MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M

ROLL NUMBER

DESCRIPTION

2446

2001 SENATE JUDICIARY

SB 2446

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2446

Senate Judiciary Committee

❑ Conference Committee

Hearing Date 19 February 2001

Tape Number	Side A	Side B	Meter #
1		x	8.7-43.6
Committee Clerk Signature			

Minutes: **Senator Traynor** opened the hearing on SB 2446: A BILL FOR AN ACT TO CREATE AND ENACT A NEW SUBDIVISION TO SUBSECTION 2 OF SECTION 28-32-01 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO EXCLUSIONS FROM THE DEFINITION OF ADMINISTRATIVE AGENCY; AND TO AMEND AND REENACT SECTION 12.1-32-15 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO THE REGISTRATION OF SEXUAL OFFENDERS AND OFFENDERS AGAINST CHILDREN.

Sandi Tabor, representing the Office of the Attorney General, testifies in support of SB 2446. (testimony attached)

Jonathan Byers, Assistant Attorney General, testifies in support of SB 2446. (testimony and proposed amendments attached)

Senator Trenbeath, on page 6, when you talk of a mandatory sentencing are you referring to judges?

Jonathan Byers, yes.

Senator Trenbeath, shouldn't that be in the perview of a district judge?

Jonathan Byers, it should be, however the legislation wanted the 90 day sentencing requirement.

Senator Trenbeath, I find the state developing inconsistent policy priorities. Can you solve this conflict?

Jonathan Byers, it may be more than I can do on a Monday morning. I believe this crime itself and the fact your making it a C felony for commiting this crime twice. A 90 day sentencing is appropriate.

Senator Trenbeath, when you say on page. 9, line 8. Is this high risk term, going to be a term of art?

Jonathan Byers, that needs to be addressed in the guidelines. We don't want to reinvent the wheel.

Warren R. Emmer, (testimony attached).

Senator Traynor, do you believe the bill is immature?

Warren Emmer, no not at all. We just need time to develope the guidelines.

Senator Traynor, closed the hearing on SB 2446.

<u>February 20, 2001, tape 1, meter # 22-26.5</u>

SENATOR TRENBEATH MOTIONED TO PASS AMENDMENTS, SECONDED BY SENATOR BERCIER. VOTE INDICATED 6 YEAS, 0 NAYS AND 1 ABSENT AND NOT VOTING. SENATOR BERCIER MOTIONED TO DO PASS AS AMENDED, SECONDED BY SENTOR BY SENATOR LYSON. VOTE INDICATED 6 YEAS, 0 NAYS AND 0 ABSENT AND NOT VOTING.

FISCAL NOTE

Requested by Legislative Council

02/21/2001

Bill/Resolution No.:

Amendment to: SB 2446

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			$6,514		$5,550	
Appropriations			$6,514		$5,550	

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
			$1,350			$1,350		

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill requires that risk assessments be conducted on all sexual offenders who are required to register under NDCC section 12.1-32-15. The risk assessments would be accomplished according to guidelines developed by the Attorney General. It is presumed that a standard, tested assessment tool would be used, and can be acquired at little or no cost. Currently, North Dakota has made some use of an assessment tool developed by the State of Minnesota called the Minnesota Sex Offender Screening Tool - Revised (MNSOST-R). It is assumed at this point in time that this is the assessment tool that would be officially adopted. There was no cost to acquire the MNSOST-R.

Risk assessments would involve two essential components: collecting the necessary information from various sources and applying that information to the assessment tool. The process would closely resemble that of conducting a Presentence Investigation (PSI), which is generally accomplished by the DOCR, Field Services Division, either using their staff or contracting for the service. When that activity is contracted, the normal contract price for a PSI is $75.

During the 2001-03 biennium, North Dakota will add approximately 180 new offenders to its registration list, each requiring a risk assessment. This fiscal note assumes that approximately 60 percent of the risk assessments will occur within the purview of the DOCR, 30 percent by the Attorney General, and 10 percent within the scope of juvenile court activities. The DOCR has determined that risk assessments can be conducted for offenders under their control for no additional cost. The 54 assessments that will be the responsibility of the Attorney General (estimated 30% of 180), and the 18 assessments estimated for juvenile courts will be an additional expense for those agencies. Assuming a cost of $75 for each risk

assessment, the cost for these assessments is estimated to be $5,400.

60%	DOCR	No additional cost
30%	Attorney General	$4,050
10%	Juvenile Courts	1,350
	Total	$5,400

The Bureau of Criminal Investigation Division of the Office of the Attorney General will also require two additional file cabinets to accommodate the risk assessment documents for approximately 1,100 registered offenders. Estimated cost for file cabinets is $964.

The MNSOST-R is a tool that has been validated and certified for Minnesota, but will need to be validated for North Dakota. This service is presumed to be available from out-of-state, but will require travel expenses for this professional assistance. An estimated $1,500 is included for travel expenses.

Other Costs

For the 1999-01 biennium, the BCI acquired two federal grants for the purpose of enhancing the offender registration program. The first, for $217,305, was used to rewrite the computer program largely for the purpose of participating in the National Sex Offender Registry (NSOR) created by the Pam Lychner Tracking and Identification ACT of 1996. These funds were also used to modify the State Radio Communications message switch to allow for transmission of North Dakota registration data to the FBI and the National Crime Information Center (NCIC) registration database. The funds are also currently planned to cover the cost of conducting risk assessments on the 926 offenders who are currently registered. In addition, NDCC section 54-12-22 requires the Attorney General to provide access to registration information by law enforcement through reference to driver's license number or number plate characters. These funds are being used to cover unanticipated costs for accomplishing that mandate, including additional modifications to the State Radio Communications switch. SB2446 is dependent on these prior activities and funding for the efficient handling and reporting of risk assessment information for individual offenders and for making public disclosure of high risk offenders, on the internet, a possibility.

The second grant, for $108,000, is specifically targeted at developing an offender registration web site capability. It includes programming to link the registration software to the web site, insuring that the web site information is as current as possible, and to scan offender photos into the site. Software, programming, and equipment required by this bill are covered by this previously acquired federal grant.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*
   A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

None

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Contracted risk assessments have been estimated to cost $75. With 180 assessments anticipated for the biennium, and assessments initiated from three sources, the expenditures estimated for each of those sources are as follows:

DOCR

Risk Assessments No additional Cost

Travel Expenses for MNSOST-R Validation $1,500

Attorney General

Risk Assessments 54 @ $75 each = $4,050

File Cabinets 2 @ $482 each = $ 964

$5,014 State Total $6,514

Juvenile Courts

Risk Assessments 18 @ $75 each = $1,350 County Total $1,350

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

The executive budget for 2001-03 does not include an appropriation for these expenditures. Counties have not anticipated this expense.

Name:	Robert J. Helten/Kathy Roll	**Agency:**	Office of Attorney General
Phone Number:	701-328-5500	**Date Prepared:**	03/01/2001

FISCAL NOTE

Requested by Legislative Council

01/30/2001

Bill/Resolution No.: SB 2446

Amendment to:

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			$13,114		$13,114	
Appropriations			$13,114		$13,114	

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
			$1,350			$1,350		

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

The bill requires that risk assessments be conducted on all sexual offenders who are required to register under section 12.1-32-15. The risk assessments would be accomplished according to guidelines developed by the Attorney General. It is presumed that a standard, tested assessment tool would be used, and can be acquired at little or no cost. Currently, some use has been made, in North Dakota, of an assessment tool developed by the State of Minnesota called the Minnesota Sex Offender Screening Test - Revised (MNSOST-R). It is assumed at this point that this is the assessment tool that would be officially adopted. There was no cost to acquire the MNSOST-R.

Risk assessments would involve two essential components: collecting the necessary information from various sources, and applying that information to the assessment tool. The process would closely resemble that of conducting a Presentence Investigation (PSI), which is generally accomplished by the DOCR, Field Services Division, either using their staff or contracting for the service. When that activity is contracted, the normal contract price for a PSI is $75.

It is estimated that for the 2001-03 biennium North Dakota will add approximately 180 new offenders to its registration list. Assuming a cost of $75 for each risk assessment, the cost of conducting risk assessments will be approximately $13,500. It is further assumed that approximately 60 percent of the risk assessments will occur within the purview of the DOCR, 30 percent by the Attorney General, and 10 percent within the scope of juvenile court activities. Given that assumption, the costs will be divided accordingly:

60% DOCR $ 8,100

30%	Attorney General	4,050
10%	Juvenile Courts	1,350
	Total	$13,500

The Bureau of Criminal Investigation Division of the Office of Attorney General will also require two additional file cabinets to accommodate the risk assessment documents for approximately 1,100 registered offenders. Estimated cost for file cabinets is $964.

Other Costs

For the 1999-01 biennium, the BCI acquired two federal grants for the purpose of enhancing the offender registration program. The first, for $217,305, was used to rewrite the computer program largely for the purpose of participating in the National Sex Offender Registration (NSOR) program created by the Pam Lychner Tracking and Identification ACT of 1996. These funds were also used to modify the State Radio Communications message switch to allow for transmission of North Dakota registration data to the FBI, National Crime Information Center (NCIC) registration database. These funds are also anticipated to cover the cost of conducting risk assessments on the 926 offenders who are currently registered. In addition, NDCC section 54-12-22 requires the Attorney General to provide access to registration information by law enforcement through reference to driver's license number or number plate characters. These funds are being used to cover unanticipated costs for accomplishing that mandate, including additional modifications to the State Radio Communications switch. SB2446 is dependent on these prior activities and funding for the efficient handling and reporting of risk assessment information for individual offenders and for making public disclosure of high risk offenders, on the internet, a possibility.

The second grant, for $108,000, is specifically targeted at developing an offender registration web site capability. It includes programming to link the registration software to the web site, ensuring that the web site information is as current as possible, and allowing for scanning of offender pictures into that site. Software, programming, and equipment required by SB2446 are covered by this previously acquired federal grant.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*
   A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

None

   B. **Expenditures:** *Explain the expenditure amounts. Provid detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Risk assessments, under contract, have been estimated to cost $75. With 180 assessments anticipated for the biennium, and assessments initiated from three sources, the expenditures estimated for each of those

sources are as follows:

DOCR

Risk Assessments 108@$75 each = $8,100

Attorney General

Risk Assessments 54@$75 each = $4,050

File Cabinets 2@$482 each = $ 964

$5,014 State Total $13,114

Juvenile Courts

Risk Assessments 18@$75 each = $1,350 County Total $ 1,350

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

The executive budget for 2001-03 does not include an appropriation for these expenditures. Counties have not anticipated this expense.

Name:	Robert J. Helten/Kathy Roll	**Agency:**	ND Bureau of Criminal Investigation
Phone Number:	701-328-5500	**Date Prepared:**	02/08/2001

Adopted by the Judiciary Committee
February 20, 2001

PROPOSED AMENDMENTS TO SENATE BILL NO. 2446

Page 7, line 18, replace "law enforcement agencies" with "the attorney general"

Page 7, line 19, after "risk" insert "and supporting documentation" and remove "which the department determines is relevant"

Page 7, line 24, after "risk" insert "level"

Page 7, line 27, after "courts" insert "or the agency having legal custody of a juvenile"

Page 7, line 28, after "courts" insert "or the agency having legal custody of a juvenile"

Page 7, line 29, replace "law enforcement agencies" with "the attorney general"

Page 7, line 30, after "risk" insert "and supporting documentation" and remove ", which the juvenile courts determine is relevant"

Page 8, line 6, after "risk" insert "level"

Page 8, remove lines ~~7~~ and 8

~~Page 8, line 13, after the period insert~~ "The attorney general shall develop guidelines for public disclosure of offender registration information."

Page 8, line 30, ~~remove~~ "If"

Page 8, remove line 31

Page 9, remove lines 1 and 2

Page 9, line 3, remove "of the offender"

Page 9, after line 9, insert: "If the offender has been determined to be a moderate risk, public disclosure must at a minimum include notification to the victim of the offense and to any agency, civic organization, or group of persons who have characteristics similar to those of a victim of the offender. Upon request, law enforcement agencies may release conviction and registration information regarding low, moderate, or high-risk offenders."

Page 10, line 1, after "adopted" insert "under section 12.1-32-15"

Page 10, line 2, after "offenders" insert ", the risk level review process, and public disclosure information"

Renumber accordingly

Date: 2/20/01
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2446

Senate Judiciary Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Pass Amendments

Motion Made By Trenbeath Seconded By Bercier

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

Total (Yes) 6 No 0

Absent 1

Floor Assignment _____

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

Date: 2/20/01
Roll Call Vote #: 2

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2446

Senate Judiciary Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken DPA

Motion Made By Bercier Seconded By Lyson

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

Total (Yes) 6 No 0

Absent 1

Floor Assignment Trenbeath

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

REPORT OF STANDING COMMITTEE

SB 2446: Judiciary Committee (Sen. Traynor, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2446 was placed on the Sixth order on the calendar.

Page 7, line 18, replace "law enforcement agencies" with "the attorney general"

Page 7, line 19, after "risk" insert "and supporting documentation" and remove "which the department determines is relevant"

Page 7, line 24, after "risk" insert "level"

Page 7, line 27, after "courts" insert "or the agency having legal custody of a juvenile"

Page 7, line 28, after "courts" insert "or the agency having legal custody of a juvenile"

Page 7, line 29, replace "law enforcement agencies" with "the attorney general"

Page 7, line 30, after "risk" insert "and supporting documentation" and remove "which the juvenile courts determine is relevant"

Page 8, line 6, after "risk" insert "level"

Page 8, line 7, remove "Upon written request, law enforcement agencies may disclose conviction and"

Page 8, remove line 8

Page 8, line 30, replace "If" with "The attorney general shall develop guidelines for public disclosure of offender registration information."

Page 8, remove line 31

Page 9, remove lines 1 and 2

Page 9, line 3, remove "of the offender."

Page 9, after line 9, insert:

"If the offender has been determined to be a moderate risk, public disclosure must include at a minimum, notification to the victim of the offense and to any agency, civic organization, or group of persons who have characteristics similar to those of a victim of the offender. Upon request, law enforcement agencies may release conviction and registration information regarding low-risk, moderate-risk, or high-risk offenders."

Page 10, line 1, after "adopted" insert "under section 12.1-32-15"

Page 10, line 2, after "offenders" insert ", the risk level review process, and public disclosure information"

Renumber accordingly

2001 HOUSE JUDICIARY

SB 2446

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2446

House Judiciary Committee

☐ Conference Committee

Hearing Date 03-12-01

Tape Number	Side A	Side B	Meter #
TAPE I	x		01 to 1479
TAPE I		x	2998 to 3322

Committee Clerk Signature

Minutes: Chairman DeKrey opened the hearing on SB 2446. Relating to exclusions from the definition of administrative agency; relating to the registration of sexual offenders and offenders against children.

Jonathan Byers: assistant Attorney General (see attached testimony) also attached testimony from Attorney General Wayne Stenehjem, and he had a amendment which he went over.

Chairman DeKrey: Is this going to clean up our list at all.

Jonathon Byer: This will fix it in two ways. We have already done some of that and the second thing under this bill there would be some separation of offenders.

Rep Klemin: On page ten of section two, the development of guidelines is exempt from administrative practices act. The Attorney General would not have to go through the notice and the hearing process in order to adopt.

Jonathon Byer: Yes, that is what is being proposed here. He explains further.

Rep Klemin: It would exempt you from the Administrative Rules committee.

Johathon Byer: Yes, it would.

Chairman DeKrey: Just on the list.

Jonathon Byer: Just on creating the guidelines and going through the risk review process.

Vice Chr Kretschmar: Will there be objective standards set up in setting the risk factor or how will that be done.

Jonathon Byer: Yes, there will be some objective standards set up. He then gives and example of how another state does it. The standards would help set the risk level.

Chairman DeKrey: If there are no questions, thank you for appearing. Anyone else wishing to testify in support, neutral or opposition. Seeing none, we will close the hearing on SB 2446.

COMMITTEE ACTION

Chairman DeKrey: We have SB 2446 before us, Rep Wrangham moved the Johnson/Byerly amendments, seconded by Rep Grande. DISCUSSION Voice vote on the amendment. Motion carries. What are your wishes with the bill? Rep Wrangham moved a DO PASS as amend, seconded by Rep Grande. DISCUSSION The clerk will call the roll on a DO PASS as amend motion on SB 2446. The motion carries with 13 YES, 0 NO and 2 ABSENT. Carrier Rep Mahoney.

10803.0201
Title.0300

Adopted by the Judiciary Committee
March 12, 2001

VR
3/12/01

HOUSE AMENDMENTS TO ENGROSSED SB 2446 HOUSE JUDICIARY 03-12-01

Page 10, line 5, after "disclosure" insert "of"

Renumber accordingly

Date: 03-12-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2446

House JUDICIARY Committee

☐ Subcommittee on _____

or

☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as amend

Motion Made By Rep Wrangham Seconded By Rep Grande

Representatives	Yes	No	Representatives	Yes	No
CHR - Duane DeKrey	✓				
VICE CHR --Wm E Kretschmar	✓				
Rep Curtis E Brekke					
Rep Lois Delmore	✓				
Rep Rachael Disrud	✓				
Rep Bruce Eckre	✓				
Rep April Fairfield					
Rep Bette Grande	✓				
Rep G. Jane Gunter	✓				
Rep Joyce Kingsbury	✓				
Rep Lawrence R. Klemin	✓				
Rep John Mahoney	✓				
Rep Andrew G Maragos	✓				
Rep Kenton Onstad	✓				
Rep Dwight Wrangham	✓				

Total (Yes) 13 No 0

Absent 2

Floor Assignment Rep Mahoney

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

REPORT OF STANDING COMMITTEE (410)
March 12, 2001 4:44 p.m.

Module No: HR-42-5419
Carrier: Mahoney
Insert LC: 10803.0201 Title: .0300

REPORT OF STANDING COMMITTEE

SB 2446, as engrossed: Judiciary Committee (Rep. DeKrey, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2446 was placed on the Sixth order on the calendar.

Page 10, line 5, after "disclosure" insert "of"

Renumber accordingly

2001 TESTIMONY

SB 2446

SENATE BILL 2446 TESTIMONY
SENATE JUDICIARY COMMITTEE
FEBRUARY 19TH, 2001
FORT LINCOLN ROOM

By Jonathan Byers, Assistant Attorney General

Chairman Traynor, Members of the Committee:

My name is Jonathan Byers and I appear on behalf of the Attorney General. I wish to testify in favor of Senate Bill 2446.

Until now the process of risk assessment for community notification purposes has been left up to local law enforcement agencies. Some agencies have embraced those responsibilities; others have expressed a desire for a more uniform statewide process of risk assessment and risk level assignment.

The arguments for a statewide risk level for each offender are persuasive. Many law enforcement agencies indicate that assessment of sexual offenders is difficult given the limited information they may have about an offender. The transient nature of some offenders means that process is repeated over and over again. There is no way of assuring that the product of each of those assessments is uniform.

The attorney general also believes that we can provide more useful information to the public than is contained in the fine-print lists that are currently distributed. Senate Bill 2446 will add North Dakota to the growing number of states (about 25) that allow Internet access to sex offender information. Pictures of high-risk offenders and descriptive information about their crimes would be included on the website.

By targeting only high-risk offenders for Internet notification, the concerns of incest victims and sex offender treatment providers should be alleviated. Law enforcement agencies will still be able to notify appropriate citizens about moderate risk offenders, and the public will be able to access information about all offenders upon request.

I would be happy to answer any questions.

SENATE JUDICIARY COMMITTEE
JOHN T. TRAYNOR, CHAIRMAN
FEBRUARY 19, 2001

****

WARREN R. EMMER, DIRECTOR
FIELD SERVICES DIVISION, PAROLE AND PROBATION
NORTH DAKOTA DEPARTMENT OF CORRECTIONS AND REHABILITATION
TESTIMONY TO SB 2446

****

Mr. Chairman, Members of the Committee:

The Department of Corrections and the Field Services Division has concerns about SB2446. The bill relates to a risk assessment being conducted on sexual offenders who are incarcerated in institutions under the control of the department and sexual offenders who are on supervised probation.

Currently, the department administers the Minnesota Sex Offender Screening Tool-Revised (MnSOST-R). The department uses this tool at the time of the presentence investigation report. It is used to determine if referral to the local Human Service Center for a psychological evaluation is required. If the offender scores 0 or higher on the tool, they are referred to the Human Service Center for a psychological evaluation. This assessment is being used as a referral tool only due to validation issues.

The MnSOST-R is a risk assessment. However, the departments concern with immediately using this tool as a risk assessment is that it has not been validated in the State of North Dakota. In addition, it has not been validated at the pre-incarceration level, on female sex offenders, juvenile offenders, or incest offenses.

In order for the MnSOST-R to be implemented as a valid risk assessment in the State of North Dakota, it would need to be validated within the State and on the populations as listed above.

Testimony on SB 2446
Presented by Sandi Tabor
Office of Attorney General

SB 2446 provides another avenue to protect the public from sexual predators by allowing our office to post specific information regarding the identity of serious, high-risk individuals on our web site. The bill requires the development of guidelines for the assessment of sexual offenders by our office in conjunction with the department of corrections. The guidelines will assign a level of risk to each offender, i.e. low, moderate or high. The offenders will be able to request a review of the initial risk level assigned, and it may be changed in the event there is a change in circumstances (completion of sex offender treatment).

Attorney General Stenehjem is strongly supporting the bill because it allows the public Internet access to identify sexual offenders who may live in their neighborhood. It allows parents to take proper precautions if a high-risk offender lives in the community. The individuals eligible for posting on the Internet are those offenders who are required to register for a lifetime. They include repeat offenders, those released from commitment as sexually dangerous individuals, forcible rapists, and child molestation involving intercourse with a child under twelve. To be listed on the Internet the individual must also have received a high-risk rating, or received a high-risk rating by an out-of-state agency or the federal government.

The Attorney General urges your favorable consideration.

PROPOSED AMENDMENTS TO SENATE BILL 2446

Page 7, line 18, replace "law enforcement agencies" with "the attorney general"

Page 7, line 19, after "risk" insert "and supporting documentation"

Page 7, line 19, remove "which the department determines is relevant"

Page 7, line 24, after "risk" insert "level"

Page 7, line 27, after "courts" insert "or the agency having legal custody of a juvenile"

Page 7, line 28, after "courts" insert "or the agency having legal custody of a juvenile"

Page 7, line 29, replace "law enforcement agencies" with "the attorney general"

Page 7, line 30, after "risk" insert "and supporting documentation"

Page 7, line 30, remove ", which the juvenile courts determine is relevant"

Page 8, line 6, after "risk" insert "level"

Page 8, remove lines 7 and 8.

Page 8, line 30, after "[redacted]" insert "The attorney general shall develop guidelines for public disclosure of offender registration information."

Page 8, line 30, remove "If"

Page 8, remove line 31

Page 9, remove lines 1 and 2

Page 9, line 3, remove "of the offender."

Page 9, after line 9, insert "If the offender has been determined to be a moderate risk, public disclosure must at a minimum include notification to the victim of the offense and to any agency, civic organization, or group of persons who have characteristics similar to those of a victim of the offender. Upon request, law enforcement agencies may release conviction and registration information regarding low, moderate, or high-risk offenders."

Page 10, line 1, after "adopted" insert "under section 12.1-32.15"

Page 10, line 2, after "offenders" insert ", the risk level review process, and public disclosure of information"

Renumber accordingly

13. Relevant and necessary conviction and registration information must be disclosed to the public by a law enforcement agency if the individual is a moderate or high risk and the agency determines that disclosure of the conviction and registration information is necessary for public protection. The attorney general shall develop guidelines for the public disclosure of offender registration information. Public disclosure may include internet access if the offender:

a. Is required to register for a lifetime under subsection 8;

b. Has been determined to be a high risk to the public by the department, the attorney general, or the courts, according to guidelines developed by those agencies; or

c. Has been determined to be a high risk to the public by an agency of another state or the federal government.

If the offender has been determined to be a moderate risk, public disclosure must at a minimum include notification to the victim of the offense and any agency, civic organization, or group of persons who have characteristics similar to those of a previous victim of the offender. Upon request, law enforcement agencies may release conviction and registration information regarding low, moderate, or high-risk offenders.

SENATE BILL 2446 TESTIMONY
HOUSE JUDICIARY COMMITTEE
MARCH 12TH, 2001
PRAIRIE ROOM

By Jonathan Byers, Assistant Attorney General

Chairman DeKrey, Members of the Committee:

My name is Jonathan Byers and I am an assistant attorney general. I wish to testify in favor of Senate Bill 2446.

I want to spell out the specific amendments in this written testimony, step by step, although I may only touch on them briefly in my oral testimony unless you have further questions.

1. **Date corrections. Pages 3 and 4.** These amendments clarify that offenders who are not ordered by the judge to register still have that requirement. The amendment is intended to correct what may have been a loophole in existing law.
2. **Addition of Continuous Sexual Abuse to lifetime offender status. Page 6.** This amendment cures an omission from the list of offenses that require lifetime registration.
3. **Clarification of culpability required for violation and mandatory sentence. Page 6.** This amendment makes it clear that the legislature's

intent is that all offenders who are convicted of failing to register are required to serve a mandatory 90 days in jail.

4. **Deletion of contradictory language. Page 7.** The sentence deleted by this amendment was a remnant of a prior version of law that was contradictory with the rest of statute.

5. **Risk Assessment Process. Pages 7 and 8.** Until now the process of risk assessment for community notification purposes has been left up to local law enforcement agencies. Some agencies have embraced those responsibilities; others have expressed a desire for a more uniform statewide process of risk assessment and risk level assignment.

   The arguments for a statewide risk level for each offender are persuasive. Many law enforcement agencies indicate that assessment of sexual offenders is difficult given the limited information they may have about an offender. The transient nature of some offenders means that process is repeated over and over again. There is no way of assuring that the product of each of those assessments is uniform.

6. **Community Notification based on risk level.** The attorney general also believes that we can provide more useful information to the public than is contained in the fine-print lists that are currently distributed. Senate Bill 2446 will add North Dakota to the growing number of states (about 25) that allow internet access to sex offender information. Pictures of high-risk offenders and descriptive information about their crimes would be included on the website.

By targeting only high-risk offenders for internet notification, the concerns of incest victims and sex offender treatment providers should be alleviated. Law enforcement agencies will still be able to notify appropriate citizens about moderate risk offenders, and the public will be able to access information about all offenders upon request.

7. **Exemption from Administrative Agencies Practices Act. Page 10.**

I would be happy to answer any questions.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2446

Page 10, line 5, after "disclosure" insert "of"

Renumber accordingly

Testimony on SB 2446
Presented by Attorney General Wayne Stenehjem

SB 2446 provides another avenue to protect the public from sexual predators by allowing our office to post specific information regarding the identity of serious, high-risk individuals on our web site. It also provides for the development of a uniform risk assessment process and risk level assignment. Currently, risk assessments for community notification purposes are in the hands of local law enforcement agencies. Some agencies embrace the responsibility, while others expressed a desire for a uniform standard. Senate Bill 2446 allows my office, in conjunction with the department of corrections, to develop guidelines for the assessment of sexual offenders.

As you know, sex offender lists currently available to the citizens of our state contain a lot of information. A citizen could review all that is available and still not know which convicted offenders constitute a real risk to the community. As a result of SB 2446, the public will be able to access meaningful information regarding the truly dangerous predators.

Senate Bill 2446 provides for the development of risk assessment guidelines. These guidelines would allow the department of corrections, the juvenile courts, or the attorney general to assign a level of risk to each sexual predator, i.e. high, moderate or low. The risk level would be assigned after reviewing of a series of criteria, consulting with local authorities and scoring an individual using a risk assessment tool.

To further enhance access to the public, information regarding high-risk and lifetime registered offenders will be available through my office's website. The website will include pictures of the offenders and descriptive information about their crimes. For moderate risk offenders, public disclosure will be made to the victim of the offense and any agency, civic organization or group of persons who have characteristics similar to those of a previous victim of the offender.

My decision to target only high-risk and lifetime offenders for Internet notification stems from concerns that I have about the privacy of incest victims, and the difficult job being performed by sexual offender treatment providers. For those offenders who have or are completing sex offender treatment, and have made significant changes in their lives, the three-tier system provides a solution to the concerns that many of them raised in the past...."Why are you including me in with the really bad offenders?" The guidelines will also include a provision allowing the offenders to request a review of the initial risk level assigned. The risk level may be changed in the event there is a change in circumstances - like completion of sex offender treatment.

This bill provides the framework for a more sensible approach to sex offender risk assessment and community notification. The fine detail will be worked out in the guidelines we will develop with the assistance of the department of corrections and the juvenile courts. I urge you to give this important legislation a "do pass".