

2015 HOUSE HUMAN SERVICES

HB 1314

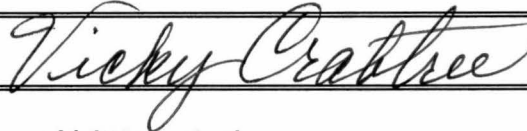
2015 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

HB 1314
2/2/2015
Job #22984

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to consent for emergency medical care for a minor who has been sexually assaulted.

Minutes:

Testimony #1 and 2

Chairman Weisz opened the hearing on HB 1314. We will take a short break until Rep. Delmore arrives.

.46

Vice-Chair Hofstad: We will reopen the hearing on HB 1314.

Rep. Lois Delmore: From district 43 introduced and supported the bill. (See Testimony #1)

3:36

Rep. Mooney: Today a minor cannot refuse a testing?

Rep. Delmore: Without parental consent they cannot choose whether to do the exam or not.

Rep. Fehr: I don't see in the bill where they minor can decline that. Can you point it out to me?

Rep. Delmore: That would be related to the forensics exam itself. Maybe someone else can give you more detail on that.

5:11

Janelle Moos: Executive Director of the CAWS ND testified in support of the bill. (See Testimony #2).

8:25

Rep. Porter: I don't see anywhere in the new language where the refusal portion exists. I can see where the minor can get the exam, but I don't see where there is a refusal portion. There seems to be a conflict set up between physicians and health care providers with their

duty to report provisions in the statute when a crime has been committed. There are responsibilities in law that are placed on health care providers that say if a crime has been committed you have to notify law enforcement. I don't see how this new language can work.

10:07

Moos: We need to further clarify that it is in both scenarios. There is that section on the duty report for physicians in cases of sexual assault. I don't see where this is limiting that and we don't want to limit that. This is allowing victims to consent or not consent to forensic exam. Right now victims can choose to talk to or not talk to law enforcement.

Rep. Porter: There is nothing in here about the refusal portion.

Moos: We'd be happy to work with you on amendments.

Rep. Kiefert: What is the protocol now for a minor in an auto accident? The ambulance shows up and they have to get permission before they can help them?

Moos: I'm only looking at the subsection related to sexual assault. I think this changed a couple of sessions ago in terms of the ability of a minor consent to emergency treatment, but I'm not an expert on that subsection.

Rep. Fehr: Are there other states taken the direction you want to take now?

Moos: I can provide that information to the committee.

NO OPPOSITION

Vice-Chair Hofstad closed the hearing on HB 1314.

2015 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee Fort Union Room, State Capitol

HB 1314
2/10/2015
Job #23621

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Vicky Crabtree

Minutes:

Chairman Weisz: Let's look at HB 1314.

Rep. Fehr: I don't know if I am ready to offer this as an amendment, but let me float it passed and see what you think. I did reworking of that to change a couple of things. Instead it would read, "A physician or other healthcare provider may provide emergency medical care for forensics services to a minor who is a victim of sexual assault without the consent of minor's parents or guardian."

Chairman Weisz: You are eliminating the related follow-up language.

Rep. Damschen: I'm wondering if the healthcare providers should be required to report. Are they required to report to the law enforcement now?

Chairman Weisz: I believe all sexual assault has to be reported.

Rep. Damschen: I'm not sure all of shouldn't be preceded with notification of the parents.

Chairman Weisz: The current law that has to do with emergency care, if you look above there it says that reasonable steps have to be made to contact the minor's parents or guardian. It also says, "it does not authorize a minor to withhold consent to emergency examination, care or treatment".

Rep. Oversen: I think with the language on line 14 that says, "upon the request of a minor", that is putting the (inaudible) to receive the care. So if they don't want the care they won't end up in the hospital.

Rep. Porter: Under the same premise if the parent wants to have the forensic exam done, then you have taken away the parental rights to do that.

Chairman Weisz: That was my question, if they could request. The minor could request the emergency medical care under this provision, then would that allow them to prohibit the forensic part?

Rep. Porter: There is a question in whether or not they can refuse the law enforcement also. If the physician is aware of a crime and follows the mandatory notification process and law enforcement comes, it seems they can refuse law enforcement until a search warrant is obtained. And that puts another step inside of the law enforcement category. Then the parents would have to go to a Judge with law enforcement and get a search warrant in order to gather the evidence of the sexual assault. I'm not clear on what we are trying to fix.

Rep. Oversen: If a mandated reporter is reporting under a 950 it is not to law enforcement it is to child protective services. Law enforcement may or may not get involved. They will decide if follow up with law enforcement is necessary.

Chairman Weisz: I think you are right that the mandatory reporting is to child protection services.

Rep. Rich Becker: Isn't the jest of this bill to take the parent out of the equation? If this is an accurate interpretation of the bill, I couldn't support it.

Chairman Weisz: I assume the intent of the sponsor is that some minors will not go in for any care if they think their parents will know and then they will neglect doing anything.

Rep. Mooney: This is an attempt to protect some of these children. There are many families are not normal and are dysfunctional. I support this bill.

Rep. Weisz: It would be simpler to add sexual assault on top and then all the safeguards are in place. They can't withhold consent and the parent has to be tried to be notified. I think the current law is working. I haven't heard otherwise.

Rep. Damschen: I do think the hurdle is getting the child to treatment. I think what you are suggesting might take care of that.

Rep. Porter: The department inside of the existing law in 5025.1 which is the portion to do with child abuse and neglect says, "if the report alleges a violation of a criminal statute involving or physical abuse, the department and appropriate law enforcement agencies shall coordinate the planning and executive of their investigation". The department and child protective services cannot withhold information if it is a criminal case. There is a reporting requirement that everybody is required to report or it is a class B misdemeanor. I think the department needs to come down.

Chairman Weisz: This deals strictly with sexual assault. Not necessarily with child abuse from the standpoint of a family member that is abusing. We can put this aside and I'll get someone down to clarify some things for the committee.

2015 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

HB 1314
2/16/2015
Job #23932

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature *Kenneth M. Tiller*

Minutes:

Attachment: #1

Chairman Weisz: Rep. Mooney, will you explain the amendments?

Rep. Mooney: On line 15, the "shall" is changed to "may" so that it puts the role of the physician in more of a permissary role. In line 16, remove the language, "and any related follow-up care to the minor." (Refers to Att. #1)

Chairman Weisz: Was there any discussion when you looked at these amendments of at least requiring having an attempt to notify the parents? A reasonable attempt, which I think is similar to the language above it?

Rep. Mooney: No, there wasn't any discussion on that. I think that, in general terms, when I visited with Janell Moos from N.D. CAWS, the idea was that by making it a "may" and removing the related follow-up care, that it puts the physician in more of a discretionary role, based on the circumstances that they might be faced with; so that they can try to assess, based on those individuals' circumstances, what might be best for the minor.

Chairman Weisz: Is that a motion?

Rep. Mooney: I would make that a motion.

Rep. Oversen: Second.

Chairman Weisz: Ok, committee. Discussion of the amendment. Changes "shall" to "may", so it eliminates the requirement that the physician or whoever has to provide the services does eliminate the follow-up care. So everyone understands the amendment?

Rep Fehr: I'm going to resist the amendment. I'm not crazy about the wording of it. I think we can amend it better than that

Rep. Damschen: I think the amendment is an improvement, but somehow I'm uncomfortable with this bill yet. I'm not sure I can support the amendment. I'm not even sure why I'm uncomfortable with it.

Rep. Becker: I'm uncomfortable with it, also, but I think I know why. I can't support when you're taking the parents out of the equation here.

Rep. Muscha: As a parent, I totally agree with you, Rep. Becker. The only thing I do have to say is, I remember a fellow-teacher, and this is not too many years ago. She was teaching in a different school district, had been teaching in a different district. For whatever reason, we were talking about different situations in schools, and she had a story that one of her students had come to her, and it was the girl's father that was abusing her. His stance was that it was his daughter, it was his family, so he could do whatever he wanted. To me, this bill speaks to those extreme cases. I know that you can always reach out and say, what if this? What if that? But there are some of those "what if" cases, and being it's permissive, I also once was called for one of my husband's nephews. His parents couldn't be found. He was in a car accident where one gal was actually fairly seriously injured. They couldn't find the parents, so another sister-in-law and I went to the hospital, as we were home. We had to take him into Fargo because our small town hospital wouldn't do what he needed. And it wasn't an ambulance that was needed for him. So there are cases, where parents aren't around, or like in the case of this one gal, it was her actual dad. Those are the cases we need to think about, too.

Rep. Becker: Those kinds of examples, there are exceptions to every rule, and my heart goes out to those people, and I would agree with you on those exemptions. But I don't know if we can define enough of them, and I just have to go back to the general setting that, when parents are not involved, of course there's going to be exceptions but can we name enough of them, or would be try to put down 20 exemptions? Then I don't know if we have a bill any more.

Rep. Oversen: While I'm not a parent, I can speak to the perspective of a young woman who knows many people my age who have been impacted by sexual assault; people very close to me. And I know how important it is that they have access to a health care provider without fear of their parents finding out. That might prohibit them from seeking care. And if the goal is to get them into seeking care, and then they are able to discuss with these trained nurse examiners what their options are, then they can seek law enforcement's involvement; they might seek care from domestic violence advocates, and they might choose to go to their parents. But if they're not first getting to a health care provider, that chain might stop altogether. So what this does is it allows that minor to seek healthcare when they've been involved in a very dangerous and a very hurtful situation. Even not being a parent, I can understand that concern, and I see why parents would want to be part of that conversation, and hopefully they have a good enough relationship with their kids that they can. But I think the young people at risk here deserve access to that health care first and foremost. So I will be supporting the amendment and the bill.

Rep. Mooney: I can't state emphatically enough, I remember what it was like to be a young girl and a young woman, and be in positions of profound discomfort, that even then I felt it was inappropriate to go back to my mother. That was an era, though; that was a time when it was very difficult to talk with your parents about such things. And we've come so far in our ability, my children speak very freely with me and I really appreciate that, and I encourage

that. Even in today's world, any barrier that's put in place that keeps a young person, male or female, from being able to seek the necessary help that they may need to be able to get the help they need, I just can't say strongly enough how much I think that is part of our role as legislators to make sure they can receive the help that they need without that fear.

Chairman Weisz: I share some of the concerns here with parental consent. I also certainly share the concern that Rep. Muscha brought out, having to do with sometimes the parent as the perpetrator becomes a real issue. I don't know if this would answer some of the concerns. You add your "may" language to the minor, and then it says, "to the minor without the consent of the minor's parent or guardian." If the provider deems it appropriate. In other words, they would not have to if they deemed it appropriate. I don't know if that addresses the other concerns. I'm just throwing it out there. It may not address those concerns, and that's fine. That, to me at least, implies that they have to try to notify the parents unless the provider deems it's not appropriate for whatever reason.

Rep. Damschen: I definitely hear the arguments on both sides. I agree with both sides, and that's what makes it so tough. I wonder, would there be a benefit even if it was a family member that was the perpetrator, that they be brought in and confronted. Then the other side of me says, how about the occasional case where the person is falsely accused? This is a tough bill for me to make a decision on. I know I didn't clear anything up, but I made my comment.

Chairman Weisz: I assume one of the issues is, if someone within the family is responsible, and they have the ability to prohibit a forensic test or whatever, or even that they go and seek treatment, then obviously the evidence is gone. At the same time, you would hope the forensic services would prove the innocence of a false accusation. I just offered it as a suggestion to see if that might make it. Maybe it doesn't address the concerns enough for those who are concerned on the parental rights side, which I share. I always believe parents should be in charge.

Rep. Porter: The mandatory reporting requirements that we have in the example given by Rep. Muscha; once somebody finds out that a crime has been committed, even under this minor's emergency care provision, even if it's enacted and it's the father, and the exam is given; once the physician or other healthcare provider knows what the circumstances were, they're required by law to report it to law enforcement, who then has to start an investigation into the crime committed.

Chairman Weisz: I don't disagree, but it does get back to if someone comes in. I mean, if an adult comes in, they can refuse to be treated and refuse to have the forensic services done.

Rep. Porter: Getting to my next question, during testimony it was related that they thought this wording also allowed someone to refuse, and I still don't see that as a component of this. With this new language, it confuses me even more that we're saying that the healthcare provider can refuse because we changed the "shall" to a "may," so we're letting the healthcare provider refuse to treat the patient. I'm still unclear what we're trying to get around, and what we're trying to get away from because we're not getting away from our mandatory requirements to report; we're not getting away from the healthcare professional

being mandated to report the crime. Now we're letting them say, I'm not comfortable even doing this examination as a healthcare provider. So they can pick and choose if they want to do the forensic exam. To me it clouds the issue even more. I'd like to know what the problem is, and what we're trying to fix. I don't think this fixes anything

Chairman Weisz: I can't speak to the sponsors of the legislation, but the only issue that I see that I could argue that you need fixing, if you can refuse those services; the parent or guardian can refuse those services, and that's lost if someone in the family is the perpetrator and they don't want that to come out, can they refuse to let this be provider; and then the evidence is lost. But I can't speak if that's the actual intent. That's the only thing that I see is potentially being a problem if you know the parent or guardian, who is maybe part of the problem, can say "no, I'm not going to allow these forensic services be done." But I think you're absolutely right, the main language does seem to really cloud the issue because it isn't really addressing the problem of should there be a test done, and it's just saying the provider can opt out of treating a minor.

Rep. Porter: And then going on a little further, in that question, do you read sub 2 as emancipating a minor for the purposes of this examination that they can both ask for the examination and refuse the examination, and act as an emancipated adult in the process, that we're giving limited emancipation to a minor in this section?

Chairman Weisz: My reading would say it's unclear, but I think you could certainly argue that it gives them that ability to also deny, but I don't know if it's clear. That's another good point.

Rep. Hofstad: It would seem to me that the bill would suggest that the minor's only course of action is to go to a physician. If that minor goes to anyone else; to a law enforcement official or the entire list of people that are required to report, then we passed that threshold and that investigation starts.

Chairman Weisz: I don't believe they still have the ability to force the minor, for example, to do the forensics. If the minor would come to the police station and say, I think I've been sexually assaulted. If they said, Ok, it was my father, or uncle, or some other, the question to me in those cases, is there a way to clean it up? But I don't necessarily want to give the minor the ability to resist the services either. I do think the language may be unclear. Up here it says, if you look at section 1, which I think was, we did a lot of work on that over the sessions, it says, this does not authorize a minor to withhold consent to emergency examination, care or treatment. In that case, at least for there, even though the minor has the ability to consent to treatment if they can't get ahold of the parent, they don't have the ability to say, no, you can't. I think that language needs to be clearer, to me, even if you adopt sub-section 2 that it has to be clear that the minor can't withhold the testing or the care, for one. I do agree the "may" from the standpoint of the physician becomes problematic, or healthcare provider or whoever. It doesn't specify they're not withholding it because they can't get parental consent. It just says they don't have to do it. That is definitely problematic. I don't think that's our purpose.

Rep. Damschen: What would happen if you just added "victim of sexual assault" to what is now sub 1?

Chairman Weisz: That's a good question.

Rep. Porter: I think that you would just add the words "forensic services" up in sub 1.

Chairman Weisz: Do you think that sexual assault is already in there because, "in a life-threatening situation," would that be defined as that? So you would need to add "sexual assault," also under "emergency examination care or treatment."

Rep. Porter: I think the words, "forensic services" falls in there. That a minor may contract for and receive emergency examination, forensic services, care or treatment in a life-threatening situation without consent."

Chairman Weisz: I'm just wondering, does sexual assault qualify as a life-threatening situation? That's my question: would we define it that way? If you put it up there, the point is, you want it to happen. It might be an emergency situation, but does it qualify as life-threatening?

Rep. Porter: You might have to move to line 8, after "life-threatening situation," and put ", or forensic services."

Chairman Weisz: Would you still need to say, "sexual assault and forensic services"?

Rep. Porter: I think you can just get by with "forensic services." On line 8, after the word "situation", ", or forensic services."

Rep. (not audible): Because we're only talking about sexual abuse, how about physical abuse. If a minor is physically abused, what kind of rights does the parent have then? Physical abuse is a reportable incident also, right?

Chairman Weisz: Right. I guess the difference with physical abuse, there isn't the forensic test. I think that they're really getting at here is to make sure that is done. Physical abuse, the physician or healthcare provider is obviously going to report that, which is going to trigger an investigation. That will have to be investigated regardless of whether the minor's parents were contacted or not. So I think the whole key here is the idea of the fear that someone doesn't go in, and then all the evidence and everything is lost. So, whoever did it, particularly if it might be a family member, it goes on and on. If you don't have evidence, it's he said-she said. So probably Rep. Porter's suggestion puts it in there, and it still allows it to be done. The assumption would be that if the minor says it was a family member, that I would assume they would do the test, contact law enforcement and not the female.

Rep. Porter: They would have to because it's still a mandatory required deal. But on line 10, then, in order to make this read right, you would take out the "or" after the word "care", and then, after the word "treatment," put a comma and insert "or forensic services."

Chairman Weisz: Do you want to just read the whole statement?

Rep. Porter: I think we should vote on Rep. Mooney's amendment first.

Chairman Weisz: We do have a motion on the floor.

Chairman Weisz: Further discussion on the amendment.

VOICE VOTE TAKEN: MOTION FAILS

Chairman Weisz: Rep. Porter, you have a potential amendment.

Rep. Porter: I would move an amendment on line 8: after the word "situation", to insert ", or forensic services", and then on line 10, I would overstrike the word "or" and then after the word "treatment", I would add ", or forensic services."

Chairman Weisz: I still have a question. Maybe I'm missing something, but why we don't need to say sexual assaults only and forensic services?

Rep. Porter: I think that the treatment of sexual assault is an emergency in itself, so I am under the understanding that that medical treatment of sexual assault is already an emergency, but the forensic examination is not.

Chairman Weisz: So your language would say, "a minor may contract for and receive emergency examination, care or treatment in a life-threatening situation, or forensic services without the consent of the minor's parent or guardian. If he has an emergency medical condition or the potential for the emergency condition, consent to emergency examination, care, treatment or forensic services of the minor is implied."

Rep. Porter: Then, we need to remove the overstrike of section, and remove the word "sub-section", and then remove sub 2, lines 14-17.

Chairman Weisz: I also believe you need to again get rid of the "or" and then put a comma after "treatment." And then go, "or forensic services" on line 13. So that the minor cannot withhold the forensic services.

Rep. Oversen: So the way this reads now, specifically with the second sentence, do they first have to take reasonable steps to contact the parents before they go ahead with the examination? Because then that defeats the purpose of this bill. And I understand that we're trying to put it in there to clean it up, but also in putting it where the minor cannot withhold consent, the problem with that is that a minor or any victim of sexual assault has already been violated in such a way, and then you're going to force them into that examination that they don't want, that creates further violation. That's why that language was not included in the second section. And I don't know that the second section was clear on the ability to withhold consent. I think that was a mistake and they didn't properly draft that. But the testimony from CAWS made it clear that they want the minor to have the ability to withhold consent from the examination as well. And if we're putting it in this section, they explicitly do not have that ability.

Chairman Weisz: I want to be clear here. Are you also saying the minor should have the ability to withhold the forensic part?

Rep. Oversen: Yes, because that's part of the examination that they might not be wanting to be part of. And to the questions about reporting, mandatory reporting is only required if it's suspected that it's a caregiver who is abusing or neglecting the child, and it goes to Social Services; it does not go to law enforcement. Law enforcement are a part of CPS, but it goes to CPS first and then they decide if there needs to be further investigation.

Rep. Porter: You need to say that one again. The first part.

Rep. Oversen: If the mandatory reporter believes it's a classmate or a boyfriend, that's not considered abuse and neglect under mandatory reporting laws. That's only if it's a parent or a caregiver, is my understanding from my training.

Rep. Porter: There's two different parts. The first part is the mandatory report, Section 50-25.1-03, Persons Required and Permitted to Report. To Whom Reported. It says, any physician, nurse, optometrist, dentist, dental hygienist, medical examiner, coroner or other medical or mental health professional, religious practitioner, of the healing arts, school teacher or administrator, school counselor, addiction counselor, social worker, child care worker, foster parent, police, law enforcement officer, juvenile court personnel, probation officer, division of juvenile service employee or member of the clergy having knowledge or reasonable cause to suspect that a child is abused or neglected, or has died as a result of abuse or neglect shall report the circumstances to the Department if the knowledge or suspicion is derived from information received by that person in that person's official or professional capacity. It gives a little exemption for the clergy. The report is to the Department; it is not to law enforcement.

Chairman Weisz: It does say here on 50-25, abused child means an individual under the age of 18 who is suffering from abuse as defined in subdivision, caused by a person responsible for the child's welfare. A sexually abused child means an individual under the age of 18 who is subjected by a person responsible for the child's welfare. But 14-09.22, you can look that up, too, what they is subject to. Parent, adult, family, household member, guardian or other custodian of any child.

Rep. Fehr: That is correct, and Rep. Oversen is correct that it refers to the parental capacity, the oversight of a child. However, in actual practice, what happens is, for example if it's a sibling that is abusing a sibling, they make reports because they say therefore the parents didn't have proper oversight or whatever. So a lot of things end up going to CPS, and they make reports and let CPS sort it out. But strictly speaking, abuse and neglect goes to CPS, not to law enforcement.

Chairman Weisz: I just assumed everything was reported, and that's not the way the law reads.

Chairman Weisz: This bill is becoming muddier by the minute. So to be clear here, if, for example it's a minor and it's the boyfriend, under the law, the provider does not have to report.

Rep. Oversen: That's correct. If the provider has no reason to suspect it's a caregiver or guardian, they don't have to report it. And that's a discretionary piece. They might not know.

Rep. Fehr: In actual practice, they would turn to the person and say, we need to get law enforcement involved, and they would get a verbal and they would contact law enforcement if they needed to.

Chairman Weisz: You're taking 15 or 16-year-old, is it proper to give them the choice of whether they want the forensic that could help convict whoever did the violation, without some adult.

Rep. Oversen: In re-reading the testimony, the first, most-important step is getting them to that sexual assault nurse-examiner, who is trained to give them those options of, do you want to go through with the forensic exam? Do you want to contact services? So, yes, we're empowering them to have that choice of whether or not they would want to go through with an investigation. And that's the case with adult victims of sexual assault right now. But they have that counsel of the nurse-examiner or victim advocates who come in to the hospital if there has been a sexual assault. I get that that's a scary thing that we're allowing them to make that choice, but as a victim, that power has been taken away from them, and we're giving them the power back to make those choices.

Rep. Mooney: My concern would come back to what Rep. Oversen has stated. And then underscoring the reasonable steps to contact the minor's parent or guardian being unsuccessful. That's still problematic in the intent of the bill in those particular circumstances where it's determined that it's actually a member of the family who is involved. If, through reasonable steps, they're brought into the situation, then we've just exacerbated their victimization. What we're doing is right back to square one.

Rep. Fehr: My question is whether Rep. Porter would consider a change to his amendment.

Chairman Weisz: We haven't had a motion yet. You're welcome to suggest any change you'd like.

Rep Fehr: I'll move an amendment. Using what Rep. Porter had said, on line 8, after the word, "situation," to insert the phrase "or sexual assault." In line 10, overstrike the word "or" after the word "treatment", inserting "or forensic services." And insert the sentence, "reasonable steps must be made to contact the minor's parent or guardian." Line 12, remove the overstrike over "section." Line 13, overstrike "or" and the period becomes a comma. And add the phrase, "or forensic services." And overstrike subsection 2.

Chairman Weisz: But the parent must be contacted, or tried to, as far as forensic services.

Rep. Fehr: Reasonable steps meaning, in my mind, then, if the parent is the alleged perpetrator, they would have some judgment in what is reasonable steps. But in any other case, they don't have to contact the parents before providing that emergency care. But they still need to contact the parents unless it's unreasonable to do.

Rep. Damschen: The only problem I see there, if the forensic services were needed to convict, if the alleged perpetrator was a parent, they could still refuse that, couldn't they? Under the proposed amendment?

Rep. Fehr: Who could refuse it? The youth? The parents?

Rep. Damschen: If I understood your amendment, they'd have to try to contact the parent before they provided forensic services?

Chairman Weisz: If you leave the language off on line 13 that I had added, then it gives the minor the ability to withhold consent. And that seems to be the big issue. Most of this cleans up the comfort level for the parent consent, but there is some difference of opinion here on should the minor have the ability to withhold consent to have the forensic services done. That seems to be a major issue here. I understand the concern; if the minor already feels violated and they don't want to, but if they're 14 or 15, should they be allowed to make that decision without, if a family member is involved, obviously they wouldn't be brought in, but then who would make that judgment call?

Rep. Fehr: We're using the existing language that's currently in law, starting off on line 7, a minor may contract for... As far as I know, there isn't a problem in terms of what's currently happening with emergency services. So this just brings that into this same language, and that same kind of authorization. So, presumably it shouldn't create new problems if we're using that same language. It's not problematic.

Chairman Weisz: The forensic part is a little different than the emergency care. I assume it happens fairly often that you do have a minor that's sexually assaulted. The parents are who knows where? Who determines if a forensic test is going to be done or not? Who has the authority currently? If a minor says "no," does that mean it doesn't happen? Can they do it without minor consent?

Rep. Fehr: The way things practically exist in an emergency room in a hospital, they're not going to hold somebody down and make them do things. The examination, as I understand, is pretty intrusive, so they're perhaps going to get the person calm, work with them, be supportive, and I think this is intended to be enabling language to allow some things to happen; not intended to be forceful or arm-twisting. So I would assume that the care-givers there will handle it as delicately as they can, to try to do an examination, but within their medical scope.

Rep. Muscha: Did we not hear some quite emotional testimony about this whole issue in Grafton during the interim committee? About a case of mom and dad and the daughter that stood up and talked? And wasn't that also sexual assault? But it talked about how things were handled and not handled. I don't remember all the details, but just to throw out one other point; Both Rep. Mooney and I were at the Few(?) Summit that was last fall in Bismarck. Their main speaker, who is working with human trafficking and prostitutes and things in Williston, and her testimony and that of other law enforcement, etc. said that the majority of victims start out being abused by male family members. It's a huge proportion of where some of the issues originate.

Chairman Weisz: Does Rep. Fehr's amendment satisfy your issues?

Rep. Mooney: Before we act on the amendment, could we have Austin type it out so we could actually see what it looks like. I would be reluctant to vote without seeing it.

Chairman Weisz: Is there some further discussion. Rep. Fehr, do you want to withdraw your motion for now?

Rep. Fehr: I withdraw my motion.

Chairman Weisz: If there's any further discussion on what we do or don't like, let's have it now. If there's some further amendments, or something, so I can do whatever for tomorrow or Wednesday at the latest.

Rep. Becker: I think, at the end of the day, the stumbling block and the #1 issue that we can't get the right wording or get our hands around is, basically taking a parental responsibility out. As a father, and I would ask each of you to think inwardly, if you're a father or a mother, or some day to be a mother, there's ups and downs and there's things that come along in life that we can't control. I can guarantee that each of us had had to deal with things that were heart-wrenching. As a parent, I don't know how we could look ourselves in the mirror and where the parent is the last to know what's going on. I can't imagine the language that we could come up with that I could vote "yes" on this type of bill.

Chairman Weisz: Based on Rep. Fehr's comments, my understanding now would be, if indeed a minor came in, sexually assaulted, and if they can't get ahold of the parents, the minor says they don't want their forensics, they're not doing it. Would that be your assumption, Rep. Fehr? Because we're not going to force a minor to take the forensic test. And they don't have permission because they can't get ahold of the parent or guardian. So even currently, today, the minor can withhold consent.

Rep. Oversen: The minor could only withhold consent if the parents weren't contacted. If the parents are present, and want the examination to happen.

Chairman Weisz: I mean it can happen today. I just wanted to clarify. It isn't necessarily something new. The whole argument is, when the parent can be notified. So we're kind of narrowing it down to where we understand the issue that we agree or disagree with.

Rep. Damschen: I think the forensic part of it is an issue. Allowing the minor to refuse that, because then if the parent is the perpetrator, and the victim is afraid to identify him, they refuse the forensic services. Then there is nothing to convict the parent, either. There doesn't seem to be a clean way to work this.

Chairman Weisz: Committee, you can sleep on this. Austin will draft the amendments. And Rep. Fehr can make sure they're what he wanted them to say. So that we can take a look at them tomorrow. This is not a simple thing. I have real concerns about parental involvement, but I can certainly understand the issues involved on the other side. Unfortunately, most of the sexual assaults on minors are family members. That is extremely hard to even put your arms around, but that's what happens. It's hard to comprehend that

we would do that to our own children. Unfortunately that is what happens, so I certainly understand the concern here.

Chairman Weisz closed the hearing on HB 1314.

2015 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee Fort Union Room, State Capitol

HB 1314
2/17/2015
Job #23982

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Kenneth M. Torkelson

Minutes: (Recorder Not Working; Recording Starts on Page 2)

Attachments: #1, #2, #3

Chairman Weisz: Called the hearing to order on HB 1314.

Jonathan Byers: From Dept. of Human Services.

Chairman Weisz: If the minor does not want forensics, where does the law enforcement come in?

Byers: No physician is going to make the patient go through an exam for forensics.

Chairman Weisz: There is no circumstances where the law enforcement would

Byers: this is a one-time opportunity

Chairman Weisz:

Byers:

Rep. Porter: in discussing the new sub 2, the minor could refuse the exam. The physician I talked to said they wouldn't do the exam. Then when the patient wants to do the test, but not involve law enforcement and the physician has a mandate to report

Byers: The physician only has to report it if it is a sexual assault

Rep. Porter: Law enforcement talked with me about

Byers:

Rep. Porter: I'm not seeing the problem where we don't need the language.

Byers:

Rep. Porter:

Byers:

Rep. Oversen:

Byers:

Rep. Oversen:

Byers: As the law is now they can refuse the exam.

Rep. Oversen:

(RECORDING STARTS HERE)

Byers: It's going to be the same kind of exam they would get in a forensic medical exam, which would involve a trained doctor that is specifically intending to look for signs of penetration, and those kinds of things. Those may be two different processes

Rep. Porter: It really would come down to how that physician documents in the medical charts of what they did and why they did it. And the procedure performed.

Byers: I think you are right on that.

Chairman Weisz: Thank you for coming. I believe Rep. Fehr has three suggested sets of amendments.

Rep. Fehr: Can I hand them out and explain them? (See Handouts #1, #2 and #3)

Chairman Weisz: You can hand them out, and we'll take a look at them. Committee, just from what I'm hearing, it does really seem like the main issue is the idea, can the minor choose to not give consent to do the forensic test. Because everything else appears to already be in place. Is that the understanding that the rest of you have? Under current law? That's really the issue in front of us. Obviously, they can get treated now without consent. They can, from everything I've heard, they're going to treat them, and they obviously can do the forensic if the minor requests it without consent. The issue seems to be, if the minor doesn't give consent, can the parent or guardian say, do it anyway? Is that the understanding that we're all at here? So at least we know what we're trying to get at.

Rep. Fehr: The first one is where we left things yesterday afternoon, trying to move everything into that first section, and just having one section; deleting section 2. It has the numbering crossed out. The second one says Amendment 2 at the top, and that is an attempt to leave the first section as is, and to clean up the second sub-section. The third is a paragraph handed out. This is the Illinois example that Rep. Porter had emailed us. If we like the third one, the line 3 that says sections 12, 13, etc., that's Illinois license code. We would have to change that. Essentially what you have is one; an attempt to put everything

Chairman Weisz: In your second one, I notice you left the language as "may" instead of "shall." Was that on purpose or an oversight?

Rep. Fehr: No. The intent here is to allow physicians to have authority to provide the emergency medical forensic care to a victim of sexual assault. So, really it isn't directed towards the victim. It's directed toward the physician having the authority to do it. They also have the flexibility to handle situations in a sensitive way.

Chairman Weisz: Say it's my local small-town physician, and he says, "No, I'm not treating you unless mom and dad are here." Is that your intent?

Rep. Fehr: The sentence concludes with the clause, "without the consent of the minor's parent or guardian."

Chairman Weisz: But it gives the physician an out. He doesn't have to treat them, right? He can say, "Nope. I just won't do it because I want your mom and dad here."

Rep. Fehr: Theoretically that's true. This is enabling language, not requiring language.

Chairman Weisz: I don't normally do this, but, Janelle, would you come to the podium? (Asked Janelle Moos to come to podium.) Your issue, the reason for the bill that's in front of us, is because some providers aren't willing to provide the services without the parents or? Explain to the committee exactly where you see the problem. Based on what we have heard on current practices. So what is the problem here you are trying to fix?

Janelle Moos, Executive Director of the CAWS North Dakota: We've had instances of both situations. So, where a victim comes in and requests one, parents deny it; and the other way around; parents request it and the victim says they don't want to. The way we drafted this, and I talked to Vonette quite a bit about it, is that the way sub-section 2 is drafted, it says "upon the request," so if I'm not coming in and requesting one, I'm actually saying I don't want one. So that's the way we drafted it in this language. And in looking at the amendments, my preference would be amendment 2 because it cleans it up. It does change the language from "shall" to "may" and it says "reasonable attempt to contact the parent," but a victim could still very well say that they don't want to have the forensic exam. So I think the amendment 2 cleans up subsection 2. And that would be our preference.

Chairman Weisz: So, you're OK with the idea that a physician could say, "No, I won't do it because we're not contacting the parents."

Moos: No. We would still prefer that the victim have that option. If they so choose to have the forensic exam. They should still be able to have the forensic exam.

Chairman Weisz: By going from "shall" to "may", that provider could say, "No. I'm not going to provide any services. I'm not going to do this until I get your parents in the room." Or whatever. That's the way I believe the language reads. I know it's enabling, but if that's your intent.

Moos: No. It wouldn't be our intent. If a victim is choosing, and saying, "I would like a forensic exam, which is the way it's drafted at this point in time, we would hope that the physician would adhere to what the victim's request is.

Chairman Weisz: Have to honor that request without the parent being there.

Rep. Mooney: Along that same vein, would a medical professional or a doctor refuse to provide medical help in that way? Whether they're an adult or a minor? Would they do that? Can they do that?

Moos: I think there are two differences. Say you're a sexual assault victim coming in. You have to go through a screening process, to screen for all these other things before you actually get to the point where you've determined that you need the forensic exam. So those two things are very distinctly different. You can still get the medical services. The forensic exam is for the collection of evidence because of the sexual assault. I think we want to keep those two issues separate and distinct.

Rep. Fehr: I don't think "shall" or "may" is the issue. Understand that physicians have their ethical code. They are going the best they know how to serve their patients. And if you say they shall do it, and if they don't want to do it, they will document it as something else, and they will not do it. I think leaving the language to give them some flexibility makes some sense.

Rep. Oversen: As I'm reading through Amendment 2, the physician may provide the services without the consent, but they must make steps to contact the parents. Can they still provide the services if the parents say "no."? If they are required to try to contact the parents, the parents then have the option to say no, but the physician could still theoretically provide that without the consent. So what's the purpose of contacting the parents?

Chairman Weisz: I believe the way it's written, they can definitely provide the services without the consent. It's strictly a notification. I guess you could argue, but at some point the parents are going to find out anyway. I guess it's just saying they need to take steps because the reasonable steps are made in the language after the consent. So the provider has already done the care without the consent of the minor's parent or guardian. Then it says, reasonable steps have to be made to contact them.

Rep. Oversen: Shouldn't it be something like, made to notify the parents of the services provided? Just contacting leaves it open. If it's notification, I think the words should be, to notify the parents or guardian.

Rep. Porter: I would like to hear Mr. Byers' thoughts on Amendment 2 and how it fits into the real world practice of these situations, and the criminal side of these situations, and see if this is something that is workable. Is it fixing a perceived problem? Is it doing nothing? I would like to hear from the law enforcement side.

Byers: I don't see a lot of problems with the way the bill is written. If you're interested in seeing that exams are able to be done, even if the parents don't consent; I don't want to

see anything amended here that would take that away. So I question the "reasonable steps must be taken to contact the minor's parent or guardian." It doesn't necessarily say in words that it's going to allow them to object, but I think that there may be a question that physicians read it that way; that they'll read the fact that they have to contact them into meaning that the parents get to object. Here's why it's so important that you don't wrest this upon the parent's right to object or not: somewhere between 85-95 percent of sexual abuse happens by somebody the victim knows. Most common scenarios are half-sibling, step-sibling, in the same residential situation. One of those parents is probably not going to want a report to be made. Another common scenario would be aunts and uncles or cousins of the victim. Again, loyalties in the family may make somebody not want a report and investigation to happen. Another frequent one is grandpa. Again, mom or dad may not want that investigation to happen. So, when it comes down to law enforcement reasons to be doing this investigation, there are a lot of reasons to say that the parents in this one particular area should not get the right to object to an exam being done on that child.

Chairman Weisz: Under either the original bill or amendment 2, does each one allow the minor to withhold consent for a forensic test, without the parents.

Byers: I believe that the bill as it's written does allow the minor to withhold that because it says, upon the request of a minor." And in fact, in practice, the minor is going to get to withhold their consent because, even if there's some language in here that would make it sound like the minor doesn't get to withhold their consent, they're just not going to do that exam without their consent.

Rep. Porter: In the amendment 2 language then, with what Rep. Oversen said, changing the word "contact" to "notify" so it's just a notification, not the ability to have the contact for the parents to step in and say yes or no.

Byers: I think something in the nature of what Rep. Oversen indicated, if it said something like, "reasonable steps must be made to notify the minor's parent or guardian of the care that was provided." That doesn't make it sound like it has to happen first, before they do the care and let them insert themselves. It simply says we gotta notify them of what we've done or are doing.

Rep. Rich Becker: Just a comment. Something new hit me today. I'm very much opposed to taking notification of parents out of the equation. But the new thought that I had today is, somebody used the wording "enabling," but I don't know if we're really helping say a 14-year-old here if it's common knowledge that a minor doesn't have to give consent to a forensic exam, that enables them, and they're probably not going to do it. How are we helping that person when, as you said, 85-90 percent are step-fathers, step-brothers, half-brothers, whatever? I think we're enabling the further continuance of this shameful, habitual practices that go on in our society. To me, another reason for being against this bill is we're enabling minors to continue. They may think they're protecting or protecting themselves from further harm. But I don't see that. I see, by enabling, and by not having to report this, they're only setting themselves up for further instances of it.

Byers: What you're saying is exactly one of the first things that I brought up when I began talking about this with Janelle. We don't want to pass the word, or make this in blazing

letters that they have the right not to consent. And that's why I kind of like the language in the original bill is because it doesn't spell it out in blazing letters, but you can read it in there to say it's just upon their request that they get the exam done. So I think I'm with you that I don't think we want to publicize this to minors that you don't have to have these things done. And then let the work of the professionals happen. When they get in contact with the child at the hospital, or whatever, that they can talk to them about, "you're not going to realize this, but these are some things you're going to have to think about, and you're going to regret this later." Let them do their work.

Rep. Porter: I like amendment 2. That "upon the request" language that does throw the cloud up is removed. Where it is, just as the person's presenting. Someone is presenting to a healthcare provider. So if the person is presenting to a healthcare provider, they're there for a reason. At that point in time, they've already presented. So the physician or the healthcare provider is going to use their judgment and their professional training in order to talk to the victim and it's already been told to us that they aren't going to do something by starting a proposal drip and putting the patient out and doing an exam. To me, that gray area of "upon the request" doesn't need to be in the law. It just needs to be a clear law that if the person is presenting to the healthcare provider, that they can have the test without the consent of the minor or the guardian. Amendment 2 takes that cloud out that you wouldn't want to advertise.

Chairman Weisz: Based on what I'm hearing, I suggest we look at Amendment 2, we add language that says notify the minor's parent or guardian of the care provided at the end, so reasonable steps must be made to notify the minor's parent or guardian of the care provided. I didn't like the "may" language, but Rep. Fehr had a good argument, so at this point, I would leave the "may" language in there the way it is.

Rep. Porter: I move amendment #2 with the language overstriking "contact" and inserting "notify" and then at the end, after "guardian", insert "of the care provided."

Rep. Hofstad: Second.

Rep. Fehr: If we use the term "notify", does that mean if we're talking about an ER, they can basically just send a letter to the parents kind of after the fact? Because if that's the case, I would have to resist the motion because the best outcome is that the parents are notified at the ER because I think this is happening at the ER, the family gets involved, and the family can then have the opportunity to be supportive and so on. I'm just concerned that "notify" may not involve them the way it should.

Chairman Weisz: I think the language is somewhat clear that it occurs. It generally will occur after the emergency treatment has happened. So they're not going to withhold treatment until the reasonable steps. They're going to do what's necessary. And in the case of where 85-95 percent are probably within that immediate family, I'm guessing they're not going to be wanting to contact them. If that information comes to them in the examination that it might have been the step-brother or Uncle Joe or whoever. They're not going to be contacting them to tell them that your child is in the ER here and... I know that's what we struggle with here, between the parental notification vs., but unfortunately most cases, it's some type of family member involved here. Do they need to be notified? This will do that,

make it clear that they are notified, that the emergency care happened. We did take out the language of follow-up care, which I think was a problem for a lot of us. This is a compromise, but I can understand the concerns here. Further debate on the amendments?

Rep. Becker: All I can say is that we've taken a bad bill and made it worse.

Rep. Damschen: If you want another alternative, we could borrow some language. I don't know if it would be more acceptable or not. We have some existing language that could probably be adapted to this section out of 14-10-19, dealing with a minor's consent to pre-natal care and pregnancy services. It would have a Subsection 2, and it would say "a physician or other healthcare provider may provide emergency medical care or forensic services related to sexual assault to a minor without the consent of a parent or guardian." And then borrowing from existing language plus some language that was in some examples we saw from another state, "the costs incurred by the physician or other healthcare provider for performing services under this section may not be submitted to a third party payer without the consent of the minor's parent or guardian." Then, another section would say, "if a minor requests confidential services pursuant to this section, physician or other healthcare professional shall encourage the minor to involve the parent or guardian. The physician or other healthcare professional or healthcare facility may not be compelled against their best judgment to treat a minor based on the minor's own consent. A physician or other healthcare professional, who pursuant to this subsection provides care to a minor may inform the parent or guardian of the minor of any care given or needed if the physician or other healthcare professional discusses with the minor the reasons for informing the parent or guardian prior to the disclosure, and if, in the judgment of the physician or the healthcare professional, failure to inform the parent or guardian would seriously jeopardize the health of the minor, surgery or hospitalization is needed, or informing the parent or guardian would benefit the health of the minor." That may not all have to be in there, but it does leave some options. But it's long.

Rep. Porter: I look at them as two different things. One is crime, and the other is normal patient-physician relationships. I like Amendment 2 with the changes in it, and I'm comfortable with the changes in it. And I'm comfortable with what we've done.

Chairman Weisz: I'm not stopping discussion at this point, but I think we will vote on this amendment and we'll see what happens to it. If it fails, we'll go forward. If it passes, we'll also look at additional amendments. So, further discussion? We're looking at Amendment 2 with the changes.

Rep. Fehr: I like Amendment 2 except the word "notify," so I will resist the motion.

Chairman Weisz: If there is no further discussion, the clerk will call the roll on the amendment.

ROLL CALL VOTE ON AMENDMENT: YES: 9 NO: 4 ABSENT: 0

MOTION CARRIED

Chairman Weisz: Are there additional amendments?

Rep. Fehr: The bill as presented does not make any changes to section 1, I don't like section 1, and I would like to make a change to section I, if that was allowed. My point is that here in section 1, where it says on line 11, reasonable steps to contact the minor's parent or guardian are unsuccessful, I think that's contrary to what people do. I can't imagine that in a life-threatening situation in ER, that they would try to contact the parents before handling the life-threatening situation. I'm sure they'd just ignore the law. I can't imagine they would follow the law. But since the bill is in front of us, I think we should clean it up.

Chairman Weisz: And your suggestion, then?

Rep. Fehr: My suggestion would be on line 11, where the word "implied," put a period. The rest of that sentence, to insert the language that we just put in amendment 2, that "reasonable steps must be made to contact the parent or guardian of the care that's provided." Whatever that language is.

Chairman Weisz: So, "reasonable steps must be made to notify the minor's parent of the care provided." Everyone understand? Is that a motion?

Rep. Fehr: I'll make that as a motion.

Chairman Weisz: Is there a second?

Rep. Mooney: Second.

Chairman Weisz: Discussion on that amendment?

Rep. Porter: I guess I don't read that the same way as Rep. Fehr does. Because that's the section of code talking with the emergency examination. It just says that it's implied, and reasonable steps to contact the minor's parents or guardians are unsuccessful. If it's truly an emergency, then the reasonable steps to contact the minor's parents are, we're going to treat the emergency, and then, after the patient is stable, then we'll try to make the necessary contacts. I don't think that it needs to be changed. I think that it works the way that it is. It fits the real world practice of medicine. The reasonable step is at any time: it's not prior to taking care of the life-threatening emergency situation, which sub-section 1 is talking about.

Rep. Fehr: While I agree that the words "reasonable steps" does give a little wiggle room, and I can't imagine that they would literally get on the phone to contact the parents while the person is laying there, and their life is in the balance. But I think the amendment makes it more clear that they don't have to first make those attempts, and then, only if they're unsuccessful, then they can proceed with treatment of the life-threatening situation.

Rep. Porter: The other component of this is that this section is not just dealing with a healthcare facility. It's dealing with ambulance services. When I look at this, our reasonable attempt to contact the minor's parents or guardian don't happen until the patient is turned over to the physician in the emergency department. And so I don't think that changing this

makes it any clearer for who it's intended for. For part of who it's intended for. And I think that the way the verbiage is in there now, works for all of the emergency situations with a minor. It works from the EMS standpoint. It works from the volunteer ski patrol standpoint. It works throughout. Yes, when there's time. This is a life-threatening situation, when there's time, someone's going to try get ahold of the parents. But that reasonable steps is a component that it may not be the volunteer ski patrol. It may not be the ambulance provider. The reasonable step may be the physician after the patient is stabilized or maybe out of emergency surgery. But that reasonable component is the part that works for all of the emergency situation.

Chairman Weisz: Further discussion? I'll try for a voice vote.

VOICE VOTE TAKEN

MOTION FAILED

Chairman Weisz: Are there further amendments?

Rep. Porter: I would move a Do Pass As Amended to HB 1314.

Rep. Seibel: I second.

Chairman Weisz: Any further discussion? Seeing none, the clerk will call the roll.

ROLL CALL VOTE TAKEN:

YES: 9 NO: 4 ABSENT: 0

MOTION CARRIES

Rep. Mooney will carry the bill.

Chairman Weisz closed the hearing on HB 1314.



February 17, 2015

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1314

Page 1, line 14, replace "Upon the request of a minor who is a victim of sexual assault, a" with "A"

Page 1, line 15, replace "shall" with "may"

Page 1, line 15, remove "related"

Page 1, line 16, replace "to the" with "to a minor who is a victim of"

Page 1, line 16, remove "and any related followup care to the minor"

Page 1, line 17, after the underscored period insert "Reasonable steps must be made to notify the minor's parent or guardian of the care provided."

Renumber accordingly

Date: 2-16-15
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1314

House Human Services Committee

☐ Subcommittee

Amendment LC# or Description: See description below

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Mooney Seconded By Rep. Oversen

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz			Rep. Mooney		
Vice-Chair Hofstad			Rep. Muscha		
Rep. Bert Anderson			Rep. Oversen		
Rep. Dick Anderson					
Rep. Rich S. Becker					
Rep. Damschen					
Rep. Fehr					
Rep. Kiefert					
Rep. Porter					
Rep. Seibel					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

page 1 line 15 replace "shall" with "may"
page 1 line 16 remove "and any related follow up care to the minor"

Date: 2-17-15
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1314

House Human Services Committee

☐ Subcommittee

Amendment LC# or Description: AMENDMENT 2

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Porter Seconded By Rep. Hofstad

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Rep. Mooney	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Vice-Chair Hofstad	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Rep. Muscha	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Rep. Bert Anderson	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Rep. Oversen	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Rep. Dick Anderson	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			
Rep. Rich S. Becker	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			
Rep. Damschen	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			
Rep. Fehr	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			
Rep. Kiefert	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			
Rep. Porter	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			
Rep. Seibel	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			

Total (Yes) 9 No 4

Absent 0

Floor Assignment _____

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

remove "contact" and
insert notified
of care provided

Date: 2-17-15
Roll Call Vote #: 2

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1314

House Human Services Committee

☐ Subcommittee

Amendment LC# or Description: See below

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Lehr Seconded By Rep. Mooney

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz			Rep. Mooney		
Vice-Chair Hofstad			Rep. Muscha		
Rep. Bert Anderson			Rep. Oversen		
Rep. Dick Anderson					
Rep. Rich S. Becker					
Rep. Damschen					
Rep. Fehr					
Rep. Kiefert					
Rep. Porter					
Rep. Seibel					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Section 1

Line 11 implied,
put language in
from Amendment 2

Date: 2-17-15
Roll Call Vote #: 3

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1314

House Human Services Committee

☐ Subcommittee

Amendment LC# or Description: 15.0721.01001

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Porter Seconded By Rep. Seibel

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz	✓		Rep. Mooney	✓	
Vice-Chair Hofstad		✓	Rep. Muscha	✓	
Rep. Bert Anderson		✓	Rep. Oversen	✓	
Rep. Dick Anderson	✓				
Rep. Rich S. Becker		✓			
Rep. Damschen		✓			
Rep. Fehr	✓				
Rep. Kiefert	✓				
Rep. Porter	✓				
Rep. Seibel	✓				

Total (Yes) 9 No 4

Absent 0

Floor Assignment Rep. Mooney

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

REPORT OF STANDING COMMITTEE

HB 1314: Human Services Committee (Rep. Weisz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HB 1314 was placed on the Sixth order on the calendar.

Page 1, line 14, replace "Upon the request of a minor who is a victim of sexual assault, a" with "A"

Page 1, line 15, replace "shall" with "may"

Page 1, line 15, remove "related"

Page 1, line 16, replace "to the" with "to a minor who is a victim of"

Page 1, line 16, remove "and any related followup care to the minor"

Page 1, line 17, after the underscored period insert "Reasonable steps must be made to notify the minor's parent or guardian of the care provided."

Renumber accordingly

2015 SENATE HUMAN SERVICES

HB 1314

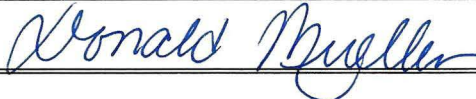
2015 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

HB 1314
3/4/2015
24304

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A bill relating to consent for emergency medical care for a minor who has been sexually assaulted

Minutes:

No attachments

Representative Lois Delmore, District 43, introduced HB 1314 to the Senate Human Services Committee. The bill allows minor victims of sexual assault to receive emergency medical care or forensic services without parental consent. The bill was amended in the House so that reasonable steps must be made to notify the minor's parents or guardian. Statistics show that this group is the largest group of sexual assault victims and they are twice as likely to be sexually victimized as adults. Sometimes they report, but often they report to peers or to others who may urge them to report and be examined. They may not disclose to their parents. In some cases, family members are involved, as well as alcohol. Sometimes the victim passed out and had trouble remembering what happened. Often, they blame themselves for what happened to them. Usually nurses who are specifically trained with 40 to 96 hours at a minimum on evidence collection techniques, use of specialized equipment, change of evidence requirements, how to give expert testimony, injury detection, all of which is part of a team who collects the information. They ask questions whether the victim wants to receive a forensic exam to collect the evidence of the assault. These nurses can have a positive impact on prosecution of the cases and they also provide information to the victim on the process the victim needs to go through if it goes to court.

(2:30)

Chairman Judy Lee asked for a definition of "reasonable".

Representative Delmore stated the House added this to the amendment, as they thought it was pertinent and important for parents to be notified, at least after the examination. Deferred the definition.

Senator Dever fully understands and supports this, if the minor's parent or guardian is suspected as the perpetrator. How do you justify it otherwise?

Representative Delmore assumes that would be the majority of time. If it is an emergency and parents cannot be reached, the examination is of essence to collect the evidence needed if it will be prosecuted. The number of cases of minors who have been sexually assaulted is up considerably.

Senator Dever asked if the provision in subsection 2 already covered in subsection 1.

Senator Dever indicated the need to be specific for sexual assault is the reason for subsection 2. It is unclear under current law whether the examination can be done under the circumstances for a minor.

Senator Dever indicated that on line 12, the word "section" is changed to "subsection." So that would apply to subsection 1 and not subsection 2.

Representative Delmore believes this is because it could be life threatening.

Chairman Judy Lee without the addition of subsection 2, there was no need to state subsection.

Senator Warner does this trigger a mandated reporting event? There is mandated reporting for child abuse, but is there mandatory reporting for sexual assault or suspected sexual assault?

Representative Delmore assumes it would, but it doesn't mean that someone in the time required to go in for the exam went.

Senator Warner referred to Senator Dever comment, where the parent would have to be suspect, this may come a long time after the event and exam. Timelines don't match.

Representative Delmore often times if subject to sexual assault, it is not a one-time event that occurs. They may open up to someone and this will help it take place.

(8:20)

Janelle Moos, Executive Director for Cause North Dakota, representing the 20 domestic violence and rape crisis centers that provide services to victims across the state, spoke. The House spent considerable amount of time in discussion and amendments for this bill. Adolescents between 12 and 17 years of age are the largest group of sexual assault victims. They are twice as likely to be sexually assaulted as adults. Last year alone, 900 victims of sexual assault received services from their crisis centers, and 40% of those victims were under the age of 18 at the time of the assault. The house had specific concerns about mandatory reporting, whether this would interfere with that or if it would interfere with law enforcement's ability to still investigate a crime. This bill is specific to a minor's ability to consent to a forensic examination if they so choose to do that. 70% of the victims who come to the crisis centers also report to law enforcement. We brought this bill forward because we heard victims under the age of 18 were coming in to receive care after sexual assault and parents were either saying they did not want to go forward with the forensic examination or they were saying you will go forward with it. Our hope is to carve out instances where victims have been sexually assaulted, ages 14 and 17 years old,

where the victim comes in with or without the parent, and they have the ability to say they want the forensic examination. Many times victims don't have a lot of options when they have been sexually assaulted. This gives them that choice, to determine what they want to be involved in, regarding prosecution, report to law enforcement. In the House, there was discussion regarding the definition of "reasonable", and there was never an agreement. The concern was cutting parents out of the entire situation, so we sought language where it will not supersede a victim's ability to make that choice. The victim knows the assailant 85% of the time, and most often it is a parent or guardian or someone acquaintance.

Senator Warner this is empowering the victim. She is given the discretion to whether allow forensic evidence to be collected. It is not mandated event. Does the physician have to report to law enforcement?

Ms. Moos the original bill draft would have allowed victims to consent to or refuse to consent, and this became confusing in the House. This allows the victim to come in and if they choose to, they can move forward with the forensic exam. Physicians are still mandated to report sexual assault cases, and they can still notify law enforcement that a crime has occurred. They would encourage the victim to report to law enforcement also.

Senator Warner language on lines 12 and 13, "this subsection does not authorize a minor to withhold consent to emergency examination, care or treatment." There is no mention of forensic exam, so this doesn't get mentioned until later in the bill.

Ms. Moos indicated the House had considered eliminating subsection 2 and just include everything in subsection 1. The problem was that you would also have to amend out lines 12 and 13, where it states "the minor can't withhold consent", so this would not have done what we were trying to do with this bill.

Senator Warner does emergency examination and treatment, does that equate exactly to life threatening? Is there some lower threshold, not hemorrhaging to death for example? What is the parameter that defines life threatening? There must be some lower threshold from life-threatening that would mandate treatment.

Ms. Moos in looking at subsection 1 for life threatening, and how that is defined versus what is different than subsection 2?

Senator Warner does emergency equate to life threatening or is that too of a threshold?

Ms. Moos indicated it is really difficult to put definition on all sexual assault cases. It may not meet the threshold of life threatening. We didn't get into the details between emergency and life-threatening.

Senator Warner equates emergency as matter of timeliness, where one month later may not equate to emergency.

Ms. Moos stated that they encourage immediate report. There is a 96 hour window of reporting, but that doesn't always happen. We just don't want people to come in and be denied a forensic exam or being forced to have one.

Senator Warner asked could the transmission of life threatening disease by sexual assault be considered an emergency. For example, is there a test for Aids?

Ms. Moos indicated that forensic nurses do test for STI's and the prophylactic treatment as well.

Chairman Judy Lee grammar question - does emergency examination and care modify in a life threatening situation - or does only treatment modify in a life threatening situation.

Ms. Moos stated they went through several drafts, so needs clarification.

Senator Dever you stated that 900 victims presented themselves in one year, 70% reported to law enforcement. How many followed up to prosecution. Have parents avoided prosecution by denying their minor children this care.

Ms. Moos indicated that prosecution rates are relatively low. We have a high reporting rate to law enforcement. This could be different by jurisdiction. We don't know how many don't report, or how many go to law enforcement and don't come to them. There could be information gathered into whether parents avoided prosecution.

Senator Dever understands to prosecute would be timeliness of forensic examination. Has law enforcement or attorney general taken an interest in the bill?

Ms. Moos indicated the Assistant Attorney General, John Byers, did work with them. They discussed some of the scenarios, and focused on this piece. He clarified things with the House Committee in regards to reporting rates, how often victims are perpetrated on, they are supportive of the language and good step forward. We don't want to interfere law enforcement to investigate crimes or with prosecution. Age 14-to-17, because age of consent is 18, this would allow them to consent to the forensic test.

Chairman Judy Lee if the 14 to 17 year old consents and parents are informed, can parents say they can't use that evidence.

Ms. Moos if they collected the evidence, it moves forward to law enforcement. We didn't want the reasonable steps to notify someone is after the forensic examination occurs. Law enforcement holds the kit for 7 years or until victim is 21 years old. They can wait for prosecution.

Chairman Judy Lee indicated that someone in that process has to be a mandatory reporter, correct?

Ms. Moos stated law enforcement can move forward even without victim participation.

Chairman Judy Lee thought that in these kind of cases, if victim doesn't want to report, law enforcement can still move forward.

Ms. Moos indicated that is correct. Even though we have that ability, our prosecution relies on victim. Prosecution doesn't want to just rely on victim testimony, but also on the forensic tests. A victim may be fearful, may not remember, may think they brought it on. Too often we look at the victim versus the offender, and the forensic evidence provides more.

Chairman Judy Lee indicated that a lot of victims may not want to have their personal life displayed in the newspaper or court system, so they don't report or push toward prosecution.

OPPOSITION TO HB 1314

No opposed testimony

NEUTRAL TO HB 1314

No neutral testimony

Closed public hearing.

2015 SENATE STANDING COMMITTEE MINUTES

Human Services Committee Red River Room, State Capitol

HB 1314
3/17/2015
24981

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A bill relating to consent for emergency medical care for a minor who has been sexually assaulted

Minutes:

"Click to enter attachment information."

The Senate Human Services Committee met on March 17, 2015 for committee work on HB 1314.

Chairman Judy Lee recapped the bill and testimony.

Senator Warner asked for clarification from the committee regarding the mandatory reporting to law enforcement, and whether the minor victim still retain their rights to pursue prosecution.

Chairman Judy Lee also would like clarification. She believes they have the duty to report, but even if the minor can receive care without the parent consent. But even if a victim of domestic violence chooses not to pursue it, law enforcement can still pursue it. Chairman Judy Lee asked the intern, Femi, to validate.

Senator Warner also asked for clarification on line 15, physician or health provider may provide emergency medical care or forensic services, which would be the evidence collection. They can do that without the parent's consent or guardian. The minor does not authorize to hold consent for emergency examination care or treatment. Can they withhold consent for the collection of evidence for forensic services.

The committee reviewed testimony from the HB 1314 Hearing by Janelle Moos.

V. Chairman Oley Larsen in the realm of the mandated reporting, there is a list of those who must report.

Chairman Judy Lee medical providers would be on that list.

Recess.

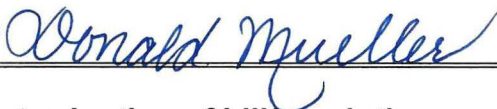
2015 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

HB 1314
3/24/2015
25330

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A bill relating to consent for emergency medical care for a minor who has been sexually assaulted

Minutes:

No attachment

The Senate Human Services Committee met on March 24, 2015 for HB 1314 committee work.

Senator Warner indicated that he had a prior question regarding the minor to withhold consent for a forensic examination.

Senator Howard Anderson, Jr. stated in Section 1, it does infer that the minor can withhold consent to subsection 2. They cannot withhold consent to the emergency care, but it doesn't say anything about the forensic examination.

Senator Warner understood it to be the other way around. They couldn't withhold consent from the collection of evidence, but that practically, police would not advance the case without the consent of the minor. They wouldn't have much of a case unless the minor consented.

Chairman Judy Lee referred to line 12 and 13, where it does not authorize a minor to withhold consent to emergency care and treatment, would indicate that they have to be able to be treated. It does not say they can withhold the forensic testing.

Janelle Moos, CAWS North Dakota, clarified. The original intent was that they could refuse and have access to one without parental consent. The original draft of the bill was written in a way that it said upon request from the minor victim, they could receive. The House had concerns with the way it was written as they felt it did not do both. The legislative council wrote it, if you are not requesting one, you don't want one, so you wouldn't need that. The House was concerned about that portion of it, because they felt it only allowed victims to receive the exam and not to have one. The intent of the language was to allow the victim to receive the forensic examination and then at some point in time,

whatever reasonable is, that the physician would notify the parent that they had received both the emergency care as well as the forensic examination. It wouldn't preclude a victim from getting an examination without their parents being there.

Senator Howard Anderson, Jr. indicated that when reading language, on line 12, it says "this subsection does not authorize a minor to withhold consent to emergency exam..." It says nothing about a forensic examination there. So that means that the minor cannot withhold consent to emergency examination care or treatment. In the second subsection, it talks about the forensic services. So if we thought the minor could withhold consent without that last sentence in subsection 1, it looks like they could withhold consent in subsection 2, the forensic examination.

Ms. Moos agrees it is confusing. We discussed having forensic examination in the first subsection, but it complicated it too much. She confirmed what Senator Howard Anderson, Jr. stated.

Senator Howard Anderson, Jr. restated if they don't want the forensic exam, they don't have to.

The committee discussed the language further, and confirmed they understood the language.

Senator Howard Anderson, Jr. stated the point of the bill is that you don't have to get parental consent, so not whether the victim to choose to have the forensic exam done.

Ms. Moos that is correct. Scenarios have happened in which minor victims have come in where the parents have forced them to have a forensic examination and they haven't wanted to have one, or the parent has not allowed them to have the examination. This allows the minor to make that decision. The House felt that it was important that parents be notified even after the care was provided. We are not opposed to that.

Senator Warner is okay with the language. To force a victim of sexual assault to submit to a forensic examination is a secondary sexual assault, so you could further traumatize the victim.

Senator Warner moved the Senate Human Services Committee DO PASS to engrossed HB 1314. The motion was seconded by **Senator Axness**.

Discussion

V. Chairman Oley Larsen reiterated the intention of the bill is to leave the parents out.

Chairman Judy Lee disagrees. The purpose of the bill is to make sure the minor can get emergency medical care even if they can't reach the parents right away.

Senator Dever interpreted it to be both. If it was suspected that the sexual assault was incest, that the parents not be notified. But if it was someone unrelated, they should make effort to notify the parents. If we are going to allow the care to be made for the minor, in essence we are allowing the minor to consent to the care and should not put any stipulation

on that differently than if it was an adult making a decision. They shouldn't be forced to accept the care.

Roll Call Vote

5 Yes, 1 No, 0 Absent. Motion passes.

Senator Dever will carry HB 1314 to the floor.

Date: 03/24 2015
Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB1314

Senate Human Services Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Sen. Warner Seconded By Sen. Axness

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee (Chairman)	✓		Senator Tyler Axness	✓	
Senator Oley Larsen (V-Chair)		✓	Senator John M. Warner	✓	
Senator Howard C. Anderson, Jr.	✓				
Senator Dick Dever	✓				

Total (Yes) 5 No 1

Absent 0

Floor Assignment Sen. Dever

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

REPORT OF STANDING COMMITTEE

HB 1314, as engrossed: Human Services Committee (Sen. J. Lee, Chairman)
recommends **DO PASS** (5 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed HB 1314 was placed on the Fourteenth order on the calendar.

2015 TESTIMONY

HB 1314



2-2-15

#1

Chairman Weisz and Members of the Human Services Committee-

For the record, I am Lois Delmore, and I represent District 43 which is the Southwest part of the city of Grand Forks.

I am here today to ask your favorable consideration of House Bill 1314.

The bill allows victims (age 14 and up) to consent to or refuse a forensic exam without parental consent. Statistics show that these are the largest group of sexual assault victims and are twice as likely to be sexually victimized as adults. Sometimes they report but often they may report to peers or others who may urge them to report and be examined. They may not disclose to parents. In some cases, family members are involved. Sometimes, alcohol may be involved.

Sometimes, the victim passed out and had trouble remembering what happened. Sometimes, they blame themselves for what happened.

Usually, Sane nurses who are specifically trained (40-96 hours) on evidence collection techniques, use of specialized equipment, chain of evidence requirements, expert testimony, injury detection, etc. are part of a team who collect information, and ask questions including whether the victim wants to receive a forensic exam to collect evidence of the assault. These nurses can have a positive impact on prosecutions of the cases, and they provide information to the victim on the process victims must go through. If they are under 18, victims can't consent to or decline this exam. Some victims may want the exam and some may not. Parents may have another view. This bill allows the victim to consent or decline as they choose.

There are others here to testify on the bill, but I will happily answer any questions that I can.

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Thanks for your time. I would urge your favorable support of House Bill 1314.



#2

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Testimony on HB 1314
House Human Services Committee
February 2, 2015

Chairman Weisz and Members of the Committee:

My name is Janelle Moos and I am the Executive Director of the CAWS North Dakota. Our Coalition is a membership based organization that consists of 20 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 support of HB 1314.

Adolescents are at substantial risk for rape and sexual assault. According to the National Juvenile Justice Center, adolescents 12-17 years old are the largest group of sexual assault victims and they are twice as likely to be sexually victimized as adults (Snyder, 2000; Snyder & Sickmond, 2006). Thirty-two percent of the sexual assault victims surveyed in the National Violence Against Women Survey (NVAWS) were first assaulted between the ages of 12-17.

Last year alone in North Dakota over 900 victims of sexual assault sought services from one of the twenty crisis centers; 40% of those victims were under the age of 18 at the time of the assault. Some adolescent sexual assaults are of course reported to the police, either by the victims themselves or by someone they disclosed to, such as a parent. In North Dakota, 70% of sexual assault victims report the assault to law enforcement.

SANE programs provide 24-hour-a-day, first response crisis intervention and medical forensic exams for adolescent and adult sexual assault victims. SANE nurses are often one of the first responders in cases involving teen victims of sexual assault and work as part of a team that involves advocates and law enforcement. When a victim comes in to receive medical and forensic services SANE nurses call on the others to provide information related to reporting options and to walk victims through the process. One of the first questions is whether a victim wants to receive a forensic exam to collect evidence of the assault. Currently, under ND law victims under the age of 18 cannot consent to or decline a forensic exam after a sexual assault. HB 1314 changes that. There have been several instances where victims have chosen not to have the forensic exam and parents have required them to do so and other cases where victims

/

have selected to have the exam and the parents do not consent. Both scenarios are concerning to our coalition. Rape and sexual assault is about power. Victims often feel powerless and responsible for the assault and need to feel like they have the ability to decide what happens to them and their body after the assault. Currently, adolescent victims don't have that ability to make that decision on their own.

The changes outlined in HB 1314 allow victims (age 14 and up) to consent to or refuse a forensic exam without parental consent. This is an important step to allow victims the ability to choose what is right for them. Often times when victims have that choice they do move forward with the exam and receive additional services from advocates. This change in the law won't impact that. We will continue to encourage victims to get the exam and access services- but ultimately it is their choice- therefore we urge a DO PASS on HB 1314.

Thank you.

2-16-15

Attachment # 1

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1314

Page 1, line 15, replace "shall" with "may"

Page 1, line 16, remove "and any related followup care to the minor"

Renumber Accordingly

Att. #1

HB 1314
2/17/2015

1. A minor may contract for and receive emergency examination, care, or treatment in a life-threatening or sexual assault situation, without the consent of the minor's parent or guardian. If a minor has an emergency medical condition or the potential for an emergency medical condition Reasonable steps must be made to contact the minor's parent or guardian. In these situations, consent to emergency examination, care, ~~or~~ treatment, or forensic services of the minor is implied ~~if reasonable steps to contact the minor's parent or guardian are unsuccessful.~~ This section does not authorize a minor to withhold consent to emergency examination, care, ~~or~~ treatment, or forensic services.
2. ~~Upon the request of a minor who is a victim of sexual assault, a physician or other health care provider shall provide emergency medical care or forensic services related to the sexual assault and any related followup care to the minor without the consent of the minor's parent or guardian.~~

Amendment 2

Att. # 2
#B 1314
2/17/2015

1. A minor may contract for and receive emergency examination, care, or treatment in a life-threatening situation without the consent of the minor's parent or guardian. If a minor has an emergency medical condition or the potential for an emergency medical condition, consent to emergency examination, care, or treatment of the minor is implied if reasonable steps to contact the minor's parent or guardian are unsuccessful. This ~~section~~ subsection does not authorize a minor to withhold consent to emergency examination, care, or treatment.
2. ~~Upon the request of a minor who is a victim of sexual assault, a~~ A physician or other health care provider ~~shall~~ may provide emergency medical care or forensic services ~~related to the~~ to a minor who is a victim of sexual assault ~~and any related followup care to the minor~~ without the consent of the minor's parent or guardian. Reasonable steps must be made to contact the minor's parent or guardian.

Att. #3
HB 1314
2/17/2015

Where a minor is the victim of a predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, aggravated criminal sexual abuse or criminal sexual abuse, as provided in Sections 12-13 through 12-16 of the Criminal Code of 1961, as now or hereafter amended, the consent of the minor's parent or legal guardian need not be obtained to authorize a hospital, physician or other medical personnel to furnish medical care or counseling related to the diagnosis or treatment of any disease or injury arising from such offense. The minor may consent to such counseling, diagnosis or treatment as if the minor had reached his or her age of majority. Such consent shall not be voidable, nor subject to later disaffirmance, because of minority.