not be remedied and that by reason thereof the child is suffering or will probably suffer serious physical, mental, moral, or emotional harm; or
 - (2) The child has been in foster care, in the care, custody, and control of the department, or a county social service board, or, in cases arising out of an adjudication by the juvenile court that a child is an unruly child, the division of juvenile services, for at least four hundred fifty out of the previous six hundred sixty nights; or
 - d. The written consent of the parent acknowledged before the court has been given.
 - e. The parent has pled guilty or nolo contendere to, or has been found guilty of engaging in a sexual act under section 12.1-20-03 or 12.1-20-04, the sexual act led to the birth of the parent's child, and termination of the parental rights of the parent is in the best interests of the child.
2. The court may not terminate the parental rights of a parent under subdivision e of subsection 1 if the parent is married to the victim of the sexual act.
3. If the court does not make an order of termination of parental rights, it may grant an order under section 27-20-30 if the court finds from clear and convincing evidence that the child is a deprived child."

Renumber accordingly

#1
JB2,85
3-27-19
P.2