



SB2282- House Judiciary

Good morning, Chairman Klemin and members of the House Judiciary Committee, my name is Jaci Hall, and I am the Executive Director of the North Dakota Association for Justice. Today I am here to urge a DO PASS on SB2282.

Sexual abuse can happen to children and adults of any race, socioeconomic group, religion, or culture. **Every 68 seconds an American is sexually assaulted in the US. Every 9 minutes it is a child.** Women and men between the age of 12 and 34 are at the highest risk of sexual assault. If you are Native American, you are twice as likely to be sexually assaulted. A woman in college is more likely to be sexually assaulted than graduate.

ND Task Force on the Prevention of Child Sexual Abuse was established in 2017 and is tasked to identify, educate, and support groups who provide services to those who are victims of child sexual abuse.

The 2019 report showed the latest information:

1. In 2016, NDHHS responded to over 14,000 reports of child abuse and neglect.
2. In 2016, the AG reported 587 child sexual abuse victims.
3. In 2017, 774 children were referred to ND Children Advocacy Centers for Sexual Abuse allegations.
4. The ND Children's Advocacy Centers determined the lifetime cost for the sexual abuse of a female= \$282,734 and a male= \$71,691.
5. For those who were sexually abused, reported their abuse and received services the ND Children's Advocacy Center in 2017, the estimated lifetime expense is \$154,813,120. (That is for the 826 children who received services in 2017)

To put that into perspective, in 2022 ND Children's Advocacy Centers served 2,690 people and provided 44,969 services to them. These crimes are growing and today, I am asking you to support victims.

According to PCAND, 16% of children who are sexually abused come forward when they are children. Fewer than ½ of those will result in a conviction.

When victims come forward later in life, they are silenced due to the statute of limitations. S B2282 will give these victims a voice.

Like Senator Dwyer indicated, in 2021, the Attorney General's Office investigated 1,089 criminal sexual offenses. These offenses included sodomy, rape and rape with a foreign object, groping and commercial sex acts.

As these offenses increase, the length of time to prosecute these cases has also increased. In 2021, criminal sexual assault prosecution took 440 days to prosecute, many cases took longer. Many prosecutors wait until the rape kit is processed and there is evidence of guilt to start the criminal prosecution. As you heard during this session, North Dakota's crime lab is over 400 kits behind some victims have waited over a year. Delays have been happening for almost 10 years now.

These delays have a detrimental impact on the current statute of limitations for civil remedy. As high-profile cases of sexual abuse and as survivors find the courage to report crimes and seek closure, statute of limitations can be a deterrent. Civil litigation can be a remedy for victims of sexual assault in several ways. Some of the ways that civil litigation can provide a remedy for victims of sexual assault include:

1. **Monetary compensation:** Victims of sexual assault can seek monetary compensation for damages such as medical expenses, lost wages, and pain and suffering.

2. **Injunctive relief:** Victims of sexual assault can seek court orders to prevent the perpetrator from continuing to engage in harmful conduct, such as restraining orders or orders requiring the perpetrator to undergo counseling or treatment.

3. **Holding wrongdoers accountable:** Civil litigation can help to hold wrongdoers accountable for their actions, which can provide a sense of justice and closure for victims.

4. **Public acknowledgment of the harm:** Civil litigation can provide an opportunity for the victim to have their story heard in court and for the wrongdoer to be publicly held accountable, which can help to validate the victim's experience and bring attention to the issue of sexual assault.

5. **Consequences for the perpetrator:** Civil litigation can also provide consequences for the perpetrator, such as fines, penalties, and even reparations that can be directed to the victim.

6. **Securing evidence for criminal proceedings:** In some cases, civil litigation can be a way to gather evidence that can be used in criminal

proceedings against the perpetrator, this can help to increase the chances of a successful criminal prosecution for other offenses.

As the legislature looks at separate offenses throughout the years, the statutes of limitations have gotten skewed. **Normally, civil litigation does not commence until after the criminal complaint. This is because until the criminal complaint is completed, the defendant will plead the 5th amendment, so they do not incriminate themselves.**

SB 2282 gives the victim the opportunity to seek a civil remedy if they were unable to due to their criminal complaint taking too long, or the discovery of the abuse was outside the current statute of limitations.

Statutes of limitations can be detrimental to these cases as they place a time limit on the ability of the victim to seek legal remedy for the sexual assault. As the criminal statutes change and not the civil statutes, victims lose this ability. Today, I ask you to open the window to provide them with opportunity they have lost that was outside of their control.

Many ask whether this window should be open to all cases, or should S82282 not be open retroactively?

Overall, access to the civil justice system is crucial for victims of wrongful conduct as it provides them with a means of seeking redress for harms suffered, holding wrongdoers accountable, and promoting important public policy goals.

The ex post facto clause is a provision in the United States Constitution that prohibits the federal government from passing laws that retroactively criminalize conduct, increase the punishment for a crime, or eliminate the defense of a crime. The ex post facto clause applies to criminal law and does not cover civil litigation.

In civil litigation, the statute of limitations, which is a time limit for filing a lawsuit, is not considered a retroactive law because it does not criminalize conduct or increase the punishment for a crime, but it sets a time frame for a legal action to be taken. The statute of limitations can be modified or extended by the legislature, but it doesn't affect the rights of individuals who have already been subject to the previous statute of limitations, unless they are still in the time frame of the previous statute.

What have other states done in the past few years to support victims?

In recent years, many states have changed their statutes of limitations for sexual assault in response to the widespread problem of sexual abuse and the recognition that victims may not come forward to report the abuse for many years, or at all. Currently, 27 states have made changes to their laws to protect victims. In 2023, 7 states have legislation pending to make additional changes.

These changes have included:

1. Eliminating statutes of limitations for sexual assault: Several states, such as California, have eliminated the statutes of limitations for sexual assault, which means that victims can file a lawsuit at any time, regardless of when the abuse occurred.

2. Extending statutes of limitations: Some states have extended the statutes of limitations for sexual assault, which means that victims have more time to file a lawsuit. For example, New York extended the statute of limitations for criminal sexual assault from five years to 20 years.

3. Creating "lookback" windows: Some states have created "lookback" windows, which are limited periods of time during which victims who were previously barred from filing a lawsuit due to the statute of limitations can file a lawsuit regardless of how long ago the abuse occurred. This is what the first draft of SB2282 will do.

4. Introducing a "Romeo and Juliet" clause: Some states have included a "Romeo and Juliet" clause, which is an exception to the statute of limitations for sexual assault cases where the perpetrator and the victim are close in age.

5. Child Victims Act: Some states have passed the Child Victims Act, which provides for a one-year window for victims to file civil claims for child sexual abuse regardless of the statute of limitations.

These changes to statutes of limitations for sexual assault are designed to provide more time for victims to come forward and to seek legal remedy for the abuse they have suffered. The changes also reflect the recognition that victims may not be ready to come forward for many years, or at all, after the abuse occurred and that it is important to provide them with a way to seek justice.

Victims of sexual abuse go through so many ups and downs. Their worlds are flipped upside down, but they choose to stand up and face their perpetrator. They do this to remove this individual from the streets so they cannot harm another. They are the bravest of the brave. Today, I ask you to be brave. To support victims and show them you are willing to stand up and support them.

These victims behind me deserve your support and willingness to stand with them to remove these perpetrators. By voting DO PASS on SB2282, you are showing them they matter. Statute of Limitations are set by the legislative body. I ask you today to be their voice and pass SB2282.

The Senate made positive changes to the statutes of limitations for future victims. It did not address the victims that have been denied access to civil remedy due to delays in governmental actions, mental health, criminal proceedings, and other factors outside of their control. This does not mean these victims do not deserve the opportunity to seek civil remedy.

The current statute of limitations for civil sexual assault is 2 years for adults and either 2, 3 or 10 years for children. However, the criminal statute of limitations is 3 years for felony cases for adults and 21 years for children. This is simply wrong. Not only do these statutes need to be changed for future victims, but we also need to support past victims as well.

Just yesterday, an educator was sentenced to 30 months in prison for having sexual relations with a student. In less than three years he will be free to go about his day, but what about his victim? This student and all other victims deserve justice. **Civil litigation is not about money, or retaliation – but about stopping the next attack and saving the next victim.**

Thank you for the opportunity to speak today, I look forward to answering your questions and working with the committee to support victims of sexual assault, abuse, and gross sexual imposition.

Jaci Hall
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