

2011 HOUSE JUDICIARY

HB 1230

2011 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HB 1230
January 18, 2011
13023

☐ Conference Committee

Committee Clerk Signature



Minutes:

Chairman DeKrey: We will open the hearing on HB 1230.

Rep. Delmore: Sponsor, support. HB 1230 amends subsection 4 of section 12.1-34-03 which currently requires the custodial authority to maintain the confidentiality of the victim's address. The amendment would allow the custodial authority to release the victim's address to a domestic violence sexual assault organization as defined under ND Century Code. This would be for the provision of victim services through the Sex Offender Containment Team, which is a model currently available in five communities in ND. Currently, the Dept of Corrections, Victim Services Coordinator or Victim Witness Advocates located in the State's attorney offices, make attempts to contact victims upon an offender's release from custody. Notification is also available to victims with the statewide automated victim witness notification, which this committee was key to in passing that bill. The goal of the sex offender containment team model is to promote containment for offenders and a quality of victim services. Under the current system, if an offender is ordered or referred to treatment services in the community, advocates serving on the teams, are unable to notify victims of services available to them due to the confidentiality restrictions under NDCC. By including a provision to allow for release of a victim's contact information to a domestic violence sexual assault organization, this bill would allow advocates to make every attempt to ensure that victim's are aware of and have access to services available to them. The advocates currently serving on the seven SOCT are all employees of domestic violence, sexual assault organizations as defined under NDCC and are certified advocates under the Supreme Court administrative rule 34. Section 14-07.1-01, provides for additional protection of a victim's contact information; due to the strict confidentiality guidelines that organizations of the state must adhere to under the statute.

Chairman DeKrey: Thank you. Further testimony in support.

Janelle Moos, Executive Director, ND Council on Abused Women's Services: Support (see attached testimony 1). One of the issues that I want to highlight is around the sex offender containment teams; they're community-based sex offender

treatment and management programs are for high risk level offenders with child victims, any risk level offender with adults victims, and if they're under the supervision of the Dept of Corrections. The program involves the individual, group or marital, or family therapy services, polygraph examinations, sex offender assessments and containment team meetings. A containment team often consists of a probation officer, a clinician, a treatment provider, polygraph examiner, and a victim advocate. These individuals meet on a weekly basis to talk about whether or not the treatment plan should be amended or if any adjustments to the supervision should be made to each offender. The victim advocate plays a really important role on these teams and we've been thankful that we've been part of this process. They can provide strategies on how to keep more victims safe in communities that have these teams available to them. What's important to note, is that we've been very conscientious in dealing with the victim's information; by releasing the victim's contact information from the custodial authority to our victim service providers, that we're assured that the programs cannot re-release any of the information or share that information due to the strict confidentiality guidelines we adhere to under the Century Code for the domestic violence statute.

Rep. Klemin: The parenthetical on line 6 and 19, it says contingent effective date, see note. What's the status of this. What's the contingent effective date about and has that contingency happened.

Janelle Moos: The specific section that we're amending, there was a repeal to one section and then there's the new section that is currently in effect and that was what this section would be adding that line on the bottom, that we had our domestic violence sexual assault organizations too. Is that what you're referring to.

Rep. Klemin: What I'm really asking is what the contingency about the expiration date was and has that contingency occurred.

Janelle Moos: I'd have to refer back to the section that we've been talking about. Again, there was a section that was repealed at one point in time, and now there is the new section in there that refers to where we are amending it in the fair treatment standards.

Chairman DeKrey: Thank you. Further testimony in support of HB 1230. Testimony in opposition. Neutral information.

Jonathan Byers, Attorney General's Office: I think the contingent related to the SAVN program, the automated victim information. I believe that is already in place now.

Rep. Klemin: So the head note here isn't appropriate and we are now in one version or the other of these two options on this bill.

Jonathan Byers: I believe that is correct.

Rep. Klemin: So really should this bill be amending both the old section and the new section or should we just be dealing with the one that's really in effect now.

Jonathan Byers: I guess the LC probably could answer that better than me. I know the same thing happened with the offender registration. The statute has both of those still in there, even though I don't believe there is anything still waiting to happen. I did also want to say that I helped draft some of the language that makes this change and it seems to me to be a good resolution of the issue for two reasons. First, because there is a built-in confidentiality that is going to prevent any secondary release, and the second reason I think it is an appropriate way to deal with it, it is putting this information in the hands of victim advocates who are already trained to be sensitive in approaching the victims to see whether they want to be involved in the treatment process or not.

Rep. Klemin: The note here says that the amendment becomes effective on the date the criminal justice information sharing board certifies to the legislative council that the statewide automated victim information and notification system is operational.

Jonathan Byers: I know it is operational, I don't know whether they certified that or not.

Chairman DeKrey: Thank you. Further testimony in support of HB 1230. Testimony in opposition. We will recess the hearing.

2011 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HB 1230
January 19, 2011
13107

☐ Conference Committee

Committee Clerk Signature

D. Penrose

Minutes:

Chairman DeKrey: We will resume the hearing on HB 1230.

Susan Wagner, LSW, Human Services Program Administrator, Division of Mental Health and Substance Abuse Services for the Dept of Human Services: Support (see attached).

Rep. Klemin: In this bill, it's actually amending two sections; the one section twice – one before a change in the law and the second after a change based on an expiration date. That had to do with SAVN and a date that was a certification date. Do you know if that has happened or not.

Susan Wagner: No, I'm not aware of that. I can't answer that question.

Chairman DeKrey: Thank you. We will close the hearing on HB 1230.

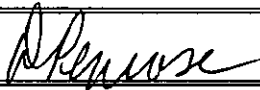
2011 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HB 1230
January 24, 2011
13288

☐ Conference Committee

Committee Clerk Signature



Minutes:

Chairman DeKrey: We will take a look at HB 1230. What are the committee's wishes in regard to HB 1230.

Rep. Onstad: I move a Do Pass.

Rep. Maragos: Second.

14 YES 0 NO 0 ABSENT

DO PASS

CARRIER: Rep. Onstad

Date: 1/24/11
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1230

House JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Onstad Seconded By Rep. Maragos

Representatives	Yes	No	Representatives	Yes	No
Ch. DeKrey	✓		Rep. Delmore	✓	
Rep. Klemin	✓		Rep. Guggisberg	✓	
Rep. Beadle	✓		Rep. Hogan	✓	
Rep. Boehning	✓		Rep. Onstad	✓	
Rep. Brabandt	✓				
Rep. Kingsbury	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				
Rep. Maragos	✓				
Rep. Steiner	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Onstad

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

REPORT OF STANDING COMMITTEE

HB 1230: Judiciary Committee (Rep. DeKrey, Chairman) recommends **DO PASS**
(14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1230 was placed on the
Eleventh order on the calendar.

2011 SENATE JUDICIARY

HB 1230

2011 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

HB1230
3/9/11
Job #15191

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to fair treatment of victims and witnesses and confidential records

Minutes:

There is attached testimony

Senator Nething – Chairman

Representative Delmore – District 43 – Introduces the bill – See written testimony.

Janelle Moos – Executive Director of the ND Council on Abused Women's Services – See written testimony.

Wendy LaMontagne – On behalf of Susan Wagner, Division of Mental Health and Substance Abuse Services for the Dept. of Human Services – Provides written testimony.

Senator Sitte – Asks if there is an opt out provision for women who don't want to be contacted afterwards.

Moos – Responds yes, services are voluntary and they can choose whether to have those services anytime.

Senator Lyson – Asks why there are no services in the western part of the state.

Jessica Mc – Senior Area Coordinator with the Counseling and Psycho Therapy Center. - Responds to Senator Lyon's question by saying they are attempting to develop services in the Williston, Dickinson areas. She says there has not been teams in those areas partly because the number of offenders that qualify for services that are either high risk or qualify as an offender against adults are so low that they don't meet the thresh hold. She said there are services available at Human Service Centers in those areas.

Senator Lyson – Asks who is paying for all these services.

Jessica – Replies that the Dept. of Human Services covers the cost of treatment services of sex offenders that are court ordered to treatment.

Senator Lyson – Says it seems when hears of services like this they are in every community except communities west of highway 83.

Jonathan Byers – Attorney General's Office – Attorney General supports this bill. He said it puts the information in the hands of the people who trained to deal with it.

Opposition – 0

Close the hearing 1230

2011 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

HB1230
3/21/11
Job #15776

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to fair treatment of victims and witnesses and confidential records.

Minutes:

Senator Nething – Chairman

Committee work

Senator Lyson says he won't vote for the bill because he thinks a life in Williston, Dickinson, Bowman is just as important as a life in Minot, Jamestown or Grand Forks and they have nothing like this west of Highway 83.

Senator Olafson motions for a do pass
Senator Nelson seconded

Discussion

Senator Nething says he wishes he could solve Senator Lyson's problem but this bill does not deal with location, it deals with those areas where women are being abused to try help them the most. Senator Lyson says they have women in the West and North West that are being abused and these people think the state ends at Highway 83. Senator Nething responds that is not what the bill says. The bill has nothing to do with where the locations are. Senator Lyson says we are giving money to a place that does not cover the whole state. Senator Nelson said she doesn't see any money in this bill, this is dealing with confidential information and releasing it.

Roll call vote – 5 yes, 1 no
Motions passes

Senator Nelson will carry

Date: 3/21/11
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1230

Senate Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Olafson Seconded By Senator Nelson

Senators	Yes	No	Senators	Yes	No
Dave Nething - Chairman	X		Carolyn Nelson	X	
Curtis Olafson - V. Chairman	X				
Stanley Lyson		X			
Margaret Sitte	X				
Ronald Sorvaag	X				

Total (Yes) 5 No 1

Absent _____

Floor Assignment Senator Nelson

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

REPORT OF STANDING COMMITTEE

HB 1230: Judiciary Committee (Sen. Nething, Chairman) recommends **DO PASS**
(5 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). HB 1230 was placed on the
Fourteenth order on the calendar.

2011 TESTIMONY

HB 1230

1

Testimony on HB 1230
House Judiciary Committee
January 18, 2011

Chair DeKrey and Members of the Committee:

My name is Janelle Moos and I am the Executive Director of the North Dakota Council on Abused Women's Services. Our Coalition is a membership based organization that consists of 21 domestic violence and rape crisis centers that provide services to victims of domestic violence, sexual assault, and stalking in all 53 counties and the reservations in North Dakota. I'm speaking this morning on their behalf in order to provide you an overview of HB 1230 and to urge your support of the bill.

HB 1230 amends subsection 4 of section 12.1-34-03, the Fair Treatment Standards for Victims and Witnesses, which currently requires that a custodial authority maintain the confidentiality of the victim's address. This amendment would allow the custodial authority to release the victim's address to a domestic violence sexual assault organization as defined under NDCC 14-07.1-01 (3) for the provision of victim services available through the Sex Offender Containment Team (SOCT) model currently available in five communities (Bismarck, Minot, Jamestown, Grand Forks and Fargo).

Rule Counseling and Psychotherapy Centers (CPC) or Rule CPC is a community based sex offender treatment and management program for high risk level offenders with child victim(s), any risk level offender with adult victim(s), and under the supervision by a division at the Department of Corrections. The program involves individual, group, and marital or family therapy services; polygraph examinations, sex offender assessments, and containment team meetings. A containment team consists of a probation officer, clinician or treatment provider, polygraph examiner, and a victim advocate. These individuals meet on a weekly basis to review each offender's progress in treatment, community living, polygraph results, and discuss any adjustments to supervision or the treatment plan. The victim advocate plays an important role in the team process by thinking about strategies for more effective community management from the perspective of the victims of sexual crimes.

Currently, the Department of Corrections Victim Services Coordinator or Victim Witness Advocates working with State's Attorney's offices (if available) make attempts to contact victims upon an offender's release from custody. Notification is also available to victims through the Statewide Automated Victim Information and Notification System or SAVIN. Under the current system, if an offender is ordered or referred to treatment services in the community,

advocates serving on the Teams are unable to notify victims of the services available to them due to the confidentiality restrictions under NDCC 12.1-34-03. By including a provision to allow for the release of a victim's contact information to a domestic violence sexual assault organization it would allow advocates to make every attempt to ensure victims are aware of and have access to services available to them. The advocates serving on the Teams are all certified under the Supreme Court Administrative Rule 34 and are employed at one of our 21 domestic violence sexual assault organizations defined in statute. Confidential information that the advocates serving on the Teams would receive from the custodial authority would not be re-released or disclosed in any way due to the strict confidentiality guidelines that their organizations must adhere to under the domestic violence statute (14-07.1-01 (3)).

In closing, the goal of the SOCT model is to promote containment for offenders and the equality of victim services. The provision for releasing a victim's contact information as provided under HB 1230 is an important step to ensuring this process remain victim centered, therefore I urge you support.

Thank you.

Testimony
House Bill 1230 – Department of Human Services
House Judiciary Committee
Representative DeKrey, Chairman
January 18, 2011

Representative DeKrey and members of the committee, I am Susan Wagner, LSW, Human Services Program Administrator, with the Division of Mental Health and Substance Abuse Services, for the Department of Human Services (DHS).

On behalf of the Department, I am here to provide testimony in support of HB 1230.

I would like to take this opportunity to first provide some background information about the relevance of this bill in relation to treatment services and the management of sex offenders in North Dakota. As program administrator, I oversee a contract with Counseling and Psychotherapy Centers, Inc. (CPC) for the provision of community-based treatment for high risk sex offenders and sex offenders against adults. The provision of sex offender treatment services is based on a victim-centered containment model which emphasizes the importance of supervision and treatment as the most effective method of managing sex offenders in communities. Through this contract, sex offender treatment services are offered in six communities: Bismarck, Mandan, Jamestown, Fargo, Grand Forks, and Minot. Offenders from other communities are provided the services as well but they have to travel to the nearest community where services are actually provided. A containment team has been developed in each community to oversee the management of

the offenders. The sex offender specialist probation officer, CPC clinician, polygraph examiner, and victim witness advocate comprise each team. The team meetings are facilitated by the Senior Area Coordinator for CPC. Each team member has a specific role in the team as well as the overall management of sex offenders. Of relevance to this bill, is the role of the victim witness advocate. The advocate's role on the team and in the overall management of sex offenders is to represent the voice of individuals who have been victimized by those offenders involved in the treatment program and to assist the team with effective strategies for the management of offenders from the perspective of individuals who have been victimized. Advocates also assist the team with the review of various assignments the offenders complete throughout the treatment process. The most vital aspect of their role is to provide advocacy and support services to those individuals who were victimized. In order to reach out to those individuals to offer services, they need current address information. The passing of HB 1230 would provide the advocates with the most current address information from the various entities noted in the bill and most importantly, individuals who have been victimized would be better informed of their choice for services.

This concludes my testimony. I would be happy to answer any questions the committee might have. Thank you.

(2)

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

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

Testimony on HB 1230
Senate Judiciary Committee
March 9, 2011

Chair Nething and Members of the Committee:

My name is Janelle Moos and I am the Executive Director of the North Dakota Council on Abused Women's Services. Our Coalition is a membership based organization that consists of 21 domestic violence and rape crisis centers that provide services to victims of domestic violence, sexual assault, and stalking in all 53 counties and the reservations in North Dakota. I'm speaking this morning on their behalf in order to provide you an overview of HB 1230 and to urge your support of the bill.

As Representative Delmore indicated HB 1230 amends subsection 4 of section 12.1-34-03, the Fair Treatment Standards for Victims and Witnesses, which currently requires that a custodial authority maintain the confidentiality of the victim's address. This amendment would allow the custodial authority to release the victim's address to a domestic violence sexual assault organization as defined under NDCC 14-07.1-01 (3) for the provision of victim services available through the Sex Offender Containment Team (SOCT) model currently available in five communities (Bismarck, Minot, Jamestown, Grand Forks and Fargo).

Rule Counseling and Psychotherapy Centers (CPC) or Rule CPC is a community based sex offender treatment and management program for high risk level offenders with child victim(s), any risk level offender with adult victim(s), and under the supervision by a division at the Department of Corrections. The program involves individual, group, and marital or family therapy services; polygraph examinations, sex offender assessments, and containment team meetings. A containment team consists of a probation officer, clinician or treatment provider, polygraph examiner, and a victim advocate. These individuals meet on a weekly basis to review each offender's progress in treatment, community living, polygraph results, and discuss any adjustments to supervision or the treatment plan. The victim advocate plays an important role in the team process by thinking about strategies for more effective community management from the perspective of the victims of sexual crimes.

Currently, the Department of Corrections Victim Services Coordinator or Victim Witness Advocates working with State's Attorney's offices (if available) make attempts to contact victims upon an offender's release from custody. Notification is also available to victims through the Statewide Automated Victim Information and Notification System or SAVIN. Under the

current system, if an offender is ordered or referred to treatment services in the community, advocates serving on the Teams are unable to notify victims of the services available to them due to the confidentiality restrictions under NDCC 12.1-34-03. By including a provision to allow for the release of a victim's contact information to a domestic violence sexual assault organization it would allow advocates to make every attempt to ensure victims are aware of and have access to services available to them. The advocates serving on the Teams are all certified under the Supreme Court Administrative Rule 34 and are employed at one of our 21 domestic violence sexual assault organizations defined in statute. Confidential information that the advocates serving on the Teams would receive from the custodial authority would not be re-released or disclosed in any way due to the strict confidentiality guidelines that their organizations must adhere to under the domestic violence statute (14-07.1-01 (3)).

In closing, the goal of the SOCT model is to promote containment for offenders and the equality of victim services. The provision for releasing a victim's contact information as provided under HB 1230 is an important step to ensuring this process remain victim centered, therefore I urge your support.

Thank you.

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recorder
Fair Delmar
Date 4/3

1230 ①

Fair Treatment of Victims and Witnesses and Confidential Records

1230
What would it do?

Amend Subsection 4 of section 12.1-34-03 which currently requires that a custodial authority maintain the confidentiality of the victim's address. The amendment would allow the custodial authority to release the victim's address to a domestic violence sexual assault organization as defined under NDCC 14-07.1-01 (3) for the provision of victim services available through the Sex Offender Containment Team (SOCT) model currently available in five communities in North Dakota (Bismarck, Minot, Jamestown, Grand Forks, and Fargo).

1230
Why is it needed?

Currently, the Department of Corrections Victim Services Coordinator or Victim Witness Advocates located in State's Attorney's offices (if available) make attempts to contact victims upon an offender's release from custody. Notification is also available to victims through the Statewide Automated Victim Witness Notification (SAVIN) system.

The goal of the Sex Offender Containment Team (SOCT) model is to promote containment for offenders and equality of victim services. Under the current system, if an offender is ordered or referred to treatment services in the community, advocates serving on the Teams are unable to notify victims of services available to them due to the confidentiality restrictions under NDCC 12.1-34-03. By including a provision to allow for release of a victim's contact information to a domestic violence sexual assault organization ^{the bill} it would allow advocates to make every attempt to ensure victims are aware of and have access to the services available to them.

How would we ensure a victim's contact information is kept confidential?

Yes. The advocates currently serving on the 7 SOCT's (2 teams in Fargo and Bismarck) are all employees of domestic violence sexual assault organizations as defined under NDCC 14-07.1-01 (3) and are certified advocates under Supreme Court Administrative Rule 34. Section 14-07.1-01 (3) provides for additional protection of a victims' contact information due to the strict confidentiality guidelines organizations must adhere to under the statute.

ask for a Do Pass Recommendation on HB 1230

Testimony
House Bill 1230 – Department of Human Services
Senate Judiciary Committee
Senator Nething, Chairman
March 9, 2011

Senator Nething and members of the committee, I am Susan Wagner, LSW, Human Services Program Administrator, with the Division of Mental Health and Substance Abuse Services, for the Department of Human Services (DHS).

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the offenders. The sex offender specialist probation officer, CPC clinician, polygraph examiner, and victim witness advocate comprise each team. The team meetings are facilitated by the Senior Area Coordinator for CPC. Each team member has a specific role in the team as well as the overall management of sex offenders. Of relevance to this bill, is the role of the victim witness advocate. The advocate's role on the team and in the overall management of sex offenders is to represent the voice of individuals who have been victimized by those offenders involved in the treatment program and to assist the team with effective strategies for the management of offenders from the perspective of individuals who have been victimized. Advocates also assist the team with the review of various assignments the offenders complete throughout the treatment process. The most vital aspect of their role is to provide advocacy and support services to those individuals who were victimized. In order to reach out to those individuals to offer services, they need current address information. The passing of HB 1230 would provide the advocates with the most current address information from the various entities noted in the bill and most importantly, individuals who have been victimized would be better informed of their choice for services.

This concludes my testimony. I would be happy to answer any questions the committee might have. Thank you.