

2019 SENATE JUDICIARY

SB 2203

2019 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2203
1/16/2019
#30861 (11:47)

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Meghan Pegel

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact section 12.1-31-01.2 of the North Dakota Century Code, relating to sexual assault restraining orders.

Minutes:

1 Attachment

Chair Larson opens the hearing on SB 2203.

Janne Myrdal, District 10 Senator, testifies in favor of the bill

Senator Myrdal: Essentially as the law is written today, an individual could only get a sexual assault restraining order if the individual was a victim of a sexual assault under section 12.1-20-07. The amendment would allow an individual who was a victim of gross sexual imposition to also be eligible for a sexual assault restrain order.

Chair Larson: There are restraining orders that you can get against someone, like a spouse, but you cannot get them necessarily without this legislation. Is that correct?

Senator Myrdal: I will refer that question. The biggest thing is to add gross sexual imposition.

(4:28) Janelle Moos, ND CAWS Executive Director, testifies in favor (see attachment #1)

Moos: In one case in particular there was a 14-year-old who had been assaulted. She was actually unconscious when she was being assaulted. She went through the court process to request the restraining order under this statute. The judge felt his hands were tied because the way that it's defined under the sexual assault statute, because the victim was unconscious and the offender didn't know the behavior he was perpetrating was offensive to her, he felt it was not going to meet the definition. We want judges to have the ability to make decision and have discretion. He thought she was a victim of gross sexual imposition, but because that was not included under the sexual assault restraining order, he couldn't grant her that protection order for this particular case. It's an extreme case, but we know it's happening across the state. This is a clean-up bill.

(9:20) Vice Chairman Dwyer: I'm looking at the 2 definitions and I can see why you're adding "sexual act". Why are you taking out nonconsensual? Is that covered by any offense in chapter 12-20?

Moos: I would have to double check with Legislative Council. I think when you replace "nonconsensual" with "any offense under chapter 12-20", nonconsensual is included in that definition section.

Vice Chairman Dwyer: and 12-20 is probably broader.

Moos: Correct. It's the broad it's the broad definitions section for the sex offense statute we have.

Chair Larson closes the hearing on SB 2203.

Senator Bakke: Moved a Do Pass

Senator Osland: 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. 2203**

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 Bakke Seconded By Senator Osland

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 2203: Judiciary Committee (Sen. D. Larson, Chairman) recommends **DO PASS**
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2203 was placed on the
Eleventh order on the calendar.

2019 HOUSE JUDICIARY

SB 2203

2019 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

SB 2203
3/6/2019
33290

☐ Subcommittee
☐ Conference Committee

Committee Clerk: DeLores D. Shimek by Marjorie Conley

Explanation or reason for introduction of bill/resolution:

Relating to sexual assault restraining orders.

Minutes:

1, 2

Chairman Koppelman: Opened the hearing on SB 2203.

Senator Myrdal: Introduced the bill. In the century code as it is currently written, it only authorizes sexual assault restraining orders in instances of sexual assault in 12.1-20-07 specifically and SB 2203 amends the definition of sexual assault for the purpose of the sexual assault restraining order to also include all of the offenses in chapter 12.1-20 that pertains to sexual assault or sexual contact, such as gross sexual imposition and continuous sexual abuse of a child.

Rep. Rick Becker: The way it is currently in century code refers to chapter 12.1 and the new language says any offense in chapter 12.-20 rather than 12.1-20 which is what it used to be. Seems that would be a mistake, but I haven't had a chance to look back.

Janelle Moos, Executive Director of the CAWS ND: (Attachment #1) Went over testimony and the bill.

Chairman Koppelman: There is an error so substitute 12.1-20 for 12-20 in that area.

Rep. Rick Becker: This is cleanup from the intent from last time, but it is more and expands dramatically what's covered. So what is it exactly that we are doing with these expansion things.

Janelle Moos: We wanted to make sure all victims of sexual assault not just those meeting those specific criteria, that the cleanup is the original intent in 2017 and so current date to capture all sex offenses. Yes, we are expanding the protections available to sexual assault victims that don't meet that specific definition in code.

Rep. Rick Becker: So by expanding it to the entirety of Chapter 12.1-20, it includes fornication and adultery, is that your intent?

Janelle Moos: Yes, that does include those other sex offenses? If someone can make a case for why they need to have release if they have been a sexual assault victim, then they can request that.

Chairman K. Koppelman: 12.1-20 includes a lot of things that easily could apply.

Rep. Paur: This would also include sexual acts under 12.1-20-02. A sexual act means sexual contact between human beings. There is going to be a lot of restraining orders. I personally do not like this.

Janelle Moos: That is what currently is in statute. We have to have a definition of what a sexual act or sexual contact. Sexual assault does not just mean intercourse, it means other things that can be considered sexual.

Rep. Paur: Sexual assault means any offense for which a sexual act or sexual contact as defined in Chapter 12.1-20-02. Now that is how it is defined.

Janelle Moos: Victims of sexual assault can fill out paperwork and petition the court. Sexual assault is not more falsely accused than any other crime. What victims have to do is come forward and present something that has been offensive to them or they feel that they have been a victim of sexual assault. Judges can decide at that point in time. What we know is that we don't give out protection orders like candy. Judges really hold a high standard and a high bar for receiving protection orders and the burden is on the victim to present the case in front of the judge and they make that decision based on what is in front of them.

Rep. Paur: According to your what would be in law, sexual contact between human beings would be a sexual assault.

Janelle Moos: It is just for this section related to sexual assault.

Chairman K. Koppelman: The language of the bill relies upon those definitions, but it says sexual assault means any offense in Chapter 12.1-20 for which a sexual act or sexual contact is as defined in that section is an element, but any offense is the key wording there. Mere sexual contact is not an offense.

Rep. Bob Paulson: Why was the word non-nonconsensual struck?

Janelle Moos: I would have to go back and look when we had the early conversations when this bill was drafted, why that particular word was taken out.

Chairman K. Koppelman: Any more Support? Opposition: None Neutral: None

Hearing closed.

Rep. McWilliams: Move that we amend line 10 to read 12.1-20. (Attachment 2)

Rep. Satrom: Second.

Voice Vote carried.

Rep. Vetter: Motion to remove the overstrike over “nonconsensual and to remove the word “any” prior to that word.

Rep. Becker: Second.

Rep. Satrom: My concern is that we might be undoing something by putting that in there.

Rep. Becker: I would definitely be a no vote if we did not have that in there. Adultery is in there and that is consenting, fornication if public and that is consenting, indecent exposure of the variety saying in a park, bigamy, and under age. I think it is very good to put that in.

Chairman Koppelman: Any further discussion?

Voice Vote carried.

Rep. Paur: I would like to make a basic change. Remove the overstrike on 12.1-20-07 and then change 12.1-20-02 to 12.1-20.03. So it would be 03 and 07.

Chairman Koppelman: Would you explain your change.

Rep. Paur: Both of those, one is sexual assault and one is gross sexual imposition **and that leaves out fornication and adultery and all the rest.**

Chairman Koppelman: And it also leaves out sexual abuse of a child, sexual imposition, corruption and solicitation of minors, sexual abuse of wards, sexual exploitation by therapists, etc. By removing the term nonconsensual which we just did, I think we are capturing that.

Rep. Jones: How did the Senate miss this? Was this just an oversight?

Chairman Koppelman: I think there could be an oversight or a difference of opinion. Our committee is taking a position to say this should only apply to nonconsensual situations. They will see the amendment and have an opportunity to agree or disagree.

Rep. Roers Jones: Move a Do Pass as twice amended.

Rep. Vetter: Second.

Roll Call Vote: Yes 13 No 0 Absent 1

Rep. Paulson is the **Carrier** on SB 2203.

DP 3/6/19

19.0945.01001
Title.02000

Adopted by the House Judiciary Committee

March 6, 2019

PROPOSED AMENDMENTS TO SENATE BILL NO. 2203

Page 1, line 10, after "means" insert "any"

Page 1, line 10, remove the overstrike over "~~nonconsensual~~"

Page 1, line 10, remove "any"

Page 1, line 10, replace "12-20" with "12.1-20"

Renumber accordingly

Date: 3-6-19
Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES

SB 2203

House Judiciary Committee

☐ Subcommittee

Amendment LC# or Description: line 10 - 12.1-20

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 McWilliams 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.

Date: 3-6-19
Roll Call Vote #: 2

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES

SB2203

House Judiciary Committee

☐ Subcommittee

Amendment LC# or Description:

Remove overstrike to nonconsensual

Recommendation:

☒ opt 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 Vetter

Seconded By

Rep. Becker

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: 3-6-19
Roll Call Vote #: 3

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES

SB 2203

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. Roers Jones Seconded By Rep. Vetter

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman	<input checked="" type="checkbox"/>		Rep. Buffalo	<input checked="" type="checkbox"/>	
Vice Chairman Karls	<input checked="" type="checkbox"/>		Rep. Karla Rose Hanson	<input checked="" type="checkbox"/>	
Rep. Becker	<input checked="" type="checkbox"/>				
Rep. Terry Jones	<input checked="" type="checkbox"/>				
Rep. Magrum	<input checked="" type="checkbox"/>				
Rep. McWilliams	<input checked="" type="checkbox"/>				
Rep. B. Paulson	<input checked="" type="checkbox"/>				
Rep. Paur	<input checked="" type="checkbox"/>				
Rep. Roers Jones	<input checked="" type="checkbox"/>				
Rep. Satrom	<input checked="" type="checkbox"/>				
Rep. Simons	<u>A</u>				
Rep. Vetter	<input checked="" type="checkbox"/>				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Paulson

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

REPORT OF STANDING COMMITTEE

SB 2203: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2203 was placed on the Sixth order on the calendar.

Page 1, line 10, after "means" insert "any"

Page 1, line 10, remove the overstrike over "~~nonconsensual~~"

Page 1, line 10, remove "any"

Page 1, line 10, replace "12-20" with "12.1-20"

Renumber accordingly

2019 TESTIMONY

SB 2203



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Testimony on SB 2203
Senate Judiciary Committee
January 16, 2019

#1
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1/16 page 1

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 2203.

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).

During the 2017 ND Legislative Session, North Dakota joined 25 other states by passing HB 1222 that created NDCC 12.1-31-01.2 to create the civil sexual assault restraining order (SARO) process and protections for sexual assault victims. After the legislative session, we worked with the ND Supreme Court to create the temporary and permanent SARO forms so they could be available in Odyssey prior to the law going into effect in August 2017. We also submitted a letter to the ND Supreme Court requesting Administrative Rule 34 be amended to allow advocates employed at one of our 20 domestic violence/rape crisis centers to assist with the SARO's as they do for domestic violence protection orders. Upon receiving approval, we amended the certification training curriculum and exam and the continuation education requirements to ensure the advocates receive the proper training regarding the law and process outlined under NDCC 12.1-31-01.2 or the SARO statute.

Over the last year several cases have been brought to our attention that we felt were serious enough to warrant us to work with Senator Myrdal to amend the current statute to ensure all victims of sexual assault have access to the protections outlined in the statute. Currently, the SARO statute points to the narrowest definition of sexual assault under chapter 12.1-20-07. Several judges have felt their hands were tied because of the narrow definition and have not

approved an SARO although they firmly believed that the victim had experienced gross sexual imposition (NDCC 12.1-20-03).

SB 2203 should be considered a "clean up" bill. It was never our intent to limit access to the SARO process by only including victims that experience and meet the narrowest definition of sexual assault under the law. In order to address this on lines 10-12 on page 12 of SB 2203 expands the definition to include all sex offenses in chapter 12-20 and includes sexual act or contact.

We hope you look favorably on the amendments proposed in SB 2203 and I'd stand for questions if you have any.

Thank you.

IN DISTRICT COURT

JUDICIAL DISTRICT

RESPONDENT.

PETITION FOR A SEXUAL ASSAULT RESTRAINING ORDER

Petition SARO/Jul 2017

6. ☐ My (*or*) ☐ The minor child's relationship to the Respondent is:

7. Beginning with the most recent event, these are the actions that support my request for a Sexual Assault Restraining Order (*include dates*). This is what happened:

(Use additional sheets if necessary.)

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8. People who witnessed these events are (names):

9. I ask that a Temporary Sexual Assault Restraining Order be given prohibiting the Respondent from the following:

- a. Harassing, stalking, or threatening ☐ me (or) ☐ the minor child;
- b. Appearing at ☐ my (or) ☐ the minor child's residence, school and place of employment; and
- c. Contacting ☐ me (or) ☐ the minor child.

10. I request that a hearing be scheduled and that a more permanent Sexual Assault Restraining Order be given after that hearing.

I swear or affirm under penalty of perjury that the information contained in this Petition for a Sexual Assault Restraining Order is true and correct. I understand that once a Sexual Assault Restraining Order is issued it cannot be modified or dismissed by me or the Respondent without permission of the Court.

Dated this _____ day of _____, 20____.

(Signature)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

Subscribed and sworn to before me this _____ day of _____, 20____.

_____ County, North Dakota

(Notary Public or Clerk of Court)

**DOMESTIC VIOLENCE PROTECTION/DISORDERLY CONDUCT RESTRAINING ORDER/
SEXUAL ASSUAL RESTRAINING ORDER COVER SHEET***To be delivered to the responsible Law Enforcement Agency along with the Order.***Type or print clearly! All areas with an asterisk (*) must be completed.** This information is **necessary** to serve, enforce and enter your order into the statewide law enforcement system. Fill in the following information as completely as possible.

Court:

Case Number:

Restrained Person's Information (This is the person that you want the court to restrain.)Is Respondent to be removed from the residence? ☐ No ☐ YesAre weapons involved? ☐ No ☐ Yes If Yes, how many: __Pistols __Rifles __Shotguns __Other _____Does Respondent possess a ND Concealed Weapons Permit? ☐ No ☐ Yes ☐ UnknownIs Respondent known to be violent towards persons other than the Protected Person(s)? ☐ No ☐ Yes Please explain:**Name*:** First Middle Last Nickname Relationship to Protected Person**Gender*** ☐ Male
☐ Female**Race*** ☐ Asian ☐ Indian ☐ Black ☐ White ☐ Unknown

Height

Weight

Eye Color

Hair Color

Other Identifying Characteristics

Last Known Address*

Street:

City:

State:

Zip:

Phone(s) w/Area Code

Other Address(es) Where Respondent May be Found:

Employer

Employer's Address

WORK

Hours:

Phone:

Vehicle Make and Model

Vehicle Color

Vehicle Year

AT LEAST ONE of the Following is Required*:

Date of Birth

Social Security Number

Vehicle License Number & State
(expiration date is required)Drivers License or ID number & State
(expiration date is required)**Protected Person's Information** (This is the person you want the court to protect.)**Name*:** First Middle Last**Date of Birth or Social Security Number***☐ Male

Race

Height

Weight

Eye Color

Hair Color

☐ Female

Current Address

Street:

City:

State:

Zip:

Phone(s) w/Area Code

If you filed for someone else,
list your name, phone number
and address:Notification of Service? ☐ No ☐ Yes
Phone(s):**Other Protected Persons Information** (These are the other persons listed in the petition you want the court to protect.)

Name*: First Middle Last	Gender	Birth date or Social Security Number *	Resides With	Relationship to Protected Person
	<input type="checkbox"/> Male <input type="checkbox"/> Female			
	<input type="checkbox"/> Male <input type="checkbox"/> Female			
	<input type="checkbox"/> Male <input type="checkbox"/> Female			
	<input type="checkbox"/> Male <input type="checkbox"/> Female			



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3-6-19
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Testimony on SB 2203
Senate Judiciary Committee
March 6, 2019

Chairman Koppleman and Members of the Committee:

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3-6-19
P. 2

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We hope you look favorably on the amendments proposed in SB 2203 and I'd stand for questions if you have any.

Thank you.

March 6, 2019

Att 2
AB 2203
3-6-19

PROPOSED AMENDMENTS TO SENATE BILL NO. 2203

Page 1, line 10, after "means" insert "any"

Page 1, line 10, remove the overstrike over "~~nonconsensual~~"

Page 1, line 10, remove the second "any"

Page 1, line 10, replace "chapter 12-20" with "chapter 12.1-20"

Renumber accordingly