

2023 SENATE JUDICIARY

SB 2375

2023 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Peace Garden Room, State Capitol

SB 2375
2/7/2023

A bill relating to aggravated manslaughter; and to provide a penalty.

9:59 AM Chairman Larson opened the meeting.

Chairman Larson and Senators Myrdal, Luick, Estenson, Sickler, Braunberger and Paulson are present.

Discussion Topics:

- Prison sentences
- Victims
- Enhanced penalties

10:00 AM Senator Roers Introduced the bill.

10:00 AM Cass County Sheriff, Jesse Jahner, testified in favor of the bill and provided written testimony #19422.

10:17 AM Kathy Klatt testified by TEAMS in favor of the bill and provided written testimony #19404.

10:24 AM Jonathan Beyers, North Dakota State's Attorney Association, verbally testified neutral on the bill.

10:25 AM Chairman Larson closed the public hearing.

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Rick Schuchard, Committee Clerk

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A bill relating to aggravated manslaughter; and to provide a penalty.

3:06 PM Chairman Larson opened the meeting.

Present are Chairman Larson and Senators Myrdal, Luick, Estensen, Sickler, Braunberger and Paulson.

Discussion Topics:

- Committee action

3:10 PM Senator Luick moved to Do Not Pass the bill. Motion seconded by Senator Estenson.

3:14 PM Roll call vote was taken.

Senators	Vote
Senator Diane Larson	Y
Senator Bob Paulson	Y
Senator Jonathan Sickler	Y
Senator Ryan Braunberger	Y
Senator Judy Estenson	Y
Senator Larry Luick	Y
Senator Janne Myrdal	Y

Motion passes 7-0-0.

Senator Myrdal will carry the bill.

This bill does not affect workforce development.

3:15 PM Chairman Larson closed the meeting.

Rick Schuchard, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2375: Judiciary Committee (Sen. Larson, Chairman) recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2375 was placed on the Eleventh order on the calendar. This bill does not affect workforce development.

TESTIMONY

SB 2375

February 22, 2021

Representative Pat D. Heinert
67th Assembly

pdheinert@nd.gov
1501 Eastwood Street
Bismarck, ND 58504

(701) 222-1354

RE: Request Bill Motion to Change Manslaughter Laws in North Dakota
Marlin's Law - In Remembrance of My Son
Inspired for my son, Marlin Klatt 03/01/1989
Date of Death 06/29/2020

Dear Mr. Heinert,

My name is Kathy, Klatt, mother of Marlin (JJ) Klatt, and my son was killed June 29, 2020 by Jordan Pendelton.

I was provided your information from Mitch Burris, Cass County Sheriff office who handled my son's case. The case was closed as of January 19th, 2021 after sentencing of the person that took my son's life.

As a mother the grieving process has been very hard, emotional time for me, and still hard accepting my son's death. I never imagined being a parent that has lost a child. My heart always went out to mothers, fathers and families that lose a child to a senseless act of violence. I never thought the day would come, and here I am, one of those mothers.

There is so much I want to say, and express and reach out to you on the North Dakota laws on Manslaughter. Due to the laws and the details on my son's case, Jordan could not be charged for Homicide, and was only charged with Manslaughter, meaning the max sentence imposed was up to 10 years, and the final hearing and sentencing he was only sentenced to 5 years, 2 years probation. As a mother, this is devastating for a person to kill

someone, and the consequence does not fit the actions taken for a life that is lost forever.

I'm fighting as a mother, and for my son, and for his death to be an inspiration to other mothers, fathers, and families as a sign to bring hope in the Justice System, in cases for any future senseless crimes in ending a life, and charges are only for manslaughter, 10 years just does not justify taking a life and requesting this law to be changed to help ease the pain, bring some peace for families grieving over loss of a loved one, and provide more justified sentencing for when a life is taken.

Since the loss of my son, this was a huge tragedy and I will never heal, part of me died with my son. My heart is forever broken. There is not a day that passes that I do not cry, my heart hurts deeply, and it seems the pain does not seem to lessen, and after the sentencing, I find myself not to have any comfort and peace, and for my son to fully rest in peace. The circle of life has been forever broken. There are not enough words to express the hurt and pain I feel on a daily basis.

I was born and raised in Fargo, North Dakota, and I raised my children as a single mother. My son and I had a very close relationship, and we talked several times during the week, and we planned trips etc to see each other. I moved away from Fargo around 20 years ago, and relocated to Phoenix, AZ. My son started his own Journey and decided to take a job, left Phoenix and moved to Phillipsburg Kansas for a few years, and as much as he wanted to connect and be back with me in Phoenix, I encouraged him to live his life, find his happiness, and and not have regrets of life choices, have experience, embrace his youth, and career opportunities, and he became an owner operator for a trucking company, hauling an extended flatbed semi-truck and traveled over the road, traveling throughout the United States hauling loads to various companies delivery merchandise, equipment, etc. During this time, he met and found his love of his life, puppy along side of the snow filled highway, and initially he was trying to find a home for her, and then called me and told me he is going to keep her, and she was his co-pilot on the road and developed and very close and special relationship, and there were together ever since. JJ loved Daisy, his dog so much, he met the world and shared a very special loving bond, he took her everywhere with him. My son loved Daisy more than life. My son's life passion was to go fishing of

any kind, river, lake and ice fishing, when he could, even if he went fishing alone, he always made time to throw a line. My son then came at a life cross roads and did not want to be an over the road trucker anymore, and we talked at great lengths on his next journey and moving back to Phoenix, and I instilled the importance of family, and as much as I wanted to be selfish and have my son back with me in Phoenix, he decided to move to Fargo, and spend time with my nephew. After that he got a good job and has lived in Fargo since March 2017.

My son grew up to be a good man, with a huge heart and a very hard worker. He always looked out for me and wanted to always be there, and with our many conversations about my aging and would be there to take care of me, and always looked out for me. We actually were talking and he was determined to get me moved back to Fargo so we could be closer and together. I have extended family there and JJ, (my son) would make sure he had family time and would always tell me he was trying to do the family thing. My heart hurts for him as he continued to live his life, he tried so hard and seemed to always get knocked down and would get up and keep going. He worked crazy hours and put in so much overtime to get his feet on the ground and start fulfilling his goals on buying a house and getting his life established. I only met 2 girls in my lifetime he dated and he always showed me respect if he was not serious about the girl or relationship, he would always tell me "if I am not serious, I will not meet them" He always told me, "your my momma the most important thing in the world to me, and they have to be worthy to meet my momma". My son finally met someone he really liked and cared about in August 2019, and he was just getting ready to move in together in July 2020, and his life was taken in June 2020. He also told me he will fly me to Fargo when his first child is born and "were gonna take family pictures". We also just planned several trips for the months coming up, and for him to visit me in Phoenix, and for me to visit in Fargo, and for me to meet his new girlfriend, and my son's dream was to go Marlin Fishing and we also were planning that trip.

As a mother to be placed in the category of mothers that lost their child in senseless crimes, my son deserved to live his life to the fullest, and as his mother to be part of that and seeing my son live, grown into an even better man that he already was, to succeed and find his happiness in life. Jordan took all that from me, and especially my son, and not being able to be a

grandmother, and for the Klatt name to be carried out. There is a part of me that will always be angry, and the emotional roller coaster I seem to be living now and trying to function in my own life, to be strong for my son as he would want me to be, it's not an easy task. It should have been me to go before my son.

All I have left is ashes, pictures and memories, and I miss him so much, miss hugging him, seeing him, telling him how much I love him and how proud he has made me, raising my son into a great man, and once again my son proves his caring nature, and continues to shine after his loss, my son was an organ donor, and I continue to receive correspondence on the organ donor recipients, and have received letters from a few that received my son's organs, and he saved their lives, and they can continue to live and be with their loved ones. I raised my children to always be there for each other no matter what, and at times putting things aside, even if that meant any differences, and to stand strong as brother and sister, and family. JJ always referred to his sister and me as his "ladies". I will always embrace and cherish my son's outlook on life, and carrying out the importance of family, and being there, and he developed and very special uniqueness in him, that I loved, he always was about "paying it forward and helping those in need", even if he didn't have much or was in a place in life where it would be hard to do, he ALWAYS did it.

I want to emphasize the importance of this law to be changed, and will help to bring the peace deserved to help ease the pain a mother feels when she loses her child. It's really sad that a drug charges, stealing a car has more harsh sentencing and punishment, than taking a life. Regardless, when someone's life is taken by another person's hands, a life still has been lost, and the laws need to change to reflect the consequences for one's actions.

Jordan "sucker punched" my son and he had no idea it was coming and Jordan hit my son with excessive force and I believe in my heart he had every intention to do harm to my son. I was told my son was dead at the scene when the fire and ambulance crew arrived. The video surveillance evidence in detail how he hit my son, Jordan standing over my son, waiting for movement to cause further harm, and my son was not moving and injured 2 other people and fled the scene. There is also detail photos and other evidence showing all the injuries Jordan had when killing and

assaulting my son and other parties that were trying to help. This reflects on how the current laws are written, how moving forward to charge Jordan.

I just want my son's death to help other mothers, fathers and families, and to be an inspiration to other mothers who lose loved ones in senseless crimes, and have a more suitable punishment deserved for their actions, and to face the consequences deserving, and not to be taken lightly in the eyes of the law.

In summary, I am looking for your assistance in changing the Manslaughter Laws for North Dakota. I want to dedicate this law change in honor of my son, "MARLIN'S LAW". Thank you for your time and consideration, and hearing my voice, and being my son's voice. I really hope my son's death can make a difference, and the Manslaughter Law can be changed.

At your convenience, if you could please contact me via, phone or video conference to discuss this further.

Here is my contact information, and look forward to hearing from you. My information is as follows: Kathy Cell, (480) 206-1940, Kathy Klatt, PO BOX 25313, Tempe, AZ 85285. My email address is Plumcrazyinaz68@msn.com

Thank you again for your time,

Cordially,

Kathy A Klatt
Mother

Testimony on Senate Bill 2375

On June 28th, 2020 at approximately 1:52 a.m. the Cass County Sheriff's Office was dispatched to Big Erv's Bar and Grill in Horace North Dakota on a report of an assault which had occurred. When Deputies arrived, they learned that Marlin Klatt had been assaulted by Jordan Pendleton and that Mr. Klatt was unresponsive bleeding from his head and ears and was agonal breathing. Ambulance personnel were tending to Mr. Klatt and it was apparent that he had sustained a severe head injury. It was reported to Deputies on scene that Mr. Pendleton assaulted Mr. Klatt by punching him the head causing him to go unconscious and fall to the ground. Mr. Pendleton then stood over Mr. Klatt as if he were going to strike him again. Mr. Klatt's Friend Roy Bishop stepped in to stop Mr. Pendleton. Mr. Pendleton then assaulted Mr. Bishop by punching him in the head and knocking him to the ground. The bouncer of Big Erv's Bar identified as Randy Silvis then tried to intervene and Mr. Pendleton took Mr. Silvis to the ground and repeatedly struck Mr. Silvis. Mr. Pendleton admitted to striking Mr. Klatt. (Video)

Medical staff reported that Mr. Klatt sustained a brain stem injury from the strike to his head which caused Mr. Klatt's brain to be damaged beyond repair reporting his condition as irreversible. On June 29th, 2020 at 2:16 a.m. Mr. Klatt was pronounced dead at the Sanford Medical Center.

As a result of Mr. Klatt's death Mr. Pendleton was charged with Manslaughter, Aggravated Assault, and 2-counts of Simple Assault. Mr. Pendleton was ordered to serve 5 years in prison, 2 years of probation and got credit for 25 days of time served.

Not feeling like that sentence brought justice to her sons' death, Kathy Klatt, Marlin Klatt's mother reached out shortly after the last legislative session and wanted to know how she could bring about change to North Dakota Law on Manslaughter. As everyone knows Manslaughter is a Class B Felony punishable by a maximum of 10 years imprisonment and a \$20,000 dollar fine. Mrs. Klatt's concern is Mr. Pendleton's repeated assaultive behavior during the incident. During the Incident you can clearly see that after Mr. Pendleton strikes Mr. Klatt knocking him to the ground and then steps over him as if he were going to strike him again but is broken up by Mr. Bishop's intervention. It is the concern of Mrs. Klatt and myself of the repeated violent behavior of Mr. Pendleton which is why we feel adding an Aggravated Manslaughter Statute punishable by a Class A felony which would carry an 20 year maximum and \$20,000 fine would be more appropriate under those circumstances.

Jesse Jahner