

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2103

2007 SENATE JUDICIARY

SB 2103

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2103

Senate Judiciary Committee

☐ Check here for Conference Committee

Hearing Date: January 10, 2007

Recorder Job Number: 855

Committee Clerk Signature *Mona L Solberg*

Minutes: Relating to the cost of forensic medical examinations for victims of sexual assault.

Senator David Nething, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following testimony:

Testimony In Support of Bill:

Sen. Stan Lyson – Williston (meter 0:05) Introduced the bill – Att. #1

Sen. Heckman, Dist. 23 (meter 5:40) Spoke in support of the bill.

Rep. Ron Carlisle, Dist. #30 (meter 3:55) Spoke in support of the bill.

ND Attorney General Wayne Stenehjem, (meter 7:16) Stated that there is no other crime where the victim has to pay for this process. With this release of burden to the Medical Insurance carriers I sense that they would contribute some funding into the "pot". We are in conversations at this time.

Bonnie Polecek, ND Council on Abused Women's Services Coalition Against Sexual Assault in ND (meter 10:00) Att. #2. She also stated that currently there is a good relationship between the Attorney General's office and the Crime Lab this legislation would be a good fit.

Kelly Moe Litke, Sex. Assault Prog. Coord. Abused Adult Resource Center-Bismarck (meter 23:26) Gave Testimony – Att. #3

Elizabeth Perius, Nurse (meter 29:29) Gave testimony Att. #4a and gave out the chart summary for a sexual assault forensic examination procedure Att #4b.

John Olson, Attorney representing Police Officers Assoc. (meter 30:05) Gave his support

Debra Ness, Bis. ND Police Chief (meter 35:29) Spoke of her support of the bill and the importance of the DNA is in this type of crime, how it can be used in current, past and future crimes. Otherwise the only proof we have are discussion.

Connie M. Hildebrand, Am. Assoc. of University Women (meter 37:00) Gave her testimony
Att. #5

Testimony in Opposition of the Bill:

None

Testimony Neutral to the Bill:

None

Senator David Nething, Chairman closed the hearing.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2103**

Senate Judiciary Committee

☐ Check here for Conference Committee

Hearing Date: January 17, 2007

Recorder Job Number: 1292

Committee Clerk Signature

Maria L. Solley

Minutes: Relating to the cost of forensic medical examinations for victims of sexual assault.

Senator David Nething, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following committee work:

Sen. Olafson reviewed amendment prepared by Brad Wiederholt –Intern changing victim to alleged victim (page 1, line 2,9,13 and 19-page 2 line 1) and add an emergency clause.

Senator David Nething, Chairman closed the hearing

Sen. Lyson made the motion to Do Pass Amendment and **Sen. Nelson** seconded the motion.

All members were in favor and the motion passes.

Sen. Lyson made the motion to Do Pass SB 2103 as Amended and **Sen. Nelson** seconded the motion. All members were in favor and the motion passes.

Carrier: **Sen. Lyson**

Senator David Nething, Chairman closed the hearing.

Date: 1-17-07

Roll Call Vote # 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2103

Senate _____ Judiciary _____ Committee _____

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Amend to change "Victim" to "Alleged Victim" + Emrg.

Motion Made By Sen. Lyson Seconded By Sen. Nelson

| Senators | Yes | No | Senators | Yes | No |
|--------------|-----|----|-----------------|-----|----|
| Sen. Nething | ✓ | | Sen. Flebiger | ✓ | |
| Sen. Lyson | ✓ | | Sen. Marcellais | ✓ | |
| Sen. Olafson | ✓ | | Sen. Nelson | ✓ | |
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Total Yes 6 No 0

Absent 0

Floor Assignment _____

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

Roll Call Vote # 2

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2103

| Senate | Judiciary | Committee |
|--------|-----------|-----------|
| | | |

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass As Amended

Motion Made By Sen. Lyson Seconded By Sen. Nelson

[illegible]

| | | | | |
|-------|-----|---|----|---|
| Total | Yes | 6 | No | 8 |
|-------|-----|---|----|---|

Absent 0

Floor Assignment Sen. Lyson

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

REPORT OF STANDING COMMITTEE

SB 2103: Judiciary Committee (Sen. Nething, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2103 was placed on the Sixth order on the calendar.

Page 1, line 2, after "for" insert "alleged"

Page 1, line 3, remove "and" and after "appropriation" insert "; and to declare an emergency"

Page 1, line 9, replace the second "a" with "an alleged"

Page 1, line 13, after "the" insert "alleged"

Page 1, line 19, replace the first "a" with "an alleged" and after the second "the" insert "alleged"

Page 2, line 1, after "on" insert "alleged"

Page 2, after line 2, insert:

"SECTION 3. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

2007 SENATE APPROPRIATIONS

SB 2103

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2103

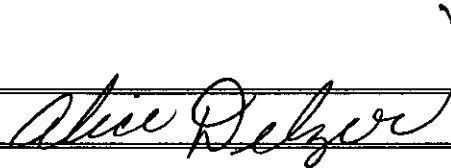
Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 01-26-07

Recorder Job Number: 2000

Committee Clerk Signature



Minutes:

Chairman Holmberg opened the hearing on Engrossed SB 2103 at 9:00 am on January 26, 2007 relating to the cost of forensic medical examinations for alleged victims of sexual assault; to provide an appropriation; and to declare an emergency.

Senator Stanley W. Lyson, District 1, Williston, ND gave oral testimony in support of this bill and referred to Mercy Hospital in Williston and the concerns regarding the victims paying the expenses of the forensic medical examinations.

Chairman Holmberg referred to Senator's Krebsbach's home being burglarized, and she getting the bill for the investigation of that burglary, same analogy.

Senator Krebsbach is seeing the effective date is July 1, 2007; would there be anything wrong with putting an emergency clause on this so it goes into effect immediately?

Senator Lyson stated there certainly wouldn't be any objections from me because we just had something like this happen in Grand Forks last week.

Wayne Stenejhem, Attorney General testified in support of the bill. This is the only situation where he can see where the victim of the crime is expected to pay any expenses of the investigation. As far as the financial aspect our office stands ready and eager to implement the program.

Senator Grindberg asked about the number of sexual assaults and the average cost of a forensic examination.

Discussion followed regarding a fiscal note, whether this item becomes a line item in the budget and when this budget is drawn up in consideration to the next biennium. It was requested of the Attorney General's office by **Senator Krauter** to provide financial information regarding this.

Senator Robinson inquired if victims are required to pay their expenses in other states. The Subcommittee will be given additional information regarding this inquiry.

Bonnie Palecek ND Council on Abused Women's Services/Coalition Against Sexual Assault provided written testimony (1) and gave oral testimony in support of the bill.

Senator Krebsbach requested information regarding the dollar amount reflected in testimony.

Senator Holmberg asked for a break-down for the Subcommittee.

Rebecca LaFave, Sexual Assault Nurse Examiner (SANE) presented written testimony of Elizabeth Perius (SANE) (2) and gave oral testimony in support of the bill. She explained the procedures that are followed by the nurse, the fact that all victims that come to the Bismarck Hospitals for this exam are referred to a SANE, and if there needs to be follow up because of injuries the victim is readmitted back to ER.

Senator Christmann had questions regarding insurance and payment of the bill for treatment.

Senator Kilzer asked if an OB Dr does any of these exams. He was informed these types of cases are referred back to SANE.

Chairman Holmberg inquired about how cases are handled outside of the Bismarck area and was informed that Rebecca did not have that information.

Senator Grindberg asked whether the OB Dr. avoid this because of legal proceedings and was informed that most physicians do not want to get involved with the legal system.

Kelly Moe Litke, Sexual Assault Program coordinator at the Abused Adult resource

Center (AARC) in Bismarck presented written testimony (3) and gave oral testimony in

support of the bill. She elaborated on the position she has in assisting victims and the

assistance AARC offers to victims, and how they assist the victim in filling out any necessary

paper work that may be required.

Senator Kilzer had questions regarding the Crime Victim's Compensation.

Chairman Holmberg closed the hearing on SB 2103.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2103

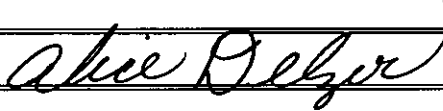
Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 02-08-07

Recorder Job Number: "Click here to type Digital Recorder Job #"

Committee Clerk Signature



Minutes:

Chairman Holmberg opened the hearing on SB 2103. An amendment was introduced.

Senator Robinson did a **DO PASS** on the amendment, **Senator Wardner** seconded. All voted yes. **Senator Krebsbach** will carry the amendment to the Floor.

Senator Mathern moved a **DO PASS AS AMENDED ON THE BILL**, **Senator Fischer** seconded. A roll call vote was taken resulting in 11 yeas, 0 nays, 3 absent. The motion carried. The Judicial Committee will carry the bill.

The hearing on SB 2103 closed.

Date: 2-8-07.
Roll Call Vote #:

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2103.

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

Amendment

Motion Made By

Robinson

Seconded By

Wardner

| Senators | Yes | No | Senators | Yes | No |
|--------------------------------|-----|----|---------------------------|-----|----|
| Senator Ray Holmberg, Chrm | | | Senator Aaron Krauter | | |
| Senator Bill Bowman, V Chrm | | | Senator Elroy N. Lindaas | | |
| Senator Tony Grindberg, V Chrm | | | Senator Tim Mathern | | |
| Senator Randel Christmann | | | Senator Larry J. Robinson | | |
| Senator Tom Fischer | | | Senator Tom Seymour | | |
| Senator Ralph L. Kilzer | | | Senator Harvey Tallackson | | |
| Senator Karen K. Krebsbach | | | | | |
| Senator Rich Wardner | | | | | |
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Total (Yes) all No _____

Absent _____

Floor Assignment

Krebsbach

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

Date: 2/8/07
Roll Call Vote #:

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2103

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken do pass as Amended.

Motion Made By Mathern Seconded By Fischer

| Senators | Yes | No | Senators | Yes | No |
|--------------------------------|-----|----|---------------------------|-----|----|
| Senator Ray Holmberg, Chrm | ✓ | | Senator Aaron Krauter | ✓ | |
| Senator Bill Bowman, V Chrm | ✓ | | Senator Elroy N. Lindaas | ✓ | |
| Senator Tony Grindberg, V Chrm | ✓ | | Senator Tim Mathern | ✓ | |
| Senator Randel Christmann | ✓ | | Senator Larry J. Robinson | ✓ | |
| Senator Tom Fischer | ✓ | | Senator Tom Seymour | ✓ | |
| Senator Ralph L. Kilzer | ✓ | | Senator Harvey Tallackson | | |
| Senator Karen K. Krebsbach | ✓ | | | | |
| Senator Rich Wardner | ✓ | | | | |
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Total (Yes) 13 # No 0

Absent 1 Reed

Floor Assignment Reed full com. Lipton -

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

REPORT OF STANDING COMMITTEE

SB 2103, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2103 was placed on the Sixth order on the calendar.

Page 1, line 21, replace "general" with "insurance regulatory trust"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Dept. 125 - Attorney General

SENATE - This amendment changes the source of the \$500,000 appropriation from the general fund to the insurance regulatory trust fund for reimbursing health care providers for the cost of performing forensic medical examinations on alleged victims of criminal sexual conduct.

2007 HOUSE JUDICIARY

SB 2103

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2103

House Judiciary Committee

☐ Check here for Conference Committee

Hearing Date: 3/6/07

Recorder Job Number: 4459, 4485

Committee Clerk Signature

A. Penrose

Minutes:

Chairman DeKrey: We will open the hearing on SB 2103.

Sen. Stan Lyson: Sponsor, it is a simple bill, this bill is brought forward by me after I was contacted by the Ethics committee at the Mercy Hospital in Williston. I didn't know, even though I was in law enforcement for nearly 40 years that young women who came into the hospital after a sexual attack and abuse and the examination was done, they charged the poor young ladies with the cost of the examination. When then happened with the college aged girls, was that the hospital would ask them if they had the money to pay for it, or wanted to put it on their insurance. The college girls were mostly under their parents' insurance and if it had happened to one of my daughters, it would never have gone on to the insurance. They were afraid of what that might do. So that's exactly what was happening to these girls, they were either walking out of the hospital or the hospital did the examination and paid the costs of it; which for many times that did happen and the sheriff's department sometimes then paid for the cost. This bill simply says that the state will pick up the cost and it's been changed from the first time I testified and the amendments put it under the Insurance Commissioner, and that's where the funds are going to go from the state. They will make an application to the AG's office and the monies will be kept in the Insurance Department and will be paid from there.

That's simply what it is. These young women that are coming in, already feel that this is a horrendous situation and they were victimized terribly, and now we are victimizing them more by saying you have to pay for your examination; even though we are going to use that exam to convict the person that assaulted you. It's kind of like if you take a murder victim, doing an autopsy and charging that back to his estate. There's not a lot of difference. This is something that has been needed in ND for a long time.

Rep. Griffin: Why put \$500,000 appropriation in there, when it says "or so much of the sum as may be necessary". Why don't we say "the sum as necessary".

Sen. Lyson: One of the things that you do in state government, you have to budget. That's why the \$500,000 is there, it may not be that much, but that is the amount to be appropriated to make sure the amount is there for it.

Rep. Klemin: I know when a health care provider submits a bill to a company like BC/BS, they always have this provider discount that's given and other companies might have the same deal. Is it possible under this to get a provider discount so maybe it doesn't cost us this much.

Sen. Lyson: I can tell you that the AG has been working very hard on this, and the insurance companies, from what I've been told, they will be chipping in to build up the fund in the Insurance Commissioner's office and I see the Blues are sitting there and shaking their head. They probably know more about that than I.

Rep. Klemin: If there is insurance to cover it, would that be the first place you go or is this the first place.

Sen. Lyson: First of all, these young ladies aren't going to let you do that. They are going to walk out of the examination room, because they don't want it on their folk's insurance. That's exactly why this bill is before you. When a young lady finds out that it would be charged to her insurance, she says she's leaving. That happens.

Rep. Onstad: Are the different facilities, are they working on agreements for uniform costs.

Sen. Lyson: That's a good question, because there is a cost to this. It is approximately \$450 for a test/exam. Some costs are different from place to place. That was the figure we came up after contacting medical places in ND.

Rep. Wolf: Is there a way that the defendant can be made to pay for these expenses if the person is convicted.

Sen. Lyson: It's not that maybe they'll be charged, it will be. That amount would be charged on the criminal judgment, I'm almost positive of that. The problem is that the hospital won't get their money paid because the inmate won't be able to pay.

Rep. Wolf: Eventually the defendant will pay back the money owed on the judgment.

Sen. Lyson: Right, anything they earn or receive in there, can be taken out of their account to pay that judgment during that time. A lot of money will come back, but there's always a deadbeat out there that you're not going to get anything from.

Chairman DeKrey: Thank you. Further testimony in support.

Arnold Thomas, President of ND Healthcare Association: I will tell you a story about Mary, who is the victim of an assault and she presents to the ER. That does two things, there is both a medical response and a potential of a legal action involved. The bill before you today focused exclusively on the non-medical side of that person's condition. There is nothing in this bill that takes the hospital, nor are we desirous of anything in this bill to compensate the hospital for any medical services that are rendered to Mary upon her presentation in these circumstances. We are here attempting to figure out a way to pay for the costs associated with providing the information to law enforcement should Mary need to take legal action with law enforcement agencies. The cost that is built into this bill, approximately \$500,000 is based on known cases that have presented in ND over a defined period of time, with an average

expense associated with the administration of the kit necessary to obtain information that could be used in a legal proceeding. It is not our intent to come back and ask for medical coverage relative to this particular issue. The reason the bill is in the AG's office, is because we're not sure exactly how this is going to be administered across the state, and we believe that this would be the appropriate place to put this particular responsibility until next session, when we have further experience with its implementation. It is at that time that it would be my expectation that the AG's office would come forth, in terms of if there is a reassignment of responsibility for this particular function where that reassignment is to be considered by you on the policy side. My reason for being here today is we have hospitals across the state that are in various stages of capacity to do this test, who are committed to ensuring that there be a minimal amount of competency at each of the facilities, whether they directly provide the test or they engage in a very, very formal referral activity, to ensure that Mary, who presents is not left hanging because of system inadequacies. This is not a good topic, in terms of it's one that is friendly to have discussions about, it's a horrible reflection upon the way we treat each other, that we are here to make this work.

Rep. Wolf: If this bill just covers the \$450 test expenses, who pays the rest of her expenses as far as if there are other medical related expenses, such as medication, etc. This covers all that.

Arnold Thomas: Currently, there is no change in that. Currently, we will endeavor to see if there is a third party carrier that would cover the medical dimensions of cases presented. That is part of the difficulty we have right now, is that some individuals are walking away from being tested simply because the cost of the kit triggers a third party being notified that this is being done. For example, if you are a 18 year old female college student, who's insurance is by the parents, and something happens, and you do not wish to have them involved as you are going

through this assessment, you present at my hospital and the first thing that someone in the hospital does, because we treat everyone the same, do you have a means of coverage, who is the third party, even for the administration of the test. We will bill that service, not on the law enforcement theme but on the medical theme to a third party that would have financial responsibility for them. A number of people are walking out of the ER room because of that. This is not a perfect solution to the problem that we have, that is, treating everybody the same when they present, and then if there is third party insurance coverage, how is that billed. That is another whole set of issues that are attendant to this. We are trying to make sure that the cost of the test is not a burden to the person who presents, who rightfully ought to be tested for a lot of different reasons, not the least of which is sexually transmitted diseases, which would be for the person's well being.

Rep. Wolf: Testing for STD's does not qualify for something that is used in court, correct.

Arnold Thomas: That would be one of the benefits of being able to go through this testing.

Rep. Wolf: So that \$450 for the exam is more than just for what they use in court, also for things that she needs to be aware of as well. Is that amount enough?

Arnold Thomas: We believe it is enough in terms of what we are attempting to accomplish. You're not going to be focused primarily on STD's that would be one aspect of the lab work that comes back. For example, if you do a swab, the product of that swab can be assessed in a lot of different ways in the lab, and one of the things that would be tested for would be the presence of a sexually transmitted disease. It's not a specific test for that, it's all based on the one specimen. There are others that can speak to that.

Rep. Wolf: Where do you decide what you are going to pay for, or not. How do you decide how much will be covered and what won't.

Arnold Thomas: On the extreme side, the person who has the need for medical attention that would not be covered under this. We will have to figure out how that will be covered. There are other bills that deal with parental notification, etc. and we are dealing with that right now. This is another aspect of that. Do you notify a parent or not and that's something that we're asking to have greater decision making in the ER room relative to that. That's very contentious, we understand that. On the other hand, there are some people that don't need to be notified simply because their notification is going to add to the condition that is presented rather than help in that situation. That's one measure. This bill here, if you have third party coverage, you needed sutures, things of that sort because of the assault that would be billed as a medical service to you rather than included as part of a sexual assault presentation. It would not be coded that way, as a sexual assault, that's the difference.

Rep. Wolf: But when the piece of paper comes from BC/BS in the explanation of benefits, I know they come to the parent's house in that child's name, even though she is a college student. If a person would happen to open it up or question the bill that you have, even though it doesn't say rape kit, it may say sutures, isn't that still going to raise a flag.

Arnold Thomas: This does not address nor solve that particular problem. We still have that problem.

Rep. Boehning: You talked about the HIPAA laws. How does this fit into the HIPAA regulations.

Arnold Thomas: We aren't changing HIPAA at all, what we're doing is saying that there is a certain financial element attached to testing for law enforcement purposes. This bill is a funding mechanism to cover, on average, the cost of the kits that are used to test for assault.

That is all this bill is about. It does not get into the area that Rep. Wolf appropriately is questioning and that is what about all the attendant medical dynamics that are attendant with a

presentation of assault and the notification that we are not changing in terms of third parties. That is still an issue that we are attempting to address. It is not in the provisions of SB 2301.

Rep. Boehning: With the HIPAA laws, the minor doesn't have, the insurance company can't tell the parent without the child's consent to see the records about what happened.

Arnold Thomas: I think in terms of the third party role, such as insurance, there should be somebody from the third party addressing that rather than somebody on the side of billing.

Chairman DeKrey: Thank you. Further testimony in support.

Bonnie Palacek, ND Council on Abused Women's Services/Coalition Against Sexual Assault in ND: I can come back in this afternoon. I want to introduce Julie Landsiedel.

Chairman DeKrey: Thank you. Further testimony in support.

Julie Landsiedel, Sexual Assault Nurse Examiner: (see attached testimony).

Rep. Koppelman: You mentioned the Crime Victims Compensation. Does that cover a high percentage of these cases.

Julie Landsiedel: The financial part of it I can't answer. I am the forensic part.

Chairman DeKrey: Thank you. Further testimony in support.

Kelly Moe Litke, Sexual Assault Program Coordinator at AARC: (see attached testimony).

The question about charging these costs to the attacker. Very few of these cases go to trial and fewer are convicted. I don't know how much help that is going to be. I think it is an important idea, but I don't know if that will have an impact on the dollar amount. Also, they don't do testing for STD as part of the exam. They treat with antibiotics for that. There's no testing for STI's done as part of the examination. Also to clarify Crime Victim Compensation, that is any medical concerns that do come out as a part of this exam are referred back to the emergency department and those would then be billed to Crime Victims Compensation. So that is where those costs would be billed.

Rep. Meyer: If you're the victim of a rape, and you come into the hospital and you don't have insurance, can all of this be denied under current law right now. When you come into a hospital and have symptoms, and according to the bill we're looking at here, the victim is charged for this. Let's say you have no means to pay. What happens then.

Kelly Moe Litke: We are a community based program, not a hospital based program, so our expenses in that case could be billed directly to Crime Victims Compensation because there is no insurance to bill that to. But then ultimately the hospital costs I would assume, would fall back, if they don't have insurance, on the victim. Even if they don't have money, that bill will still come.

Rep. Meyer: In those cases, then that would be turned over to a collection agency, I would assume yes.

Kelly Moe Litke: Yes.

Chairman DeKrey: Thank you. We will recess the hearing.

Chairman DeKrey: We will open the recessed hearing. Further testimony in support.

Bonnie Palacek, ND Council on Abused Women's Services/Coalition Against Sexual

Assault in ND: (see attached testimony). We have tried to think how this system would work and we think perhaps it will be a two tiered system, one flat rate payment which is what the AG has alluded to that he would like, as simplified as possible. One flat rate payments for those exams that don't require the colposcope and another higher rate for those who do require the colposcope. Some hospitals don't have the equipment. Another question raised is can these costs be negotiated. I would say that is another thing that we will have to work out of this in the next two years. The Crime Victims Compensation reimbursement is already negotiated with hospitals and others at 80% of their costs. I would speculate that this might be something that they've proven already that they are amenable to. Couldn't Victims

Compensation pay for this, there's going to be a study of the Crime Victims Compensation fund. There is a resolution calling for a study of the funding which is in deep trouble and as you perhaps remember for the last ten years or so. There aren't enough dollars in that fund to cover these exams and also because of their requirement, our requirement statutorily for the Crime Victims fund to cooperate with law enforcement to be compliance with applicable law. A charge against the defendant and as some of you may know, we have had for a number of years a charge against convicted people for victims, called the victim witness fee of \$25. That doesn't go a long way and there have been added since that little amount, a rather large fee for court renovation and I believe that these fees are still being imposed of \$300-400. So there is only a certain amount of money available, so defendants have a hard time paying, and there are very few sexual assaults that actually do result in convictions. So who pays for the remainder of the costs, the options are insurance, which granted, does not meet the privacy requirements, or the Crime Victims Compensation. Someone asked about the number of cases that are actually paid now out of Crime Victims Compensation, for adult sexual assault victims in 2005, which is the last date we have information available for, there were 23 adult cases that were reimbursed and that was for about \$25,000 and there was also the question about the child under 18, and there again there were about 40 cases, which Crime Victims Compensation paid for. Who decides what will be covered. As I say, we tried not to create definitions within the bill, the assumption is that what you have before you is what will be covered and then the two tiered system of some kind that it would work out something.

Rep. Delmore: If a woman is subject to rape and has insurance right now, does the insurance company pay for the kit.

Bonnie Palacek: I'm not sure. Under health insurance, as I say it is a coding maze, so there may be certain parts of the procedure that may be coded out differently, but there isn't a code because it isn't a code of its own because it is a forensic rather than medical exam.

Rep. Delmore: If I don't have insurance, my only recourse may possibly be the victim's compensation fund.

Bonnie Palacek: Ironically if you don't have insurance, in a way you're in a better situation in terms of the privacy issue and hospitals in ND, I know they have been very responsive, that victims of sexual assault are hopefully not being turned away from hospitals.

Rep. Koppelman: Are the victims of sexual assault able to remain anonymous, if charges are made and this goes to trial, it is public, correct.

Bonnie Palacek: For all practical purposes yes.

Rep. Koppelman: So if that's true, we've heard testimony that there is a concern about the college student not wanting parents to know about this, if this is a crime, parents are going to know about this, if it's a crime. This is going to be part of a criminal investigation and then trial, and all the rest.

Bonnie Palacek: In most cases, I believe that the parents would know. By having a process with a separate stream of funding, though, it would lessen in terms of the billing that they got, the bill would come perhaps for a broken arm, but not for the other kinds of procedures. Certainly, if it went to trial, which is a rare occurrence, that would be an event, even though in some cases with the rape shield laws that we have, there might be some protection, but in most cases you're right, they will know.

Rep. Koppelman: What about holding the perpetrator responsible financially, if someone is convicted of sexual assault, can they be held responsible or is that something we should look at statutorily that they can be held responsible for costs incurred by the victim.

Bonnie Palacek: As I indicated, there are fees that are assessed to people who are convicted right now. The problem as I see it, there is a limit to how much someone who is incarcerated can get. Mandatory minimum is now perhaps 20 years, how much money are they going to earn at \$1 or \$5/day or whatever, is that going to get back quickly enough to that victim to preclude bills from the hospital coming in on a regular basis.

Rep. Koppelman: Perhaps if that were the case, it could go toward reimbursement. If this bill were law, for example, they would reimburse to the state for the funds that they might expend.

Bonnie Palacek: One of the things that we are hoping to find out in the next two years would be funding this in other states, and other states certainly do have that kind of funding mechanism, not just for this, but for their crime victim's compensation fund as well. It just gets to a matter of how much we can retrieve from that fund, in addition to people paying for their own incarceration and their own monitoring, the costs do add up.

Rep. Charging: On line 18 and 19, I am wondering about that. Was that covered earlier in testimony.

Bonnie Palacek: The reason for lines 18 and 19, would be to encourage victims to report the crime of sexual assault, so particularly on college campuses where it might be an infraction or you might have a minor who has been drinking or doing other drugs, who might not report, because they were afraid of being arrested if the tests came back that they were guilty of a crime themselves.

Chairman DeKrey: Thank you. Further testimony in support.

Christopher Dodson, ND Catholic Conference: Support. We have 12 Catholic hospitals and I think I can give three examples of what is going on, from what we were told when we asked our hospitals about what was going on out there as to why this bill is needed. First, the

person comes in and basically coded according to the procedures, and there is no separation between what a forensic exam is and what is medical. We have another hospital in an urban area which separates not only the billing but they completely separate the staffing, the procedures from the medical. You have forensic and medical. They have different people working on it, the billing stops when a person goes over to forensic and the costs of forensic are picked up from a completely third party through a community grant while working through our organizations. The third situation is a rural hospital that simply can't afford the expertise needed to collect the evidence. They treat the medical conditions and then ask her if she wants to pursue this and she has to make a decision then, and then we have a trained person drive the 100 miles or so to the urban setting so that the evidence can be collected. That cost for the travel and time spent with her down and coming back, the hospital absorbs. But she has to make the decision then. As far as the hospital that they brought her to, it would be handled according to that hospital's procedures. In no case is anyone denied services, but partitioning out that forensic portion not only does this service making sure that it's not a burden, about who is going to pay for it, but it allows us to establish a more consistent protocol around the state so we can have a better idea of how these are handled because we have numerous obstacles and different situations. That is a secondary advantage to having a bill like this. The decision as to whether a woman wants to pursue charges should not be made at that point in time only based on concern about costs or privacy. Six months later, when the healing process has begun, she may decide to pursue charges, and she should not be denied justice because evidence wasn't collected based on something she said, out of concerns that we can erase with this bill.

Chairman DeKrey: Thank you. Further testimony in support.

Jonathan Byers, AG's office: Support, and we would ask that one amendment be put on the bill, on page 1, line 2, after the first "of" insert "acute"; page 1, line 7, replace "forensic" with "acute forensic"; line 1, line 9 replace "a" with "an acute"; page 1, line 18, replace "a" with "an acute", and page 1, line 23, after "performing" insert "acute". The reason for this is that we have a number of forensic medical examinations that are not a rape kit type of examination. There are typically examinations of children that may occur months or years after the sexual abuse has happened. The same theoretical principle applies, they shouldn't be billed for it either, but if we are going to include kid victims of exams that are not acute exams, then this money that's needed would have to be a lot larger than \$500,000. Including that in this bill, not only would make them go after the same pool of money, it would prohibit them from billing other entities that do pay now, such as Crime Victims Compensation, many of the exams are currently paid by the state Medicaid office, sometimes insurance, and so rather than replace those, the group that Bonnie was talking about that met last Friday, decided that we would approach this to target the acute examinations that the \$500,000 was intended to cover and worry about that other group of kid exams, that are not included examinations later on. Find out what kind of money might be needed for that.

Rep. Koppelman: I don't know if this was asked earlier, with the appropriation, it talks about the money coming from the Insurance Regulatory Trust Fund. What is that and why was that chosen, and why wasn't this in the AG's budget as an item.

Jonathan Byers: This originally started out just coming out of the state general fund, the AG really has no budget of money right now to pay for this. It wasn't a bill that was necessarily drafted by our office, we do support it, but the reason it was changed to the Insurance

Regulatory Trust Fund is, as AG testified in the Senate hearing, it was because this is going to result in some decreased charges to insurance companies, he thought it only fair that some of

those insurance companies, or an entity like that step up to the plate and make up for that, and one of the ways that they chose to do that, was to have this come out of the Insurance Regulatory Trust Fund because they do feel that it will result in lesser charges to the insurance companies.

Chairman DeKrey: Thank you. Further testimony in support.

Dan Ulmer, BC/BS: I will answer questions.

Chairman DeKrey: How much is my insurance going to go down.

Dan Ulmer: It probably won't.

Rep. Delmore: Can you shed some light on my question, if I am insured with you or another insurer, would my costs be covered for this kit.

Dan Ulmer: I don't know now, but it sure would have before.

Rep. Delmore: But I would have been covered earlier.

Dan Ulmer: There was a bill passed a few years ago, called the Prudent layperson rule for ERs. I want to say in '93 or '95 we passed that bill. Basically it said if you were a prudent person, whatever that is, and you show up at the ER we have to pay for it. We really don't look at ER claims much at all, unless there is something incredibly apparent in there. When this bill was brought to us by the AG, our first response was how much are you spending on this now, and would you mind taking all that money and just putting it in this little fund we want to create to pay for this. Our answer was, "we're buying this now". So we went back and investigated and discovered that we had 79 people that were some sort of sexual assault investigation in ER's in 2005 and 83 people in 2006. We tried to ferret out what the cost that we paid basically on a DRG, so much per procedure, etc. and we don't question a lot about how it's paid. So the answer to your question is, we were before, but we're not sure where we would be now, if you pass this bill.

Rep. Delmore: What is DRG.

Dan Ulmer: Diagnostic Related Group.

Rep. Delmore: Did you take into account the separation by some hospitals, as we've told, the forensics vs. the medical.

Dan Ulmer: We don't know. We don't really poke into the ER issue unless there is some sort of a variance. So in some cases, there may be a sexual assault that's much more involved. You also need to understand that we are not backing away from our responsibilities and obligations to pay for diagnosis and treatment. So if there is a particular test that needs to be performed, that they have some sort of disease that they picked up, that they have some sort of injury, etc. we're more than willing to continue our responsibilities there. It is an issue of, similar to having to pay if your house is broken into and the police come out and you pay \$400 to investigate.

Chairman DeKrey: Thank you. Further testimony in support. Testimony in opposition or neutral. We will close the hearing.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2103

House Judiciary Committee

☐ Check here for Conference Committee

Hearing Date: 3/6/07

Recorder Job Number: 4490

Committee Clerk Signature

Penrose

Minutes:

Chairman DeKrey: We will take a look at SB 2103.

Rep. Delmore: I move the AG's amendments.

Rep. Meyer: Second.

Chairman DeKrey: Voice vote, motion carried.

Rep. Delmore: I move a Do Pass as amended and rereferred to Appropriations.

Rep. Wolf: Second.

11 YES 0 NO 3 ABSENT

CARRIER: Rep. Delmore

DO PASS AS AMENDED AND REREFERRED TO APPROPRIATIONS

Date: 3-6-07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2103

House JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended + Rereferred to Appropriations

Motion Made By _____ Seconded By _____

| Representatives | Yes | No | Representatives | Yes | No |
|-----------------|-----|----|-----------------|-----|----|
| Chairman DeKrey | ✓ | | Rep. Delmore | ✓ | |
| Rep. Klemin | | | Rep. Griffin | ✓ | |
| Rep. Boehning | ✓ | | Rep. Meyer | ✓ | |
| Rep. Charging | | | Rep. Onstad | ✓ | |
| Rep. Dahl | ✓ | | Rep. Wolf | ✓ | |
| Rep. Heller | ✓ | | | | |
| Rep. Kingsbury | | | | | |
| Rep. Koppelman | ✓ | | | | |
| Rep. Kretschmar | ✓ | | | | |
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Total (Yes) 11 No 0

Absent 3

Floor Assignment Rep. Delmore

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

REPORT OF STANDING COMMITTEE

SB 2103, as reengrossed: Judiciary Committee (Rep. DeKrey, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the Appropriations Committee (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). Reengrossed SB 2103 was placed on the Sixth order on the calendar.

Page 1, line 2, after the first "of" insert "acute"

Page 1, line 7, replace "**Forensic**" with "**Acute forensic**"

Page 1, line 9, replace "a" with "**an acute**"

Page 1, line 18, replace "a" with "**an acute**"

Page 1, line 23, after "performing" insert "acute"

Renumber accordingly

2007 HOUSE APPROPRIATIONS

SB2103

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2103

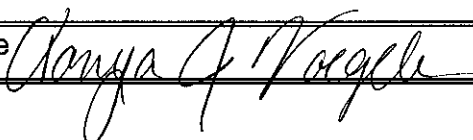
House Appropriations Committee
Government Operations Division

☐ Check here for Conference Committee

Hearing Date: 3/19/07

Recorder Job Number: 5270

Committee Clerk Signature



Minutes:

Vice Chairman Carlisle opened the hearing on SB 2103.

Representative DeKrey explained the bill.

Representative Kempenich: How many cases a year are we looking at?

Representative DeKrey: I don't have that written down but it is a lot less than actually happen is what we are told. What is happening now in some cases is when, especially younger women come in and they find out that their parents insurance will find out they walk away and will not do it because they don't want their parents to know.

Bonnie Palecek, representing the North Dakota Council on Abused Women's Services/Coalition Against Sexual Assault, spoke in support of the bill.

Bonnie Palecek: To answer your question there are about 960 cases of sexual assault in a year that report to one of our trained centers. Of those, about 200 have undergone the forensic exam. In addition to that there are children exams as well with about 100 there.

Representative Skarphol: Lets follow this through for just a little bit and say that this bill passes and we have twice that many. If there is a rape and the state picks up the tab for

paying for this exam, does the victim then have anonymity or does it go to trial and the parents still find out about it?

Representative DeKrey: No if it goes to trial the parents are still going to find out about it. We talked a lot about that in committee. The anonymity will only last for a very brief period of time.

Representative Skarphol: I am having difficulty understanding logic behind, how its going to solve the problem if the alleged victim is still cognoscente of the fact that their parents are going to find out if they are under aged what are we really solving with \$500,000?

Vice Chairman Carlisle: That is just one facet of this.

Mr. Ulmer from Blue Cross Blue Shield explained the insurance side of this process. (6:30)

Vice Chairman Carlisle: How many are students?

Bonnie Palecek: I am not sure off the top of my head.

Chairman Carlson: I just want to know how the money gets into the regulatory trust fund and what the balance is in that fund.

Mr. Ulmer: It is from the fees and fines from licensed registrations from insurance companies and producers. There are two funding sources. One would be the Insurance Premium Tax and the other one is the Regulatory Trust Fund.

Bonnie Palecek spoke regarding the costs per exam. She stated that with the different coding practices in the hospitals, the costs were all over the board.

Vice Chairman Carlisle: The feds reauthorized the Violence against Women Act again. Do I understand right that with this act the victim should not have to pay for the exam?

Bonnie Palecek: The reauthorization of the Violence against Women Act in 2006 actually said that no state may require a victim of sexual assault to pay for their exam.

Representative Skarphol: So who is currently paying for the cost of these exams?

Bonnie Palecek: They are paid for from a variety of sources. Most of them are paid through insurance, some are paid through Workers Compensation, some are paid for by the domestic violence/sexual assault programs, some are privately paid and some are not paid at all.

Vice Chairman Carlisle: Do we need the \$500,000? Is that an accurate figure or too much or should we change it to up to?

Bonnie Palecek: I understand the bill to say "or as much as may be needed of the \$500,000.

Chairman Carlson: I have a question for Allen. Tell me a little bit more about this Insurance Regulatory Trust Fund. I believe that after he uses the money in there, there is a certain amount that reverts back to the General Fund, correct?

Allen Knudson: Each biennium whatever is not spent out of the fund comes to the General Fund. So basically this will be a reduction of the General Fund.

Chairman Carlson: So whether or not we call it General Fund, it is General Fund dollars. Was that change made in your committee Representative DeKrey?

Representative DeKrey: That was not changed at all. The only thing that we added was on line nine.

Chairman Carlson: We are reducing the General Fund by \$500,000 by passing this bill.

Allen Knudson: It is already showing a reduction of \$500,000. Senate Appropriations changed it. It was a General Fund Appropriation they changed it to the Insurance Regulatory Fund.

Chairman Carlson: What does it do to that fund? Is it solid now?

Allen Knudson: I think the Insurance Commissioner (bad audio)

Chairman Carlson: Is this the proper way to track the money?

Allen Knudson: Yes.

Representative Skarphol: Allen, are there any crime victim dollars appropriated anywhere else in state government?

Allen Knudson: Not that I can think of.

Hearing Closed.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2103

House Appropriations Committee
Government Operations Division

☐ Check here for Conference Committee

Hearing Date: 3/20/07

Recorder Job Number: 5351

Committee Clerk Signature

Amya Voegelé

Minutes:

Chairman Carlson opened the discussion on SB 2103.

Discussion occurred regarding whether or not the emergency clause is needed on the bill because the bill has a time frame listed.

A motion was made by Representative Glassheim, seconded by Representative Williams for a DO PASS recommendation to the full committee. The committee vote was 7 Yeas, 1 Nays, 0 Absent and Not Voting. The bill will be carried to full committee by Vice Chairman Carlisle.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2103**

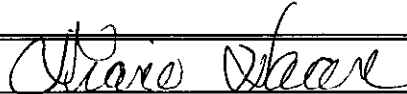
House Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 3-21-07

Recorder Job Number: 5392

Committee Clerk Signature



Minutes:

Chairman Svedjan: We'll look SB 2103

Rep Carlisle: This relates to the cost acute forensic medical exam, i.e. rape kits for alleged victims of sexual assault...this has been in the works for about 18 months working through the Attorney General. Basically, there's a \$500T FN arrived at by polling 8 hospitals trying to figure the FN and 1 of these exams costs \$450-650...if we have the next stage up, a forensic microscope, it can cost more than that. We found out that there is about 960 victims, but only about 250 go through the examination...the disturbing thing we found out is there's 100 children that go through the same thing at \$650/year for the kids, so if you take that, roughly $227,500 \times 2$ is 500,000. They're going to work, during the interim, with the Attorney General to see if (*can't understand*) what was happening now...some insurance was being paid, some hospitals absorbed costs, some private pay, some domestic violence assault agencies kicked in. We found out there's a violence against women act which may, if you have 3rd party people paying, there's about 700,000 a year that comes in...that was passed in 2006 in Washington...that could put 3rd party payers....that type of payment could possibly be put in jeopardy. The committee figured that there should be no person that has to allegedly go through that and then get a bill for the exam. You're committee gave a Do Pass on this and

are going to work on it during the interim, but right now the idea is that if somebody's a victim of sexual assault, they don't pay for the exam.

Chairman Svedjan: Do you want to move the bill?

Rep Carlisle: I move a DO PASS on Reengrossed SB 2103

Rep Ekstrom: I second it

Rep Pollert: Rep Carlisle, does this bill have anything to do with the advocacy centers?

Rep Carlisle: No, this is when an alleged victim reports to a hospital and they do the advanced exams...here's a couple different cases...a college kid comes in and finds out her exam might be billed to insurance so they get up and leave...the other example is...if they go through the exam, the idea is that we'll be paying for it and no one has to get a bill...it isn't through any center.

Rep Pollert: So this is actually before...in case the case goes further and has to go to the advocacy centers.

Rep Carlisle: That's correct and the idea is, as I said earlier, there's over 900 reported cases a year, but only 250 actually go through the forensic exam to hopefully catch the perpetrator and then the 100 children/year.

Chairman Svedjan: Did you look at the status of the Insurance Regulatory Trust Fund and are there sufficient funds?

Rep Carlisle: The other committee amended that ...Tammy or Allen, do we have enough money in Regulatory Trust Fund?

Allen: This is the fund that the Insurance Department can spend it out of it's collections from license fees on agents and different insurance companies and anything that's left at the end of the biennium comes to the general fund. They're projecting about \$4M to be transferred to the general fund...this would just come out of that.

Rep Nelson: Was there anything in your committee about if the alleged victim was eligible for Medicaid...is that part of forensic medical exam...as far as their reimbursement schedule?

Rep Carlisle: That question didn't come up and I don't know if it came up in the policy committee either.

Chairman Svedjan: Coming at it a different way...the way I perceive this is that this \$500T would be the primary payer for these tests, so it wouldn't be passed on to Medicaid or any other 3rd party payer, nor would it be passed on to the individual to pay and I presume what would happen is that health provider would need to submit a bill to the Attorney General and then they would pay for this out of that fund.

Rep Carlisle: That's correct, it also has a sunset clause because they're going to work with Attorney General (also the emergency clause) ...there's a group that's been formed and they're going to work out the process over the next 2 years. They may not spend all the money...it says up to...the idea is to get a tracking system because no one really knows for sure.

Chairman Svedjan: So in setting this up over the next 2 years, I'm sure they'd be working with providers to make sure providers are aware that this is available.

Rep Carlisle: That's correct, and the information that we got that they may have paid some claims but they weren't aware...but there's that question about the 3rd party.

Rep Skarphol: I think the intent of this is to give as much privacy and anonymity to victims, as possible, at the time of the investigation so they can substantiate whether or not there's a legitimate case to move forward and the intent is that it will be paid for out of this fund so that there won't be any invasion of that privacy from any perspective, including your insurance. I'm the one in committee that voted against this and the reason is I didn't think it sufficiently defined the obligation of any insurance company, but I'm supportive of the bill but I think we

should have addressed it. I'm not complaining about the committee...we didn't have time...I think it's an excellent program and an excellent thing to do for the victims of sexual crimes.

Rep Wald: When I look at the funding source, coming from the Insurance Regulatory Trust Fund, they're taking this poor insurance agent's license fee and you're using it for a forensic medical examination caused by some alleged criminal...that's quite a stretch for us 4 guys who pay into that fund.

Rep Kroeber: I don't know where the insurance person got the money from, but that's not my point. Any insurance that the person does have will pay for any personal injury that they take and receive as they always would...if there's a broken arm or any type of medical problem occurred from the assault...the insurance company will pay for that. What this is paying for is the sexual assault forensic examination procedures, which we have a chart on what they call the 19 box procedures that they go through. When they determine that this is necessary and then, of course, the patient consent and all of this occurs, but the insurance company will still pay for all the injury that occurred in the assault...this is just for the forensic examination.

Rep Nelson: Rep Carlisle, if I understand this right, the repayment then from the Attorney General's Office...is that at the bill charged from the health care facility?

Rep Carlisle: That would be my understanding, as Rep Kroeber said, for the forensic exam to build a case against the perpetrator.

Chairman Svedjan: And there isn't a standard charge here, because different providers may have levels of equipment to do some of this, so the charges may vary.

Rep Carlisle: As I said, the figures were determined by polling 8 hospitals.

Rep Monson: Is this going to be a way that all of a sudden these tests are going to increase in costs, knowing that somebody's going to be paying it, mainly the state, should there be a cap in here, that this is the max we'd pay on this?

Rep Carlisle: As I said, there's a group that's been put together...they're going to do the tracking and survey during this next biennium and that will answer your questions...right now some of the tests are being paid for by all the entities and by next session we should have a better handle on it.

Rep Carlson: There's a 19 step process they use for forensic examinations for these sexual assaults and if you read the list, there isn't anybody, especially a woman, who'd want to go through these tests they're going to perform. That's the only way they can prosecute these guys is to have all this information...it's a 4 hour exam including photos...if you read the list you'll wonder why they'd put anybody through that. They put them through it because the person's going to get away if they don't and I think we should be involved in making sure those things are done so those people are prosecuted.

Chairman Svedjan: It's that list of 19 items that would define the cost?

Rep Carlson: That's correct.

Rep Nelson: I don't dispute the procedure at all, it's just the payment method, it seems to me that we should develop a DRG formula that can be used for repayment because as I understand it, there is the opportunity in this 2 year period...if the costs go up, does the health care facility have to justify the increase in cost...they're DNG, that's a mood point, but as I understand this they may be able to increase the cost of this examination prior to the group being organized.

Chairman Svedjan: What I understand Rep Carlisle to say is that there is going to be more definition made to this program in the interim...the way I perceive this is that it's more of a stop gap...it's a funding mechanism to help us get through the 2 years and during that time there's going to be more definition...I would hope that this issue is addressed in developing the processes and procedures for this.

Rep Kroeber: I'd like to add one thing and this is from the hand out that we received from the Attorney General's Office and it says that the *stake* holders group has been formed and is committed to working out the details of the payment process over the next 2 years. This will include better tracking of numbers and assessing the response better to the exam. So it will give them a better tracking method plus it will leave no doubt to as to who is going to pay for this part of it and obviously, the last thing you want to do is get a bill for a sexual exam.

Rep Skarphol: I think even more importantly, you don't want individuals to not have the exam rather than have to face the possibility of paying the bill. We want to catch the criminals and this is a mechanism to help us do that.

Chairman Svedjan: We'll take a roll call vote on a **DO PASS** on **SB 2103**

Motion Carries

Yes 24 No 0 Absent 0 Carrier Rep Delmore

Date: _____
Roll Call Vote #: _____

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2103

House _____ Appropriations- Government Operations _____ Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do PASS

Motion Made By Glassheim Seconded By Williams

| Representatives | Yes | No | Representatives | Yes | No |
|---------------------|-----|----|----------------------------|--------------|----|
| Chairman Al Carlson | ✓ | | Vice Chairman Ron Carlisle | ✓ | |
| Rep Keith Kempenich | ✓ | | Rep Bob Skarphol | ✓ | ✓ |
| Rep Blair Thoreson | ✓ | | Rep Eliot Glassheim | ✓ | |
| Rep Joe Kroeber | ✓ | | Rep Clark Williams | ✓ | |
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Total Yes 7 No 1

Absent _____

Floor Assignment Carlisle

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

Date: 3/21/07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2103

House Appropriations Full Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken No Pass Reengrossed SB 2103

Motion Made By Carlisle Seconded By Johnson

| Representatives | Yes | No | Representatives | Yes | No |
|--------------------------|-----|----|--------------------------|-----|----|
| Chairman Svedjan | ✓ | | | | |
| Vice Chairman Kempenich | ✓ | | | | |
| | | | | | |
| Representative Wald | ✓ | | Representative Aarsvold | ✓ | |
| Representative Monson | ✓ | | Representative Guleson | ✓ | |
| Representative Hawken | ✓ | | | | |
| Representative Klein | ✓ | | | | |
| Representative Martinson | ✓ | | | | |
| | | | | | |
| Representative Carlson | ✓ | | Representative Glassheim | ✓ | |
| Representative Carlisle | ✓ | | Representative Kroeber | ✓ | |
| Representative Skarphol | ✓ | | Representative Williams | ✓ | |
| Representative Thoreson | ✓ | | | | |
| | | | | | |
| Representative Pollert | ✓ | | Representative Ekstrom | ✓ | |
| Representative Bellow | ✓ | | Representative Kerzman | ✓ | |
| Representative Kreidt | ✓ | | Representative Metcalf | ✓ | |
| Representative Nelson | ✓ | | | | |
| Representative Wieland | ✓ | | | | |
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Total (Yes) 24 No 0

Absent 0

Floor Assignment Rep. Delmore

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

REPORT OF STANDING COMMITTEE (410)
March 22, 2007 4:05 p.m.

Module No: HR-54-5982
Carrier: Delmore
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2103, as reengrossed and amended: Appropriations Committee (Rep. Svedjan, Chairman) recommends DO PASS (24 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed SB 2103, as amended, was placed on the Fourteenth order on the calendar.

2007 SENATE JUDICIARY

CONFERENCE COMMITTEE

SB 2103

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2103

Senate Judiciary Committee

☒ Check here for Conference Committee

Hearing Date: April 9, 2007

Recorder Job Number: 5837

Committee Clerk Signature

Maria L. Solby

Minutes: Relating to the cost of forensic medical examinations for victims of sexual assault.

Senator Nething, Chairman of the conference committee called the members to order. All Senators and Representatives were present. The hearing opened with the following work:

Sen Nething reviewed the amendments for the changes. He requested Rep. Carlisle to describe the term acute and why they used this.

Sen. Lyson gave the dictionary meaning to the term due to it not being in the century code. The House members stated that they were from the appropriations side of the bill and there concern was not the terminology they only wanted to make sure the money did not change on the bill by using another word.

Rep. Kempenich spoke to a protocol as the location of where they found the word; they spoke of "rape kit" verses a forensic medical exam.

They discussed to have a few of the people who were on the Judiciary committee to explain this.

Senator Nething, Chairman closed the hearing.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2103**

Senate Judiciary Committee

☒ Check here for Conference Committee

Hearing Date: April 12, 2007

Recorder Job Number: 5937

Committee Clerk Signature

Maria L. Solley

Minutes: Relating to the cost of forensic medical examinations for victims of sexual assault.

Senator Nething, Chairman of the conference committee called the members to order. All Senators and Representatives were present. The hearing opened with the following work:

Sen Nething reviewed why the committee changed from the original conferees being from appropriations and the questions to the committee were policy questions and the committee changed accordingly. He requested them to define "acute"


Rep. DeKrey stated that the word acute was derived from \$96. **Sen. Lyson** presented an amendment that would define the word in our century code giving us a definition for usage.

Sen. Lyson read his amendment – Att. #1, found in the Attorney Generals Manual, and is modeled after New York law, Virginia also uses similar terminology. **Rep. Delmore** asked if this kept the bill with in the parameters that appropriations had set. All were in agreement that it would. They discussed what amendment they were working off of.

Sen. Lyson made the motion that the house recedes from there amendment and that we adopt the further amendment and **Rep. DeKrey** seconded the motion. All members were in favor and the motion passes.

Senator Nething, Chairman closed the hearing.

April 9, 2007


4-12-7

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2103

That the House recede from its amendments as printed on page 1078 of the Senate Journal and page 910 of the House Journal and that Reengrossed Senate Bill No. 2103 be amended as follows:

Page 1, line 2, after the first "of" insert "acute"

Page 1, line 7, replace "**Forensic**" with "**Acute forensic**"

Page 1, replace lines 9 and 10 with:

"1. An acute forensic medical examination is an examination performed on an alleged victim of criminal sexual conduct for the purpose of gathering evidence of an alleged crime and is performed within ninety-six hours after the alleged crime unless good cause is shown for the delay in performing the examination. When an acute forensic medical examination is performed, the

Page 1, line 18, replace "a" with "an acute"

Page 1, line 23, after "performing" insert "acute"

Renumber accordingly

Date: 4/12
Roll Call Vote #

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2103

Senate _____ Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken 0402 House Recedes from it's Amendment

Motion Made By Lyson Seconded By Detrey

| Senators | Yes | No | Representative | Yes | No |
|----------------|-----|----|--|-----|----|
| Sen. Nething | ✓ | | Rep. Garliste <u>DeKrey</u> (2) | ✓ | |
| Sen. Lyson (1) | ✓ | | Rep. Kempenich <u>Klein</u> | ✓ | |
| Sen. Nelson | ✓ | | Rep. Glasheim <u>De/more</u> | ✓ | |
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Total (Yes) 6 No 0

Absent _____

Floor Assignment _____

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

REPORT OF CONFERENCE COMMITTEE

SB 2103, as reengrossed: Your conference committee (Sens. Nething, Lyson, Nelson and Reps. DeKrey, Klemin, Delmore) recommends that the **HOUSE RECEDE** from the House amendments on SJ page 1078, adopt amendments as follows, and place SB 2103 on the Seventh order:

That the House recede from its amendments as printed on page 1078 of the Senate Journal and page 910 of the House Journal and that Reengrossed Senate Bill No. 2103 be amended as follows:

Page 1, line 2, after the first "of" insert "acute"

Page 1, line 7, replace "**Forensic**" with "**Acute forensic**"

Page 1, replace lines 9 and 10 with:

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Page 1, line 18, replace "a" with "an acute"

Page 1, line 23, after "performing" insert "acute"

Renumber accordingly

Reengrossed SB 2103 was placed on the Seventh order of business on the calendar.

2007 TESTIMONY

SB 2103

Mr. Chairman for the record my name is Stan Lyson I am a Senator from District one in Williston.

This bill was drafted after I was contacted by the Ethics Committee of the Mercy Medical Center in Williston.

The Ethics Committee told me that they were having problems with women coming into the Hospital after being sexually assaulted. They said that the hospital must attempt to relieve payment for a forensic medical exam first from the victim wanting the exam or from their insurance. If victim has no money or insurance then there are other avenues that can be taken to pay. They told me that victims' have threatened to or have walked out without the exam, rather than having it put on their insurance. Mr. Chairman many of these victims are young and are covered by their parents insurance. They just don't want this on their parents insurance.

Mr. Chairman and members of the committee this is a simply bill authorizing the Attorney General to pay for these exams. This does not change anything that is now being done today on how the exam is done. The only change is that the state will pay for the exam.

These young ladies have come into a medical center after being a victim of heinous crime and we should not victimize them any more by making them or their insurance pay for the exam.

This may not seem too important to some, but I believe my ethics committee when they tell me it is very important. I would ask for a do pass on this bill.

AH #2 1-10-07

**NORTH DAKOTA COUNCIL ON ABUSED WOMEN'S SERVICES
COALITION AGAINST SEXUAL ASSAULT IN NORTH DAKOTA**

418 East Rosser #320 • Bismarck, ND 58501 • Phone: (701) 255-6240 • Fax 255-1904 • Toll Free 1-888-255-6240 • ndcaws@ndcaws.org

Senator David Nething
Chair, Senate Judiciary Committee
January 10, 2007
Testimony in Support of SB 2103

*Sum
given to
Senate
appropriations
and to
House
judiciary*

Senator Nething and Members of the Committee:

My name is Bonnie Palecek and I am speaking on behalf of the ND Council on Abused Women's Services/Coalition Against Sexual Assault in ND in strong support of SB 2103.

We would all agree that sexual assault is a particularly heinous crime. All crime is violating in some way, but sexual assault is invasive in particularly destructive ways. Nonetheless it is a crime. Evidence must be gathered in order to prosecute this violating behavior. It just so happens that on this occasion the most critical part of the crime scene is a human body.

This reality has caused us to treat sexual assault differently for a variety of reasons. Complicating things further is the fact that medical professionals must become partners with law enforcement in gathering this evidence. And so the treatment of physical injuries becomes a part of a forensic investigation. This is unique to crimes of personal violence and adds to the complication, if not the confusion.

And so it is understandable, if not acceptable, that different practices arose around the gathering of evidence to prosecute this crime. Of course the victim of a car crash doesn't have to pay for the criminal investigation of the drunk driver. Of course the bank doesn't get a bill for a bank robbery investigation. Of course the family of a homicide victim isn't invoiced for the murder investigation.

But sexual assault is, well, different. Over the years as we in the advocacy community attempted to raise this inequality to consciousness we faced the allegation that perhaps victims came to Emergency Rooms asking for a rape exam because they wanted a free pregnancy or STD test, or perhaps a "morning after" pill. This injustice of victims

paying for their own exams has haunted us for decades. Of course, it was part of victims' experience long before that.

In 1994, with the passage of the Violence Against Women Act as part of the Omnibus Crime Bill, the federal government implied that states should insure that sexual assault victims do not have to pay for their own exams. The law was somewhat ambiguous, not clarifying what "forensic" actually meant. And the hint was there that federal funds might be contingent on states' assurance of payment. For years, Victims' Compensation "payment of last resort" was accepted as compliance in lieu of state payment.

This payment scenario generated some very negative consequences. Young adults still covered by their parents' medical insurance have payments sent to their parents' home. A spouse with a joint insurance plan will receive a bill at the family residence. Knowing this, victims sometimes refuse medical treatment and the forensic exam.

We also have learned that in some cases, filing a medical claim that can be linked to sexual assault may place the person in a high risk category for mental health issues, sexually transmitted infections, HIV/AIDS, pregnancy, and drug abuse. As a result premium rates may increase or medical insurance may be denied.

The federal government affirmed its stance on exam payments with the reauthorization of the Violence Against Women Act in 2006. Now, in order to receive federal STOP funds, the State of North Dakota will need to certify the following:

"The State, Indian tribal government, or territorial government does not require a victim of sexual assault to participate in the criminal justice system or cooperate with law enforcement in order to be provided with a forensic medical exam, reimbursement for charges incurred on account of such an exam, or both; date added to this requirement is January 1, 2009."

SB 2103 not only rights a wrong which has haunted me personally and professionally and added to the anguish of many sexual assault victims; it also puts this state in compliance

with federal requirements which mandate states receiving STOP funds to protect victims in this way. Since 1996, average STOP awards in ND have been \$769,004, shared among victim service agencies, law enforcement, prosecution, courts, and various discretionary projects such as Sexual Assault Nurse Examiner Programs. In 2005, North Dakota Rape Crisis Centers served 875 victims of sexual assault. 69% reported the assault to law enforcement. It is estimated there were at least 179 forensic exams statewide in the most recent 12 month period with costs varying from \$400 - \$700 per exam. Exact costs are difficult to determine because hospitals code differently and include different kinds of administrative and treatment costs. In fact, just last week we were told there would finally be a federal definition of what constitutes a forensic rape exam, something we had pleaded for for 10 years. But we believe that from polling North Dakota hospitals the above range reflects the fiscal reality in our state.

Attendant costs are certainly very important. For example, our office has provided free training to over 75 SANE nurses statewide. The Attorney General has supported the revision and dissemination of a sexual assault forensic evidence collection protocol for a number of years, and STOP grants provided through the State Department of Health and Governor's STOP Advisory Committee have supported the development of medical standards for hospitals not fortunate enough to have a SANE program. If the forensic evidence gathered through the exam is to be credible and used effectively, all these other pieces must be in place.

We understand that it is not the intent of this bill to support those costs. The critically important aspect of SB 2301, however, is that for the first time ever a separate stream of funding will be available for the payment of these exams. We will continue to seek the means to secure training, equipment, standards and whatever else is necessary to provide professional, compassionate services to sexual assault victims while collecting the evidence necessary to hold their offenders accountable. We are grateful and excited to enter into this new partnership with the state of North Dakota.

Thank you.



A B U S E D
A D U L T
R E S O U R C E
C E N T E R

AA # 3
1-10-07

Same to
Senate
approps
and to House
judiciary

Chairperson Nething
Members of the Senate Judiciary Committee
Testimony on SB 2103
Wednesday, January 10, 2007

Chairperson Nething and Members of the Committee:

My name is Kelly Moe Litke. I am the Sexual Assault Program Coordinator at the Abused Adult Resource Center (AARC) in Bismarck. I have been with the AARC for more than four years. As the Sexual Assault Program Coordinator, I am the primary Sexual Assault Advocate, as well as the coordinator of our Sexual Assault Nurse Examiner (SANE) Program and I facilitate our Community Taskforce on Sexual Assault. I am here to provide testimony in support of Senate Bill 2103, relating to the payment of sexual assault forensic examinations.

As a sexual assault advocate, I walk with victims throughout the entire process: from the time they file a report and evidence is collected, through the criminal justice system and beyond. I have sat with countless victims, through immeasurable hours while forensic evidence is collected. The role of an advocate is often described as providing support, information and empowerment for victims. Yet those aren't the things I think about when I think of the sexual assault victims I've worked with. What I remember is the long and difficult times during that exam...when I've held their hand, done deep breathing to help them relax, wiped their tears, rubbed their back, all to help in some way ease their pain. I can see the shock, the embarrassment, the fear, and the pain in their faces. These are the experiences that are forever imbedded in my mind and my heart; too precious to forget but often too painful to remember. It is something that you hope you never have to go through and you pray your loved ones never experience.

Clearly, this is an issue I feel strongly about. But the issue of payment of rape examinations has been one that has been a concern for not just me but our community taskforce as well. There are many issues that arise for victims under the current system, adding undue stress and pain to an already traumatic experience for sexual assault victims.

"Rape is not just a psychological problem; it's a social and public-health problem" (*Kathleen Basile, PhD – a behavioral scientist for the Centers for Disease Control/CDC*). The CDC lists the following symptoms among rape's long-term byproducts: chronic headaches, fatigue, sleep disturbance, recurrent nausea, eating disorders, and menstrual pain. These physical symptoms are in addition to the multiple psychological consequences that include: shock, nightmares, flashbacks, irritability, sudden anger, and an inability to concentrate.

P O B o x 5 0 0 3 • B i s m a r c k , N D 5 8 5 0 2 - 5 0 0 3

Office: 701-222-8370 • Fax: 701-323-9399
24-Hr. Crisis: Toll Free: 1-866-341-7009
email: aarc@btinet.net



These emotional scars that are present immediately following an assault continue to linger and can become part of a victim's everyday life.

Rape is a disturbingly frequent crime. It is estimated that every minute of every day, more than one woman is reported raped in this country (*November 1993 National Victim Center Statistics*). Then factor in that rape is the most underreported crime in the United States, as only 16% of rapes are ever reported to police (*National Victim Center and Crime Victims Research Treatment Center, Rape in America: A Report to the Nation, 1992*). With those statistics in mind, the number of incidents of sexual violence being committed and the number of victims are staggering. In 2006, the Abused Adult Resource Center served 128 victims of sexual violence, including 48 victims through our Sexual Assault Nurse Examiner (SANE) Program. Victims make agonizing decisions about reporting based on many factors; one of those factors should not be because they don't know how they will pay for the forensic examination. Yet, we have had victims choose not to report their rape for that very reason. These victims may be college students, still covered under their parent's insurance, who are not ready for their parents to find out about the assault; or a victim who does not want to burden their spouse with what happened to them. We have seen these victims make the courageous decision to come forward, only to change their minds after finding out the process. To see those victims walk out the door is heartbreaking.

When victims decline the collection of forensic evidence, our criminal justice system loses a vital tool in the identification and apprehension of sexual predators. It is estimated that an offender of sexual violence commits seven rapes before being caught (*Abel, 1987*). With recent advancements in technology and development of DNA databases, the evidence collected as a part of the sexual assault forensic examination may hold the key to solving crimes and potentially preventing other crimes from being committed. This is not only an issue of what is right but an issue of public safety as well.

This brings me to my final point: payment of sexual assault forensic examinations is simply the right thing to do. In no other crimes, do we ask victims to pay for evidence collection. Just think of the outrage if business owners were asked for payment to process the scene of a burglary or having to explain to the family of a murder victim that they have to pay for an autopsy. The evidence collected as part of this examination is not for medical purposes; rather, it is a part of the criminal investigation, for the apprehension and prosecution of offenders. To ask sexual assault victims to pay for their own evidence collection is truly unfair. As an advocate working with victims and their families, this has been a difficult process to explain. Many have questioned the fairness and I have no answer. The egregiousness of the issue is compounded when you also have to explain that if the suspect has a forensic examination, that is paid for by the State. How do you explain that? Victims should not have to endure yet another victimization, and this time, by the very system in place to help and protect citizens of North Dakota.

I ask for your support of Senate Bill 2103. With your support, a burden is lessened for victims of sexual violence in North Dakota – supporting them on their journey to recovery. Thank you.



Kelly Moe Litke

HH # 4a
1-10-07

Chairperson Nething and Members of the Senate Judiciary Committee

Date: Wednesday, January 10, 2007

Re: Testimony in support of SB 2103

*Same
given to
Senate
Appropriations*

For the record, my name is Elizabeth Perius. I've been a sexual assault nurse examiner (SANE) and the clinical coordinator for our local program for 3 years; I've been a registered nurse for 27 years and a nurse practitioner for 4 years. I have examined approximately 25 victims. I'm here to provide testimony in support of Senate Bill 2103, related to the payment of sexual assault forensic medical examinations.

The chief purpose of the sexual assault forensic medical examination is to assess, document and collect forensic evidence. This evidence collection is unique because the crime scene is the victim's body and the evidence collector is a nurse. The evidence collected during an exam can link the assailant to the victim. It can also provide corroborating evidence that a crime occurred.

There are several steps in the process of a sexual assault forensic medical examination. The typical exam takes about 4 hours. It starts with an interview with the victim. We (SANEs) try to do this with law enforcement so she doesn't have to keep repeating her story. We pay attention to details so we know where to look for injury. For example, if the victim states she was shoved against the door and hurt her back, we look at her back for signs of trauma.

The exam starts when we have the victim undress so we can look for injury everywhere on her body. If any materials fall off her while she is undressing, we collect it for evidence, place it in an envelope, and label it. We have to write on the evidence envelopes so that the State Crime Lab knows why we collected what we did. If we see tears or cuts, bruising, swelling, scrapes, or redness we take a picture of it, label the picture, write down all of the pictures we took, and what injury we took pictures of.

Sometimes we collect urine specimens. Sometimes we collect fingernail scrapings or clippings. We collect saliva and mucous. We examine and collect evidence from all the sites on the body that could potentially contain the assailant's DNA. We also examine the genital area for injuries such as tears (cuts), bruising, swelling, scrapes, or redness. If the victim has genital tenderness but no visible injury, we use dye to stain the injury; a break in the skin will be highlighted and the injury can be photographed. When that's done we label it all; what swab came from what body part, who collected it and the date/time of the collection. We document on a pictures of what injury is present, where on the body the injury is located and what that injury is.

We give the victim medications to prevent STDs and pregnancy. We give them written discharge instructions that tell them the purpose of the examination and the medications that we gave them. They are informed that this is not a medical exam, but a forensic medical exam meaning that we collect evidence. If we find an injury that requires treatment, they are referred back to the ER.

The result of all this collection of evidence is a lot of information for several different people in the criminal justice system. We put one copy of the paperwork in the evidence box and law enforcement takes it to the State Crime Lab. One copy is put in another envelope for the investigating officer. The third copy is the chart. We store the photos of the private body parts on a disc and put it with the victim's chart. Any injury photo of any other body part is given to the investigating officer.

Finally, we seal the evidence box and give it to law enforcement.

Once in a while there is a victim that asks who is going to pay for this exam. It's very difficult to admit to her that ultimately, she --through her insurance-- is responsible. And even if she applies for Crime Victims' Compensation (CVC), approval for reimbursement depends on several things. It is required that victims report to law enforcement within 72 hours of the assault and cooperate with the investigation. For instance: if she declines any part of the exam, she might be seen as "uncooperative" and CVC may deny that claim. It also depends on her insurance -- if she has any.

I'd like to have a better answer for her than that.

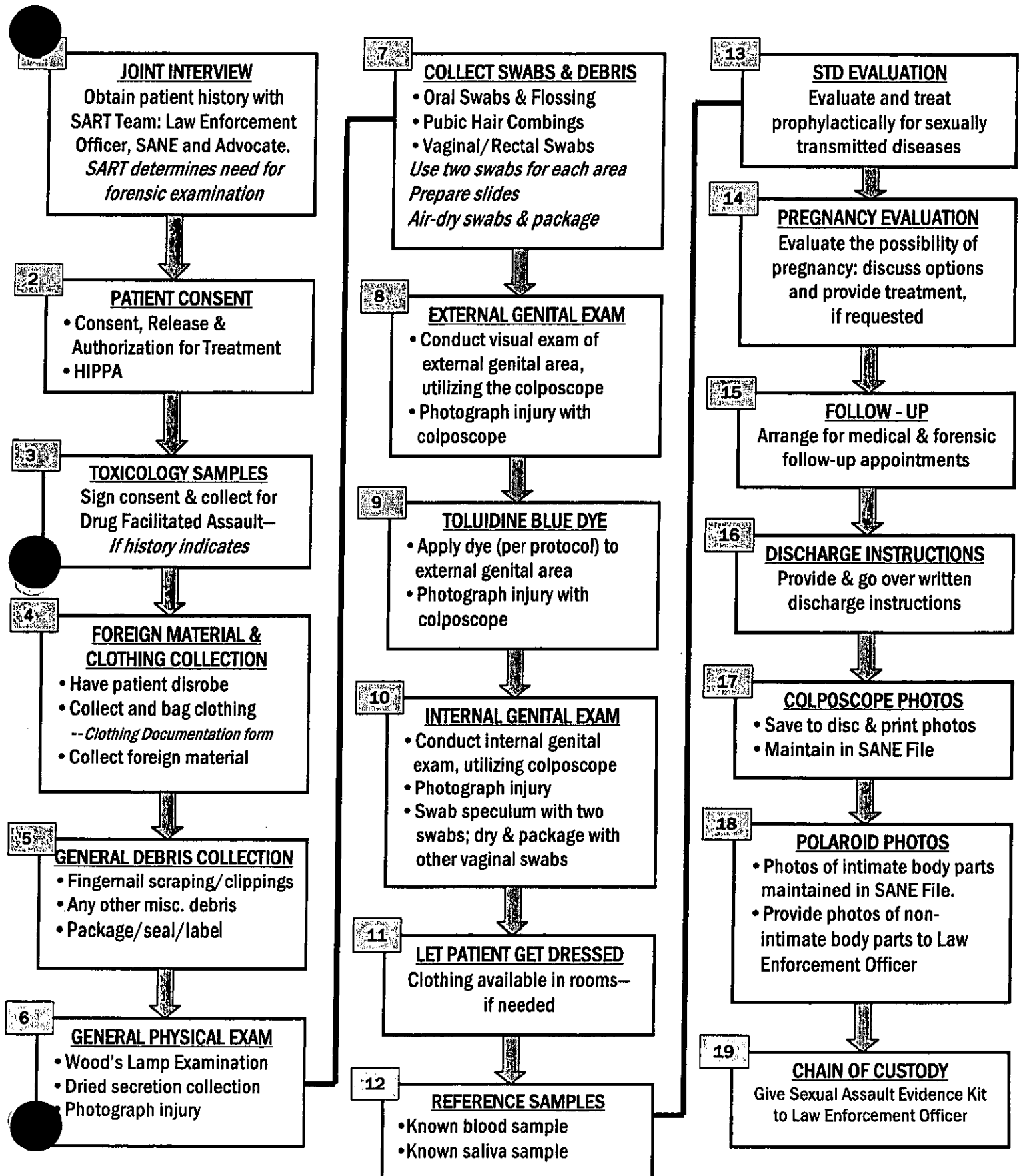
I strongly support SB 2103 and I hope this committee passes this bill.

Thank you for your time.

SEXUAL ASSAULT FORENSIC EXAMINATION PROCEDURES

Chart Summary

AH #46
1-10-07



AH #5

1-10-07



AMERICAN
ASSOCIATION OF
UNIVERSITY
WOMEN

Chairman Nething and Members of the Senate Judiciary Committee:

Good morning Mr. Chairman and members of the Senate Judiciary Committee. My name is Connie M. Hildebrand, and I am the AAUW Public Policy Director for the state of North Dakota. I am appearing today in support of SB 2103.

The American Association of University Women believes all women have the right to live in a safe environment free of discrimination, harassment, and violence. Violence against women which includes domestic violence, dating violence, sexual assault, and stalking, can create significant barriers to equity for women. AAUW acknowledges that the United States is one of the countries in which women's rights are protected significantly more than many nations however we do, still, have a ways to go.

We applaud the vision of the sponsors of this bill. These are North Dakota men and women who understand the sexual assault issue and its ramifications, which our research substantiates has multiple effects. Total costs of rape and sexual assault are estimated to be \$127 billion/yr across this country, including loss of productivity, health care, police services and property damage.

The above statement alone emphasizes the multiple private and state systems involved in review of the sexual assault issue, namely; employers, medical services, law enforcement, judicial, and state supportive services in areas such as counseling and supportive income programs.

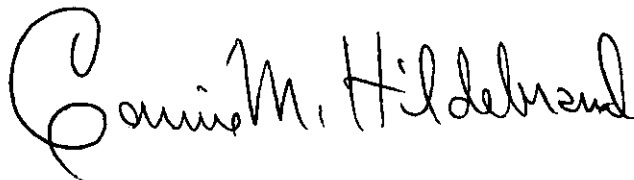
There are a number of factors that intersect in the issue of sexual assault against women. They include, primarily, diversity and poverty issues. That is why your decision on this bill is so critical. Women victims of sexual assault are most often of diverse cultures and limited income. As a result of sexual assault, many women of diverse background have lost their jobs or are forced to quit in the aftermath of the crime.

You have a most valid opportunity to recognize that despite multiple efforts taken by the state of ND to reduce violence against women and its impact, this problem has not gone away.

AAUW advocates the development and continuation of supportive legislation, such as that sponsored by Senator Lyson, which protects the dignity and autonomy of survivors and their children.

We thank you for this opportunity to speak before the committee, and we urge your support of SB 2103.

Submitted

A handwritten signature in black ink that reads "Connie M. Hildebrand". The signature is written in a cursive style with a large, looping "C" at the beginning.

Connie M Hildebrand
AAUW-ND
Public Policy Director

Chairperson DeKray and House Judiciary Committee

Date: Tuesday, March 6, 2007

Re: Testimony in support of SB 2103

For the record, my name is Julie Landsiedel. I am a sexual assault nurse examiner (SANE) and have been with our local program for 2 years. I've been a registered nurse for 10 years and will receive my family nurse practitioner degree in April 2007. I have examined approximately 10 victims. I'm here to provide testimony in support of Senate Bill 2103, related to the payment of sexual assault forensic medical examinations.

The chief purpose of the sexual assault forensic medical examination is to assess, document and collect forensic evidence. This evidence collection is unique because the crime scene is the victim's body and the evidence collector is a nurse. The evidence collected during an exam can link the assailant to the victim. It can also provide corroborating evidence that a crime occurred.

There are several steps in the process of a sexual assault forensic medical examination. The typical exam takes about 4 hours. It starts with an interview with the victim. We (SANEs) try to do this with law enforcement so the victim doesn't have to keep repeating their story. We pay attention to details so we know where to look for injury. For example, if the victim states they were shoved against the door and hurt their back, we look at the back for signs of trauma.

The exam starts when we have the victim undress so we can look for injury anywhere on the body. If any materials fall off while undressing, we collect it for evidence, place it in an envelope, and label it. We have to write on the evidence envelopes so that the State Crime Lab knows why we collected what we did. If we see tears or cuts, bruising, swelling, scrapes, or redness we take a picture of it; label the picture, write down all of the pictures we took, and what injury we took pictures of.

Throughout the exam, we may collect fingernail scrapings or clippings. We collect saliva and mucous. Sometimes we collect urine specimens. We examine and collect evidence from all the sites on the body that could potentially contain the assailant's DNA. We also examine the genital area for injuries such as tears (cuts), bruising, swelling, scrapes, or redness. If the victim has genital tenderness but no visible injury, a dye is used to stain the injury; a break in the skin will highlight and the injury can be photographed. When the evidence collection is completed, we label everything in detail; what swab came from what body part, who collected it and the date/time of the collection. We draw pictures of what injury was found, where on the body it was located, and what that injury was.

We give the victim medications to prevent sexually transmitted infections. We also give them medications to prevent pregnancy. Written discharge instructions go to each victim that tells them the purpose of the examination and the medications that we gave them. They are informed that this is not a medical exam, but a forensic medical exam meaning that we collect evidence but if we find an injury that requires treatment, they are referred back to the ER.

The result of all this collection of evidence is a lot of information for several different people. We put one copy of the paperwork in the evidence box and law enforcement takes it to the State Crime Lab. One copy is put in another envelope for the investigating officer. The third copy is the chart. We store the photos of the private body parts on a disc and put it with the victim's chart. Any injury photo of any other body part is given to the investigating officer.

Finally, we seal the evidence box and give it to law enforcement.

Many times a victim will ask who is going to pay for this exam? It's very difficult to admit to her that ultimately, she --through her insurance-- is responsible. And even if she applies for Crime Victims' Compensation (CVC), approval for reimbursement depends on several things. It is required that victims report to law enforcement within 72 hours of the assault and cooperate with the investigation. For instance: if she declines any part of the exam, she might be seen as "uncooperative" and CVC may deny that claim. It depends on her insurance -- if she has any.

I personally would like to have a better answer than that for the victims I meet.

I strongly support SB 2103 and I hope this committee passes this bill.

Thank you for your time.

To: Senator Ray Holmberg , Chair Senate Appropriations Committee

Re: Additional fiscal information requested for SB2103

From: North Dakota Council on Abused Women's Services
Coalition Against Sexual Assault in North Dakota

Date: January 29, 2007

Contact: Bonnie Palecek 255-6240 ext.16

Note:

The attached document details the original cost estimate at 250 exams per year at \$850 per examination = \$212,500

A per biennium cost of \$425,000 was estimated.

In addition, increases in both numbers of cases (sexual assaults have been rising about 7% a year) and increasing medical costs (15-20% a year) could result in expenditures reaching \$500,000 for the biennium.

**Sexual Assault
Estimated Forensic Exams
December 2006**

How data was gathered:

- Hospitals with SANE (Sexual Assault Nurse Examiners) programs routinely track exams (Bismarck St. Alexius and Medcenter One, Fargo Innovis, Williston Mercy, Fargo Meritcare), and were able to supply information quite readily.
- Hospitals without SANE programs reviewed individual case files to ascertain the number of exams.
Phone calls were made to each of the attached hospitals to solicit and confirm information.
- Rural hospitals were also contacted for information. 39 hospitals in more rural areas were contacted.

Qualifiers:

- Not all forensic exams are coded as such since medical insurance often will not reimburse for forensic exams but rather for other procedures such as pregnancy testing, emergency contraception, or prophylactic treatment for sexually transmitted infections. Therefore, the total number of exams indicated is probably conservative.
- Hospitals were asked to give information for the most recent 12 month period for which information was available. Some chose to give 2006 data to date and others gave 2005 data.

\$500,000 Fiscal Request Justification

- The original estimate per exam was \$850, which included all 19 steps (see attached chart) of the Attorney General's Sexual Assault Evidence Collection Protocol.
- The increase of \$150 from an average cost range of \$652 to \$732 (based on reported cost per exam) was included to factor in medical facilities' use of colposcope documentation and alternative light sources during each exam as per protocol. Currently only one SANE program uses these techniques on all exams.
- The total exams performed, reported at 179, was increased by 71 to include 1 to 2 additional forensic examinations performed in rural hospitals for an estimate of 250 exams per year performed by North Dakota Hospitals. (The reported exams are for individuals ages 14 and older reporting within 96 hours as per Protocol.)
- An evaluation of other states' reimbursement programs was done to establish a context for North Dakota's information.

Original cost estimate was 250 exams per year X \$850 per examination = \$212,500
Per biennium request of \$425,000 was estimated.

Number of Exams and Average Costs

| | | Cost per exam |
|--|--|------------------|
| Bismarck | St Alexius & Medcenter combined (2006) | |
| 44 exams, 12 declined | | \$610.00 |
| Devils Lake | Mercy Hospital (2005) | |
| 2 exams, 2 declined | | \$800 to \$1100. |
| Fargo | Innovis (2005) | |
| 24 exams | | \$339 |
| Fargo | Meritcare | \$ |
| Grand Forks | Altru | |
| 15 exams (additional 7 medical treatment only) | | \$775 |
| Jamestown | Central Valley Health | |
| 12 exams | | \$400 to \$500 |
| Minot | Trinity Health | |
| 25 exams | | \$620 |
| Williston | Mercy Hospital | |
| 15 exams 1 declined | | \$675 |

Total estimated exams 179

**exams include individuals age 14 and older reporting the sexual assault
within 96 hours as per Attorney General's Protocol*

Average cost range statewide \$652-\$732

Costs of Exams in Other States

California \$900 – \$1,800

Connecticut \$900

Deleware \$950

Kentucky \$1000

Maine \$500

Mississippi \$1000

New Hampshire \$800

New Mexico \$475

New York \$800

Oklahoma \$350

Oregon \$610

Texas \$700

Wyoming \$350

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2103

Page 1, line 9, replace "a" with "an acute"

Page 1, line 18, replace "a" with "an acute"

Renumber accordingly

**NORTH DAKOTA COUNCIL ON ABUSED WOMEN'S SERVICES
COALITION AGAINST SEXUAL ASSAULT IN NORTH DAKOTA**

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Chair Al Carlson
Government Operations Division
House Appropriations Committee
Testimony on SB2103
March 19, 2007

Chair Carlson and Members of the Committee:

My name is Bonnie Palecek and I am presenting testimony in support of SB2103 on behalf of the North Dakota Council on Abused Women's Services /Coalition Against Sexual Assault.

The purpose of this bill is simple, to provide a separate, confidential source of funding for forensic medical exams for victims of sexual assault.

The premise upon which the bill was based is equally straightforward: no victim of crime should have to pay for her/his own evidence collection for prosecution of the offender just because the crime scene is the victim's body. In no other crime is the victim assessed the costs of the investigation.

It was difficult to ascertain an exact cost for a fiscal note because each hospital has a different coding system, and the exams are currently being funded in a variety of ways: through insurance, through hospitals absorbing the costs in some cases, private pay, payment by domestic violence/sexual assault agencies, or payment through victims' compensation.

All of these avenues of payment have been offered in good faith, but they are no longer enough: 1) Because third party payment puts North Dakota out of compliance with the federal Violence Against Women Act and thus jeopardizes over \$700,000 annually in STOP funds for victim services and 2) Because the privacy issues involved pose a risk to an increasing number of rape victims who want and need to keep their identities confidential. This is no longer tolerable. In 2006, over 960 such victims reported being victimized and sought services from the 20 domestic violence/sexual assault agencies statewide. Over 200 adults and 100 children underwent a forensic exam.

As I indicated earlier, determining an average cost per exam was difficult. Polling eight hospitals statewide resulted in a range of \$450-\$650. Costs were higher if a high definition forensic microscope called a colposcope was used. Figuring 250 adult exams and another 100 children's exams a year @ \$650 would cost \$227,500 each year, or nearly \$500,000 a biennium. As I said, this is an estimate, and would pay for only "acute" exams, that is those gathering evidence according to the Attorney General's 19 step

protocol. A copy of that protocol, which appears on the top of every box distributed to hospitals by the State Health Lab, the so-called "rape kit," is attached to my testimony.

The Attorney General has agreed to house the fund for the next biennium. Funds have been identified, as indicated in the bill, through the ND Insurance Regulatory Trust Fund. A stakeholders' group has been formed and is committed to working out the details of the payment process over the next two years. This will include better tracking of numbers and assessing the response to the need for child exams.

SB2103 will not answer all of the needs surrounding the treatment of victims of sexual assault. It will not pay for the attendant medical care if the victim suffers other physical injuries; it will not fund the training needed for sexual assault nurse examiners; nor will it fund equipment such as colposcopes. It does, however, provide a long-awaited beginning. We ask your support. Thank you.