

2011 SENATE JUDICIARY

SB 2231


2011 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

SB2231
1/25/11
Job #13369

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the definition of those required to register as sexual offenders

Minutes:

There is attached written testimony

Senator Nething – Chairman

Senator Dever – District 11 – Introduces the bill.

Johathan Byers – Assistant Attorney General – See written testimony – In favor of this bill

Senator Sitte – Questions line 17 of the bill, mental abnormality. She wonders if the language should be different.

Byers – Responds this language is in the sexually dangerous individual's statute. He thought if you were to clean up this language you would then need to change the language in the statute. He said some of this language comes from mental health professionals.

Senator Olafson – He reads from the code, under sexual exploitation, the definition of a therapist.

Byers – Said he can't think of anyone else that needs to be added or taken off the list.

Senator Olafson – Questions whether other professionals should be added to the list.

Senator Nething – Believes to add any other professional to the list they would be entitled to a hearing therefore requiring another bill.

Close the hearing 2231

Senator Sitte – motions do pass

Senator Sorvaag – seconds

Roll call

6 yes, 0 no

Senator Sorvaag will carry

Date: 11/1
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2231

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 Sitte Seconded By Senator Sorvaag

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) 6 No 0

Absent _____

Floor Assignment Senator Sorvaag

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

REPORT OF STANDING COMMITTEE

SB 2231: Judiciary Committee (Sen. Nething, Chairman) recommends DO PASS
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2231 was placed on the
Eleventh order on the calendar.

2011 HOUSE JUDICIARY

SB 2231

2011 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

SB 2231
March 14, 2011
15345

Conference Committee

Committee Clerk Signature



Minutes:

Chairman DeKrey: We will open the hearing on SB 2231.

Jonathan Byers, Assistant Attorney General: Support (see attached 1).

Rep. Delmore: Is this the same statute that would cover a physician, any of our other doctors as well, or is this a separate portion of Code. I would assume that we already have a similar provision for them, do we not.

J. Byers: Certainly for a physician that would have contact with a patient that's under anesthesia, that would be a crime, gross sexual imposition. I would have to look at the language. It does say during an examination, so I think a physician may qualify under this language.

Chairman DeKrey: Thank you.

Sen. Dick Dever: Sponsor, support. I came to introduce Mr. Byers and I'm too late. I think this is an important bill.

Rep. Delmore: It's hard to beat someone like Jonathan, he moves pretty quickly in most "any" situation as he proved at the courthouse.

Chairman DeKrey: He's not only an expert on sex, he's also an expert on hand-to-hand. Thank you. Further testimony in support. Testimony in opposition. We will close the hearing.

Rep. Delmore: I move the amendment.

Rep. Beadle: Second the motion.

Chairman DeKrey: Voice vote, motion carried. We now have the bill before us as amended.

Rep. Delmore: I move a Do Pass as amended.

Rep. Koppelman: Second the motion.

11 YES 0 NO 3 ABSENT DO PASS AS AMENDED CARRIER: Rep. Brabandt

March 14, 2011

VR
3/14/11
102

PROPOSED AMENDMENTS TO SENATE BILL NO. 2231

Page 1, line 1, replace "subsection" with "subsections"

Page 1, line 1, after "1" insert "and 7"

Page 1, line 2, replace "definition of those required to register as" with "registration of"

Page 2, after line 15, insert:

"SECTION 2. AMENDMENT. Subsection 7 of section 12.1-32-15 of the North Dakota Century Code is amended and reenacted as follows:

7. Registration consists of a written statement signed by the individual, giving the information required by the attorney general, and the fingerprints and photograph of the individual. An individual who is not required to provide a sample of blood and other body fluids under section 31-13-03 or by the individual's state or court of conviction or adjudication shall submit a sample of blood and other body fluids for inclusion in a centralized data base of DNA identification records under section 31-13-05. The collection, submission, testing and analysis of, and records produced from, samples of blood and other body fluids, are subject to chapter 31-13. Evidence of the DNA profile comparison is admissible in accordance with section 31-13-02. A report of the DNA analysis certified by the state crime laboratory is admissible in accordance with section 31-13-05. A district court shall order an individual who refuses to submit a sample of blood or other body fluids for registration purposes to show cause at a specified time and place why the individual should not be required to submit the sample required under this subsection. Within three days after registration, the registering law enforcement agency shall forward the statement, fingerprints, and photograph to the attorney general and shall submit the sample of the individual's blood and body fluids to the state crime laboratory. If an individual required to register under this section has a change in vehicle or computer online identity, the individual shall inform in writing, within three days after the change, the law enforcement agency with which that individual last registered of the individual's new vehicle or computer online identity. If an individual required to register pursuant to this section has a change in name, school, or residence or employment address, that individual shall inform in writing, at least ten days before the change, the law enforcement agency with whom that individual last registered of the individual's new name, school, residence address, or employment address. A change in school or employment address includes the termination of school or employment for which an individual required to register under this section shall inform in writing within five days of the termination the law enforcement agency with whom the individual last registered. The law enforcement agency, within three days after receipt of the information, shall forward it to the attorney general. The attorney general shall forward the appropriate registration data to the law enforcement agency having local jurisdiction of the new place of residence, school, or employment. Upon a change of address, the individual required to register shall also register within three days at the law enforcement

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agency having local jurisdiction of the new place of residence, school, or employment. The individual registering under this section shall periodically confirm the information required under this subsection in a manner and at an interval determined by the attorney general. A law enforcement agency that has previously registered an offender may omit the fingerprint portion of the registration if that agency has a set of fingerprints on file for that individual and is personally familiar with and can visually identify the offender. These provisions also apply in any other state that requires registration."

Renumber accordingly

Date: 3/14/11
 Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 2231

House JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number 11.8227.01001 02000

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

Motion Made By Rep. Delmore Seconded By Rep. Koppelman

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) 11 No 0

Absent 3

Floor Assignment Rep. Brabandt

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

REPORT OF STANDING COMMITTEE

SB 2231: Judiciary Committee (Rep. DeKrey, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). SB 2231 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "subsection" with "subsections"

Page 1, line 1, after "1" insert "and 7"

Page 1, line 2, replace "definition of those required to register as" with "registration of"

Page 2, after line 15, insert:

"SECTION 2. AMENDMENT. Subsection 7 of section 12.1-32-15 of the North Dakota Century Code is amended and reenacted as follows:

7. Registration consists of a written statement signed by the individual, giving the information required by the attorney general, and the fingerprints and photograph of the individual. An individual who is not required to provide a sample of blood and other body fluids under section 31-13-03 or by the individual's state or court of conviction or adjudication shall submit a sample of blood and other body fluids for inclusion in a centralized data base of DNA identification records under section 31-13-05. The collection, submission, testing and analysis of, and records produced from, samples of blood and other body fluids, are subject to chapter 31-13. Evidence of the DNA profile comparison is admissible in accordance with section 31-13-02. A report of the DNA analysis certified by the state crime laboratory is admissible in accordance with section 31-13-05. A district court shall order an individual who refuses to submit a sample of blood or other body fluids for registration purposes to show cause at a specified time and place why the individual should not be required to submit the sample required under this subsection. Within three days after registration, the registering law enforcement agency shall forward the statement, fingerprints, and photograph to the attorney general and shall submit the sample of the individual's blood and body fluids to the state crime laboratory. If an individual required to register under this section has a change in vehicle or computer online identity, the individual shall inform in writing, within three days after the change, the law enforcement agency with which that individual last registered of the individual's new vehicle or computer online identity. If an individual required to register pursuant to this section has a change in name, school, or residence or employment address, that individual shall inform in writing, at least ten days before the change, the law enforcement agency with whom that individual last registered of the individual's new name, school, residence address, or employment address. A change in school or employment address includes the termination of school or employment for which an individual required to register under this section shall inform in writing within five days of the termination the law enforcement agency with whom the individual last registered. The law enforcement agency, within three days after receipt of the information, shall forward it to the attorney general. The attorney general shall forward the appropriate registration data to the law enforcement agency having local jurisdiction of the new place of residence, school, or employment. Upon a change of address, the individual required to register shall also register within three days at the law enforcement agency having local jurisdiction of the new place of residence, school, or employment. The individual registering under this section shall periodically confirm the information required under this subsection in a manner and at an interval determined by the attorney

general. A law enforcement agency that has previously registered an offender may omit the fingerprint portion of the registration if that agency has a set of fingerprints on file for that individual and is personally familiar with and can visually identify the offender. These provisions also apply in any other state that requires registration."

Renumber accordingly

2011 SENATE JUDICIARY

CONFERENCE COMMITTEE

SB 2231

2011 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

SB2231
4/11/11
Job #16492

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the definition of those required to register as sexual offenders

Minutes:

Senators:

Lyson
Sorvaag
Nelson

Representatives:

Brabandt
Steiner
Hogan

Representative Brabandt explains the changes the House made to the bill. He said it adds a therapist to the list of those required to register. The bill also requires if the offender has a change of vehicle or a change of online identity they must notify the proper authorities.

Senator Lyson – Asks if the changes were recommended by the Attorney General's office.

Rep. Brabandt – Replies yes.

Senator Nelson moves the Senate accede to the House amendments

Rep. Hogan – seconded

Roll call vote – 6 yes, 0 no

Senator Sorvaag will carry

2011 SENATE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: Judiciary

Bill/Resolution No. 2231 as (re) engrossed

Date: 4-11-11

Roll Call Vote #: 1

- Action Taken**
- SENATE accede to House amendments
 - SENATE accede to House amendments and further amend
 - HOUSE recede from House amendments
 - HOUSE recede from House amendments and amend as follows

Senate/House Amendments on SJ/HJ page(s) 193 - 194

- Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) _____ was placed on the Seventh order of business on the calendar

Motion Made by: Senator Nelson Seconded by: Rep. Hogan

Senators	4/11		Yes	No		Representatives	4/11		Yes	No
<u>Lyson</u>	X		X			<u>Beabandt</u>	X		X	
<u>SoerVaag</u>	X		X			<u>Steiner</u>	X		X	
<u>Nelson</u>	X		X			<u>Hogan</u>	X		X	

Vote Count: Yes 6 No 0 Absent 0

Senate Carrier Sen. SoerVaag House Carrier _____

LC Number _____ of amendment

LC Number _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

REPORT OF CONFERENCE COMMITTEE

SB 2231: Your conference committee (Sens. Lyson, Sorvaag, Nelson and Reps. Brabandt, Steiner, Hogan) recommends that the **SENATE ACCEDE** to the House amendments as printed on SJ pages 793-794 and place SB 2231 on the Seventh order.

SB 2231 was placed on the Seventh order of business on the calendar.

2011 TESTIMONY

SB 2231

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SENATE BILL 2231 TESTIMONY
SENATE JUDICIARY COMMITTEE
JANUARY 25TH, 2011
FORT LINCOLN ROOM

By Jonathan Byers, Assistant Attorney General

Chairman Nething, Members of the Committee:

My name is Jonathan Byers and I am an assistant attorney general. I wish to testify in favor of Senate Bill 2231.

Very simply, this bill adds the crime of sexual exploitation by a therapist to the list of crimes that require registration as a sexual offender. Although the crime is not one that you see charged on a regular basis, I still have no explanation how it managed to stay out of the crosshairs in the 10 legislative sessions that we have passed and fine-tuned our offender registration statute.

Sexual exploitation by a therapist is a class C felony, and targets a therapist who has sexual contact with a patient or client during a treatment, consultation, interview, or examination. Requiring registration for such a crime is one way to put other states on notice in case the therapist attempts to become licensed in another state.

The Attorney General asks for a due pass on Senate Bill 2231. I would be happy to answer any questions.

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**SENATE BILL 2231 TESTIMONY
HOUSE JUDICIARY COMMITTEE
MARCH 14TH, 2011
PRAIRIE ROOM**

By Jonathan Byers, Assistant Attorney General


Chairman DeKrey, Members of the Committee:

My name is Jonathan Byers and I am an assistant attorney general. I wish to testify in favor of Senate Bill 2231.

Very simply, this bill adds the crime of sexual exploitation by a therapist to the list of crimes that require registration as a sexual offender. Although the crime is not one that you see charged on a regular basis, I still have no explanation how it managed to stay out of the crosshairs in the 10 legislative sessions that we have passed and fine-tuned our offender registration statute.

Sexual exploitation by a therapist is a class C felony, and targets a therapist who has sexual contact with a patient or client during a treatment, consultation, interview, or examination. Requiring registration for such a crime is one way to put other states on notice in case the therapist attempts to become licensed in another state.

I regret that I have to offer an amendment to the bill to cover another registration issue. It has been brought to my attention that although we require offenders to provide vehicle and online identity information when they first register, there is



nothing in the statute which requires them to update that when they change vehicles or online identity. The language in the amendment that I have attached to my testimony fixes that problem.

The Attorney General asks for a due pass on Senate Bill 2231. I would be happy to answer any questions.



PROPOSED AMENDMENTS TO SENATE BILL 2231

Page 1, line 1, replace "subsection" with "subsections" and after "1" insert "and 7"

Page 1, line 2, after "offenders" insert "and the requirement to update computer or vehicle information"

Page 2, after line 15, insert:

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7. Registration consists of a written statement signed by the individual, giving the information required by the attorney general, and the fingerprints and photograph of the individual. An individual who is not required to provide a sample of blood and other body fluids under section 31-13-03 or by the individual's state or court of conviction or adjudication shall submit a sample of blood and other body fluids for inclusion in a centralized data base of DNA identification records under section 31-13-05. The collection, submission, testing and analysis of, and records produced from, samples of blood and other body fluids, are subject to chapter 31-13. Evidence of the DNA profile comparison is admissible in accordance with section 31-13-02. A report of the DNA analysis certified by the state crime laboratory is admissible in accordance with section 31-13-05. A district court shall order an individual who refuses to submit a sample of blood or other body fluids for registration purposes to show cause at a specified time and place why the individual should not be required to submit the sample required under this subsection. Within three days after registration, the registering law enforcement agency shall forward the statement, fingerprints, and photograph to the attorney general and shall submit the sample of the individual's blood and body fluids to the state crime laboratory. If an individual required to register under this section has a change in vehicle or computer online identity, the individual shall inform in writing, within three days after the change, the law enforcement agency with whom that individual last registered of the individual's new vehicle or computer online identity. If an individual required to register pursuant to this section has a change in name, school, or residence or employment address, that individual shall inform in writing, at least ten days before the change, the law enforcement agency with whom that individual last registered of the individual's new name, school, residence address, or employment address. A change in school or employment address includes the termination of school or employment for which an individual required to register under this

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Renumber accordingly