

FISCAL NOTE
Requested by Legislative Council
01/23/2015

Amendment to: SB 2332

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

| | 2013-2015 Biennium | | 2015-2017 Biennium | | 2017-2019 Biennium | |
|----------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
| | General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| Revenues | | | | | | |
| Expenditures | | | | | | |
| Appropriations | | | | | | |

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

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- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill relates to penalties for individuals found guilty of hiring an individual to engage in sexual activity.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

This bill provides that the court system may order a first time offender to attend an education program on the negative consequences of the commercial sex industry. The court may order the offender to pay the cost of the education program, thus this section would not have a fiscal impact to the court system.

The bill also increases the penalty from a class B misdemeanor to a class A misdemeanor for individuals found guilty of a second or subsequent offense within a ten year period of hiring an individual to engage in sexual activity. The court system identified only a couple of repeat offenders over the last several years. The fiscal impact would be very minimal.

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Name: Don Wolf

Agency: ND Court System

Telephone: 328-3509

Date Prepared: 01/28/2015

FISCAL NOTE
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Telephone: 328-3509

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FISCAL NOTE
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Bill/Resolution No.: SB 2332

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Date Prepared: 01/28/2015

2015 SENATE JUDICIARY

SB 2332

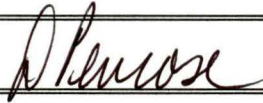
2015 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2332
2/3/2015
23078

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Minutes:

1, 2

Ch. Hogue: We will open the hearing on SB 2332.

Sen. Mac Schneider: Sponsor, support (see attached 1).

Sen. Armstrong: What is the status of this program in ND, the John's program? Is it moving forward?

Sen. Mac Schneider: I worked with Ms. Sambor, because there isn't a program or John's school that has to have an ongoing line item or require ongoing funding. In speaking with these advocacy groups, we do believe that the few offenders that are out there, that are being prosecuted, these services could be provided either on a face-to-face basis or through a webinar. Certainly the fact that the court has the option to order the offender to pay for this, I think you can develop a program pretty quickly. Part of this approach is not to create a new program that's going to require ongoing funding. This would be done on a case-by-case basis with funds paid for by the offender themselves.

Sen. Luick: What happens if the offender does not have those funds, but they are still obligated to go through that school?

Sen. Mac Schneider: The court could potentially order the offender to go through this program and have someone pay for it other than the offender. I doubt that would happen; I imagine that a judge would be unwilling to impose that kind of burden on a non-profit group. I don't see that being an obstacle in this case. It does leave a lot of discretion to the court. If the program isn't available they don't have to order it. If the offender doesn't have funds, the defendant doesn't have to pay for it. Again, if you have enough money to

patronize this illegal industry, more times than not, you're probably going to have the funds to pay for this education.

Ch. Hogue: Thank you. Further testimony in support.

Christina Sambor, Coordinator, ND FUSE: Support (see attached 2). I can explain about the offender education program. We've done some initial research and there are a couple of different organizations including one called the Life Wisdom Foundation. It basically provides a correspondent type course, and it is actually an interactive course with a web-based and they are very treatment focused. It is talking about getting at some of the things that I pointed out in my testimony, which is the underlying fantasy or belief that they are engaging in commercial sex with someone who is willing and happy to be there with them. It is getting at that underlying belief and exposing the lack of truth behind it. I think that particular organization is promising and they have been in touch with the director of that organization because they take a different education approach instead of just handing them a workbook and giving them a quiz. This is an interactive course and that class is just under \$300.00. One we're talking about costs to offenders, I think the cost for this program would be in line with the amount of other court fines and fees that you see ordered with other crimes. It's not something that we are asking someone to pay a \$1500.00 fee for the court. Again, if you have money to spend \$150.00 on an hourly basis to engage in commercial sex, you can likely scrape together \$300.00 for an educational program. In addition, Nikki Burke Buren, who is a professor at UND, has expressed interest in developing a ND specific program; I think that there would be eye for our coalition to create something that may be specifically available for offenders in ND, on an occasional basis. I am confident that there are adequate education programs out there that would likely meet the approval of the Supreme Court if they were to review it. That would be available for johns who are convicted of solicitation.

Sen. Armstrong: This isn't unique to this area, but when the criminal justice system sub-contracts out part of the punishment and we do it in other areas, too, you run into issues when the service isn't available, criminal defendants with convictions end up back in court oftentimes dealing with issues for failure to comply and it happens in other areas, such as drug and alcohol rehab. In fairness it is the criminal's fault, but when you get into more rural areas in the state, the system is not set up the same way it is in Bismarck, Fargo, Grand Forks, where the resources are readily available. That's my concern.

Ms. Sambor: I understand that concern. From FUSE's standpoint, I can simply offer that I think that we, as a coalition, would be willing to work with the court system to make the education program as responsive as it could possibly be.

Ch. Hogue: Thank you. Further testimony in support.

Jon Byers, Asst. Attorney General: Support. I'm here to lend the Attorney General's support to the bill and we're asking for a Do Pass from the Committee.

Ch. Hogue: Thank you. Further testimony in support. Testimony in opposition. Neutral testimony. We will close the hearing.

2015 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2332
2/10/2015
23554

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Minutes:

1

Ch. Hogue: We will take a look at SB 2332. I have an amendment (see attached #1). This is the bill relating to the mandatory education program for individuals who solicit prostitutes or victims of human trafficking. First, the amendments allow only the court sentence them to this education program, if the program is within 50 miles of the offender's residence or if there is something available on-line. You see on page 1, line 19, that offenders should be singular, offender's not plural. The second is "may". I think a lot of us philosophically have problems with requiring the courts to impose minimum mandatory sentences. We'll leave it up to the court, at least initially. If we receive word back that no one is being sentenced to this, we can always adjust it, but the idea that they "must" be sentenced is something I normally wouldn't support. You will recall that the Bill wanted to label those repeat offenders as sex offenders and require registration. I had a hard time supporting that registration is a very severe penalty. Some people would tell you that it is more severe than being labeled a felon, to have to be a registered sex offender. It prohibits your employment opportunities, limits where you can live, it's a very draconian sanction and I don't think the legislature should dole that out willingly, unless it is a serious offense involving coercion or force. The individuals who are soliciting prostitution typically aren't doing that. I would be reluctant to put them in the class of sexual offenders. That's the reason for striking out section 3.

Sen. Grabinger: I question your idea with the 50 miles from the offender's residence. In the original bill, it stated, "If the court finds an offender education program is reasonably available. To me, we should leave that discretion to the court and it's already there. Setting a mileage in there is something that I don't think is necessary when it's already up to the court's discretion. Now if

you wanted to add something about on-line, I wouldn't disagree with that. I don't know if we need to set a 50 miles limit.

Ch. Hogue: I thought about that. It would depend on what the court thought was reasonable. Requiring somebody, for example, in Fargo to drive to Bismarck, to me seems a little excessive. I don't have a problem with setting a hard mile limit because the offender is going to have to incur those costs and we ought to be able to put some reasonable cap on what those costs should be. I understand there is a program in Minneapolis, I think. Is that reasonably available to an offender that resides in Fargo. I'm sure that some of the judges in Fargo would probably say it is, some would say that it isn't. I think the mile limitation makes it clear. I'm not certain, but with the on-line option, that will be the primary way that this particular sanction is handed out.

Sen. Nelson: In line 17, if it's going to make it "may", you probably don't need the word "Mandated" in there either, if it is not mandated.

Ch. Hogue: You're right.

Sen. Nelson: I have the same problem, the way this is written the people in Tower City could come reasonably to Fargo; but the people in Valley City, that's 10 miles further aren't. People from Valley City come to Fargo all the time. To them it's reasonable. Jamestown is a little further, that's 100 miles. If you were to draw circles around places where they would have the course offered, it would be interesting how much of the state was actually covered.

Ch. Hogue: We could even go 75 miles, because that would cover the two biggest cities, Grand Forks and Fargo and 75 miles has the symmetry of being an hour's drive, round trip is 150 miles.

Sen. Armstrong: I was speaking to people; I like the idea. If you draw a circle on a map of ND, as how many programs there are in ND right now, the answer is zero and we're putting something in the criminal code. I understand their vigor and idea to do this. This becomes part of the criminal sentence. I'm going to support it if it gets amended. I am going to have a hard time supporting it if it gets amended for that reason. I will support the amendment, but when you start mandating requirements based on private groups not the court, testifying that they are going to set something up and then leave it up to the court's discretion as to what is reasonable. The difference between an alcohol eval or domestic violence eval is that those programs were in place when we put them in the Code. That's a big distinction. Just to add on the

second part of the amendment; sex offender registration has been litigated that it is not punishment. It is for the protection of the community; that's how it survives in the NDCC. I don't think there are any doubts that it's put in this bill to be punishment. If that is what it does, in MN sex offender registration is being litigated. Commitments are being litigated, things of that nature. It's not being used for its intended purpose in this bill. I understand why they are trying to do it; it is a civil issue to protect the community. I don't think that the people, who are intended to be covered in this bill, are a danger to the community in the way that sex offender registration is used currently in North Dakota. I think it is a big change in philosophy and I think there may be some significant unintended consequences if it remains in the bill.

Sen. Grabinger: I don't disagree with that last part. I go back to the fact that there aren't any programs available, it clearly states in here if the court finds an offender education program is reasonably available; if it's not obviously you can't be sentence to it, if it's not available. Back to the mileage, as far as the court, the judge is determining how many days in jail are reasonable. Why can't the judge decide this if it is reasonable or not. I don't think we have to set that limit, but I do agree with the last part.

Sen. Armstrong: Reasonableness sounds so good when we talk about it in the committee room; reasonableness can take on a whole different meaning. A judge could reasonably say you are in Dickinson and you have to take this program in Minneapolis. He could order that under the language, prior to amendment. I understand your opinion on it; my opinion is that I don't know if I want them to have that much discretion.

Ch. Hogue: It's a matter of degree and how much discretion do you want to give the court. I hear Sen. Grabinger say is let's leave it completely within the court's discretion and I hear Sen. Armstrong saying that Dickinson to Minneapolis could be reasonable for one person and not the other. Of course, the only opinion that would matter would be the judge's. Is the 75 mile radius okay. We want to delete the word "mandated" on line 17. Do we want to replace it with anything like "discretionary" or is it okay just as Offender Education program.

Sen. Armstrong: I would also say in two years when we come back and this program is up and running, I would fully support reevaluating this once we know what the program and how it is running. I move the amendment, that we raise the mileage to 75 miles, on line 19, removing "mandated" on line 17.

Sen. Casper: Second the motion.

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

Sen. Armstrong: I move a Do Pass as amended and rereferred to Appropriations.

Sen. Casper: Second the motion.

6 YES 0 NO 0 ABSENT

DO PASS AS AMENDED AND REREFERRED TO APPROPRIATIONS

CARRIER: Sen. Armstrong

February 10, 2015

W
2/10/15

PROPOSED AMENDMENTS TO SENATE BILL NO. 2332

Page 1, line 2, replace "a mandated" with "an"

Page 1, line 3 remove "and subdivision e of subsection 1 of section 12.1-32-15"

Page 1, line 4, remove "and sex offender registration"

Page 1, line 16, replace "**Mandated offender**" with "**Offender**"

Page 1, line 17, remove "reasonably"

Page 1, line 17, replace the underscored comma with "within seventy-five miles of the offender's residence"

Page 1, line 18, replace "must" with "may"

Page 1, remove lines 23 and 24

Page 2, remove lines 1 through 8

Renumber accordingly

Date: 2/10/2015
Voice Vote # 1

2015 SENATE STANDING COMMITTEE
VOICE VOTE
BILL/RESOLUTION NO. 2332

Senate Judiciary Committee

☐ Subcommittee

Amendment LC# or Description: Hogue amendment (see #1)

Recommendation: ☒ Adopt Amendment

☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation

☐ As Amended ☐ Rerefer to Appropriations

☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Seconded By

Motion Made By Sen. Armstrong Sen. Casper

| Senators | Yes | No | Senators | Yes | No |
|----------------|-----|----|----------------|-----|----|
| Ch. Hogue | | | Sen. Grabinger | | |
| Sen. Armstrong | | | Sen. C. Nelson | | |
| Sen. Casper | | | | | |
| Sen. Luick | | | | | |
| | | | | | |

Total (Yes) _____ No _____

Absent _____

Floor
Assignment _____

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

Voice Vote: Motion Carried.

Date: 2/10/15

Roll Call Vote #: 2

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTE

BILL/RESOLUTION NO. 2332

Senate

JUDICIARY

Committee

☐ Subcommittee

Amendment LC# or Description: 15.0969.01001 02000

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. Armstrong Seconded By Sen. Casper

| Senators | Yes | No | Senators | Yes | No |
|----------------|-----|----|----------------|-----|----|
| Chairman Hogue | ✓ | | Sen. Grabinger | ✓ | |
| Sen. Armstrong | ✓ | | Sen. C. Nelson | ✓ | |
| Sen. Casper | ✓ | | | | |
| Sen. Luick | ✓ | | | | |
| | | | | | |

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Armstrong

REPORT OF STANDING COMMITTEE

SB 2332: Judiciary Committee (Sen. Hogue, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2332 was placed on the Sixth order on the calendar.

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Page 1, line 3 remove "and subdivision e of subsection 1 of section 12.1-32-15"

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2015 SENATE APPROPRIATIONS

SB 2332

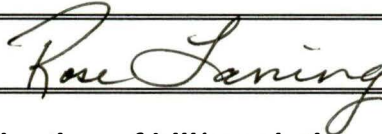
2015 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

SB 2332
2/18/2015
Job # 24053

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act relating to an offender education program; relating to hiring an individual to engage in sexual activity; and to provide a penalty.

Minutes:

Attachment 1

Chairman Holmberg called the committee to order on Wednesday, February 18, 2015 at 9:30 am in regards to SB 2332. All committee members were present.

Mac Schneider, State Senator, District 42, Bill Sponsor: Attachment 1

Chairman Holmberg said the committee made some amendments to the bill and they assumed that would have a fiscal impact, so they amended it and sent it to appropriations. This morning we got the original fiscal note that they had updated - which meant they did nothing with it, so there is no fiscal impact. If we could start over again, we would not have had this bill because it's not within our purview.

We have two choices. We can pass the bill out and send it back up to the floor or we can just ask the floor to bring it back from appropriations to be put on the 11th order. Now that we've had a hearing, we have to do something on the bill.

Senator Carlisle: Where would this "john" school be or where would this person go?

Senator Schneider: We've worked very closely with the ND Council and Abused Women's services, and also ND FUSE. They have said that these programs will be in place, but the beauty of it is, if the programs are not there, the court doesn't have to order them. There's nothing mandatory here.

Senator Wanzek moved Do Pass on SB 2332.

Senator Robinson seconded.

A Roll Call vote was taken. Yea: 13 Nay: 0 Absent: 0

The bill goes back to the Judiciary Committee and Senator Armstrong will carry the bill on the floor.

Date: 2-18-13
Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2332

Senate Appropriations 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 Wanzek Seconded By Robinson

| Senators | Yes | No | Senators | Yes | No |
|-------------------|-------------------------------------|----|-------------------|-------------------------------------|----|
| Chairman Holmberg | <input checked="" type="checkbox"/> | | Senator Heckaman | <input checked="" type="checkbox"/> | |
| Senator Bowman | <input checked="" type="checkbox"/> | | Senator Mathern | <input checked="" type="checkbox"/> | |
| Senator Krebsbach | <input checked="" type="checkbox"/> | | Senator O'Connell | <input checked="" type="checkbox"/> | |
| Senator Carlisle | <input checked="" type="checkbox"/> | | Senator Robinson | <input checked="" type="checkbox"/> | |
| Senator Sorvaag | <input checked="" type="checkbox"/> | | | | |
| Senator G. Lee | <input checked="" type="checkbox"/> | | | | |
| Senator Kilzer | <input checked="" type="checkbox"/> | | | | |
| Senator Erbele | <input checked="" type="checkbox"/> | | | | |
| Senator Wanzek | <input checked="" type="checkbox"/> | | | | |
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Total (Yes) 13 No 0

Absent 0

Floor Assignment Judiciary

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

Armstrong

REPORT OF STANDING COMMITTEE

SB 2332, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)
recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed SB 2332 was placed on the Eleventh order on the calendar.

2015 HOUSE JUDICIARY

SB 2332

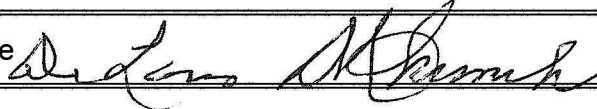
2015 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

SB 2332
3/18/2015
25083

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to hiring an individual to engage in sexual activity; and to provide a penalty.

Minutes:

Testimony #1, #2

Chairman K. Koppelman: Opened the hearing on SB 2332.

Christina Sambor, FUSE: (See Testimony #1) Support on this bill. The bill would have a couple different provisions that differ from the version you have before you. It would have mandated an offender education program for first time offenses and it would have for a subsequent offense required registration as a sex offender. Those were the original provisions. If we don't increase the risk reward calculation here for the consumers of commercial sex I don't think we are going to make the headway we need to make on this issue. Having misdemeanor offenses attached to the purchasing of commercial sex is problematic. When the bill was originally drafted it had the Class A misdemeanor and the registration as a sex offender. Our hope is that this community would look at increasing the penalty for pimps and the people on the trafficking side. The offender education piece was intended to say OK if you come in and are charged with a Class B misdemeanor; solicitation, but then you are given defender education that says you r decision to purchase commercial sex perpetuates a business model which results in the enslavement of most of its participants. If you understand that and continue to engage in the behavior then you are engaging in predatory sexual behavior and should be subject to the same sex offender registration requirements like any other person praying on a vulnerable population would be. Right now we don't have an up and running sex offender education program. We have done some research on a couple on line options. Some have an interactive course and that looks good. It was amended to go from mandatory to discretionary because of the lack of a current program.

Rep. L. Klemin: Looking at the people the Johns in a certain respect they are also victims because they are being enticed to do such a thing. I am not sure requiring them to register as a sex offender would accomplish that. We have a difficult time now finding places for these people to live or work. I am not sure requiring them to register as a sex offender would accomplish that. They have a very difficult time after that happens. It is difficult to find places for them to work or live so if we look at them as maybe being a secondary victim

in this commercial enterprise and requiring treatment like this defender education that might be better than placing them into a lifetime of having to be registered as a sex offender because they fell into this trap.

Christina Sambor: I disagree to a certain extent about the characterization of a victim. Had an example of a guy who went into the oil patch to work undercover that was so lonely and difficult to work in that area. I understand why they might consider seeking out commercial sex when they normally would never do it. There are people in those situations that would benefit from the education piece. If they receive an education and continues to go in that behavior then should be accountable.

Chairman K. Koppelman: The way the bill reads now education probably won't be available. How do we ensure the education you are talking about happens on the first offense?

Christina Sambor: That falls on me and my group. It might be two years before it might be a required part of that.

Rep. L. Klemin: Offender education program for a first offense. Why just a first offense?

Christina Sambor: I think you make a good point. Maybe requiring it for a second offense would be good.

Rep. L. Klemin: If we just said for an offense may include so there is some judiciary discretion there.

Rep. K. Wallman: We talk about sex addiction and pornography addiction. Those are treatable. If we do find someone who offenses a second time; perhaps an assessment for those things in treatment might be an option?

Christina Sambor: Just because we aren't mandated that truck stops post those signs doesn't mean that we are not going to work with the Attorney General to go out and encourage them to do that.

Chairman K. Koppelman: Do you favor the original bill language regarding the education piece.

Christina Sambor: I do support that.

Chairman K. Koppelman: The bill now says if the court finds an offender education program is available within 75 miles of the offender's residence they may include. The original bill said if the court finds an offender education program is reasonably available; for first offense must include. That seems to me that is good language because there is a qualifier?

Christina Sambor: It was the original language we liked.

Senator Schneider: Prime sponsor. (See Testimony #2) (19:00-21:23) This bill asked us to own up to a pretty hard fact. If there is no demand for the services being provided by these sex traffickers in ND they wouldn't be here doing business. I think the education component is critically important. This is an industry that is exploitative and let them know the horrors of human trafficking and how exploitative this relationship is between a pimp and victim. Went over some of the information on testimony.

Rep. L. Klemin: Does breaking free offer these classes on line?

Christina Sambor: Yes there are some on line options available and assessable. It is an easy step to integrate them. It would take minimum amount of work to integrate the two.

Chairman K. Koppelman: Are one line programs as effective? Physically being somewhere might be more of an impact.

Christina Sambor: I don't believe you are. That is why I am in favor of SB2199. I think it would be more effective than on line.

Christopher Dodson, ND Catholic Conference: In support of this bill. It is important to get the offender to recognize the victim as a fellow human person. Faith groups are saying that that needs to be emphasized more each day. Course it will need money.

Jonathan Byers: Attorney General's office: Support.

Opposition:

Neutral: None

Hearing closed

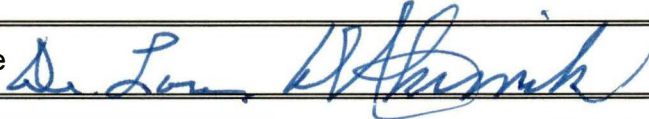
2015 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

SB 2332
3/31/2015
25638

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Minutes:

Proposed amendment #1

Chairman K. Koppelman: Opened the meeting on SB 2332. (See proposed amendment #1) Went over the amendment.

Motion made to move the amendment by Rep. Lois Delmore: Seconded by Rep. D. Larson:

Discussion: None

Voice vote carried.

Rep. L. Klemin: Proposed amendment on line 17 the words a first place that with the word an. The court certainly can use its discretion.

Chairman K. Koppelman: On line 17 the words a first after sentence for would be replaced with the word an.

Motion to move the amendment by Rep. L. Klemin: Seconded by Rep. D. Larson:

Discussion:

Rep. D. Larson: I think this would also be an effective thing to use because there would be some that maybe getting sentenced on a second offense after this becomes law.

Voice vote carried.

Do Pass As Amended Motion Made by Rep. Lois Delmore: Seconded by Rep. K. Hawken:

Roll Call Vote: 13 Yes 0 No 0 Absent Carrier: Rep. G. Paur

Proposed Amendments to SB 2332 from Representative Koppelman

Page 1, line 16, remove "within seventy-five miles of the"

Page 1, line 17, remove "offender's residence or is available online"

March 31, 2015

SK
3/31/2015

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2332

Page 1, line 16, remove "within seventy-five miles of the"

Page 1, line 17, remove "offender's residence or is available online"

Page 1, line 17, replace "a first" with "an"

Renumber accordingly

Date: 3-31-15
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2332

House JUDICIARY

Committee

☐ Subcommittee

☐ Conference Committee

Amendment LC# or Description:

"Add within 75 miles of the"
Remove "offenders residence or is available on line"

Recommendation:

☒ Adopt Amendment

☐ Do Pass

☐ Do Not Pass

☐ Without Committee Recommendation

☐ As Amended

☐ Rerefer to Appropriations

Other Actions:

☐ Reconsider

☐

Motion Made By

Rep. Delmore

Seconded By

Rep. Larson

| Representative | Yes | No | Representative | Yes | No |
|-----------------------|-----|----|----------------------|-----|----|
| Chairman K. Koppelman | | | Rep. Pamela Anderson | | |
| Vice Chairman Karls | | | Rep. Delmore | | |
| Rep. Brabandt | | | Rep. K. Wallman | | |
| Rep. Hawken | | | | | |
| Rep. Mary Johnson | | | | | |
| Rep. Klemin | | | | | |
| Rep. Kretschmar | | | | | |
| Rep. D. Larson | | | | | |
| Rep. Maragos | | | | | |
| Rep. Paur | | | | | |
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Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Date: 3-31-15
Roll Call Vote #: 2

2015 HOUSE STANDING COMMITTEE

ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2332

House JUDICIARY

Committee

☐ Subcommittee

☐ Conference Committee

Amendment LC# or Description: Klemin changes on line 17 a first after sentence

Recommendation: ☒ Adopt Amendment

☐ Do Pass

☐ Do Not Pass

☐ Without Committee Recommendation

☐ As Amended

☐ Rerefer to Appropriations

Other Actions:

☐ Reconsider

☐

Motion Made By Rep. Klemin Seconded By Rep. Larson

| Representative | Yes | No | Representative | Yes | No |
|-----------------------|-----|----|----------------------|-----|----|
| Chairman K. Koppelman | | | Rep. Pamela Anderson | | |
| Vice Chairman Karls | | | Rep. Delmore | | |
| Rep. Brabandt | | | Rep. K. Wallman | | |
| Rep. Hawken | | | | | |
| Rep. Mary Johnson | | | | | |
| Rep. Klemin | | | | | |
| Rep. Kretschmar | | | | | |
| Rep. D. Larson | | | | | |
| Rep. Maragos | | | | | |
| Rep. Paur | | | | | |
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Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

line 17, replace A first

Date: 3-31-15
Roll Call Vote #: 3

2015 HOUSE STANDING COMMITTEE

ROLL CALL VOTES
BILL/RESOLUTION NO. SB2332

House JUDICIARY

Committee

☐ Subcommittee

☐ Conference Committee

Amendment LC# or Description: 15. 0969. 03001

Recommendation: ☐ Adopt Amendment

☒ Do Pass

☐ Do Not Pass

☐ Without Committee Recommendation

☒ As Amended

☐ Rerefer to Appropriations

Other Actions:

☐ Reconsider

☐

Motion Made By Rep. Delmore

Seconded By

Rep. Hawken

| Representative | Yes | No | Representative | Yes | No |
|-----------------------|-------------------------------------|----|----------------------|-------------------------------------|----|
| Chairman K. Koppelman | <input checked="" type="checkbox"/> | | Rep. Pamela Anderson | <input checked="" type="checkbox"/> | |
| Vice Chairman Karls | <input checked="" type="checkbox"/> | | Rep. Delmore | <input checked="" type="checkbox"/> | |
| Rep. Brabandt | <input checked="" type="checkbox"/> | | Rep. K. Wallman | <input checked="" type="checkbox"/> | |
| Rep. Hawken | <input checked="" type="checkbox"/> | | | | |
| Rep. Mary Johnson | <input checked="" type="checkbox"/> | | | | |
| Rep. Klemin | <input checked="" type="checkbox"/> | | | | |
| Rep. Kretschmar | <input checked="" type="checkbox"/> | | | | |
| Rep. D. Larson | <input checked="" type="checkbox"/> | | | | |
| Rep. Maragos | <input checked="" type="checkbox"/> | | | | |
| Rep. Paur | <input checked="" type="checkbox"/> | | | | |
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Total (Yes) 13 No 0

Absent 0

Floor Assignment Rep. Paur

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

REPORT OF STANDING COMMITTEE

SB 2332, as engrossed: Judiciary Committee (Rep. K. Koppelman, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2332
was placed on the Sixth order on the calendar.

Page 1, line 16, remove "within seventy-five miles of the"

Page 1, line 17, remove "offender's residence or is available online"

Page 1, line 17, replace "a first" with "an"

Renumber accordingly

2015 CONFERENCE COMMITTEE

SB 2332

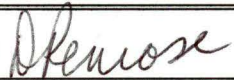
2015 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2332
4/10/2015
26029

☐ Subcommittee
☒ Conference Committee

Committee Clerk Signature



Minutes:

Chairman Armstrong called the conference committee on SB 2332 to order. All Senators and Representatives were present.

Chairman Armstrong: Could Rep. Paur just walk through the amendments, that the House did? It is a pretty simple bill.

Representative Paur: Yes it is. We just basically. We couldn't see a lot of value in limiting it to 75 miles of this. We're starting this out and something which Rep. Johnson mentioned that a lot of these people are probably truckers. How that would affect the johns. As this Hogue program is starting out, it would probably just be better to leave it fluid and not up to the discretion of the courts. Maybe in a couple of years from now, see if there should be some requirements on it. There are no current programs. As far as the 1st offense John's schools I believe are traditionally for 1st offense. Rep. Klemin talked to remove that why limit it to that. But the other side of it is that as we implement this program there maybe instances where a person has offended before and then would be exempt, because this would be a second offense from taking advantage of the school. As you guys left it, it is probably fine. I went and I spoke to Joh Byers concerning this, and he said either way it was written he thought was fine. Either your way or my way, which one would you prefer? He said I would probably prefer the House version. He said if we we're mandating, requiring the there be a John's school then it would probably be more appropriate to have a mileage on there. But as long as there is not a mandate that it is probably better to leave it off.

Senator Casper: My concern about this and I have been supportive of the Legislation we've had a number of bills this session through our committee and

your committee with regard to sex trafficking and prostitution. When I carried some of those amendments on the floor and support them. My issue with this is the way it is currently drafted is that we are leaving it to wide open. That we have some role responsibilities as a Legislature to apply some level of reasonableness and these are completely leaving it up to the courts. I would be interested in having some kind of whatever were limiting to the jurisdiction of the court or limiting it to the borders of the state. Right now we don't and unless something has changed between when we had our hearings on this and today, there is not a john school in North Dakota. So my concern would be someone that would be in Williston or Dickinson being required to go to John school in Chicago or Minneapolis which technically I suppose under the way it is drafted now they could. I am assuming they would because it seems pretty unreasonable to me that a court would do that, but I don't think that we should leave that solely in the hands and not apply some reasonableness ourselves. So that is what I would advocate for having some change of that to the bill or not having the bill at all in that case.

Senator Armstrong: Your description of what you guys talked about in the House and the Senate I think we have the same process going through. I think our distinction the difference was that. We had the same discussion it sounds like you had and the reasonableness. I like the not just the first offense if it's any offense. I like that language. But, I do personally get very concerned if we start putting something in code at all in any way discretionary or not. Just to me personally I am not speaking for the rest of my committee on this because I have obviously strong personal and professional feelings about these kinds of issues. I real feel this is cart before the horse. When you're dealing with, there is no court that is implementing this program. There is no state's attorney's office that is implementing this program and there is no sheriff's office implementing this program. There is no state agency that is planning on implementing this program. We do this in other areas where we sub out to independent parties where it is alcohol addiction, domestic violence, counseling; those types of things where we do that in court orders. But I get very leery about putting anything in the code relating to criminal convictions when there isn't a program. I mean the program doesn't exist today. It doesn't exist anywhere today. So, that is where my personal intrepidation is with that.

Representative Anderson: I totally agree with you Senator Armstrong. I am just wondering if, and I don't even know if we could do this, to put something in to say and then it doesn't come for effect for like a year. So maybe that is impetus to get a program started somewhere or does something. I don't know how we can even suggest even something that doesn't exist in the state.

Representative Johnson: John schools do exist on line. The first sentence on line 16, if the court finds an offender education program is available. While they is none available right now, therefore the "may". Now this gives us the courts leeway and I don't know if you guys must live in the west, courts are pretty reasonable where I come from and they can understand. The problem I have with on-line John school stuff is that they are long. The shortest one was 12 hours. To me the way I see saw this working is that CAWS or others views develop or find an on-line program that is approximately one hour long, maybe two, and before this john even leaves the courthouse the judge says we have a program we need you to see in the other room. I want you to take it before you go. That's the way I foresee this happening. I don't think the reference to mileage is necessary in this world of information technology. So I think the House version is good.

Senator Casper: I'd say you know I agree with the "if" statement. However, the minute I heard it was adding basically "reasonable available in the state", so "if" is the determination of is available for whatever it takes. Is it available in Minneapolis, is available 20 hours on line, 6 hours on line, it would be completely up to the court. I just have an issue of putting in code something that is not required or something that is not in existence that we have in the state an operating program even if it is a "if" statement because I know we're talking about technicalities and probably about the fringe.

Representative Anderson: If we have a program I would like it to be mandated once we have a program.

Senator Armstrong: I think we all agree with that statement. But then on the flip side of the coin, would be like Rep. Johnson's statement if your choice was to drive through Fargo to take this class and drive home to Williston to take this class versus a 12 hour on-line class there is a lot of people that would rather take the 12 hour online class. You know we're dealing with a lot of variables and part of the reasons we are, is because it doesn't exist. That was my concern when we had the testimony and I appreciate the people who are bringing this forward and I appreciate the sentiment behind it but nobody. You know when we change substance abuser we have a domestic violence bill where we were discussing pushing the court in the right direction as to what they sentence for domestic violence. We want offender treatment, we don't want counseling, we don't want anger management; but when we talk about those things we know what all three of those things are exactly because they exist and you can look at the metrics and you can look at the programs and you can this and these programs. There is nothing except we're going to get one

going. When you're dealing with the criminal code and the other thing is when you deal with that and it gets ordered it becomes, it is the impetus for violations of probation, its impetus for orders to show cause; it is impetus to go back into the court room and explain to the judge and for all the reasons you don't like somebody travelling half way across the state to do it, it is the same thing if a guys in Wyoming and he's up working and it's your trucker scenario, now he's back in Wyoming and now there is an order to show cause, now its warrants and resources and things of that nature and it seems like a very good thing. But like I said I have concerns when we are trying to put anything in code, mandated or otherwise that doesn't exist yet.

Representative Paur: What do you see around it? In my discussion with Byers, you said that other sex offenders are often required to travel more than 75 miles, like from Williston to Minot which isn't a lot longer than that. A lot of these sex treatment programs are multiple events and multiple treatments. With this program the ones that are existing, nationwide generally are an 8 hour/ 1 day course. It isn't like a where you have to go someplace for a month. If a lot of the offenders are truckers, how do you address that? Do you have any suggestions?

Senator Armstrong: That 75 miles, was probably the best way to describe it, a place holder amended to move the bell forward to keep it talking. I don't have any personal heartburn on that particular thing. I don't know if the rest of the committee does. The real concern was making sure it was pretty strict in this, and we did same the thing and I think people who are around will know that same 2 years if these things are up in running we will come in and put them in place and we'll put it in the code and that stuff. I liked adding the on-line language. The on-line portion we had in I like having in there. I think the reasonably language, the general reason we put in available language was the House amended it. I would really like if we had any structure that to how these programs were distributed across the state. I would say that the difference between sex offender cases and that kind of treatment can be used as well this is a crime and it's a serious crime and it's all that and we are dealing with B misdemeanor and A misdemeanor versus significant felonies that carry significant probationary issues with them and that is for all sex offenses. They have either or both supervised probation and sex offender mandated treatment, so when those things happen those people become part of the system as soon as they plead guilty and the resources are expended against them. At the felony level, these are, you know the 1st one is a misdemeanor which you can't even have supervised probation so I think there is another problem that comes into play there. In the enforcement section of it is if you don't have the ability for

supervised probation and quite frankly most of the second offenses wouldn't have supervised probation they would have the ability for them in A misdemeanor but they don't. More A misdemeanors have unsupervised probation than probation. So you run into some back end enforcement issues. I like the concept; I just think we need to tighten the language up until the program is in place. I guess is the best answer I can give you. I am not sure what that language is at this point.

Representative Johnson: Is there any way we can direct an agency of some sort, somebody, director, to establish a sex offender education program? I don't know.

Senator Armstrong: We sure could but without an appropriation and in talking to people and at this stage of the game I think they would get a little grouchy with us. Because without setting it up. I mean in order to set it up. There are agencies that are planning on setting it up they are in the room right now. They are planning on doing it. We could ask them do they have any idea when this will be up and running.

Christine Sanbor, FUSE I don't think that it will be and we don't have to reinvent the wheel on. There are a lot of successful programs and "Breaking Free" program for example we've bought Breaking Free and other trainings and things we have done, so I don't think there would be any great stretch to get access to the curriculum and develop something here and distribute it to the court system. I am doing training in May with the Judicial Institute which will basically be all the judges in the state, so it wouldn't be in terms of kind of introducing the concept to them and laying the ground work. So, I would say within 6 months, 3-6 months we could get a curriculum together. Of course getting, and maybe part of the issue more is the system by which you distribute that. But I have seen in and this maybe a little bit of conjecture on my behalf, but it's part of some law enforcement stings. I've seen them kind of having some of the initial education piece, be short and part of kind of a sting operation. I think it may be the county that does something like that where they have sort of a laptop that has kind of an online component and they basically make them sit there and look at that as part of being apprehended for responding to ads for commercial sex. So, longer answer to your short question is I think within 6 months it wouldn't be any tough.

Senator Armstrong: So when you say it is up and running who are you administering the program?

Christine Sanbor: I would say that FUSE would administer the program through its advisory committee. When you think about FUSE it is 25 different representatives from different agencies so we've got representation from DOCR, For Her, so I think. I can't tell you who it would be, right now, but, I would be happy to do it personally.

Senator Armstrong: Well I think that is my personal trepidation with this is I understand the concept. I don't understand the mechanics. When I plead guilty in Bowman on Tuesday, during pre-trials and I get sentenced to Class B misdemeanor, solicitation of a prostitute and I get ordered to take this class, then what?

Christine Sanbor: Well I would say this to you that I think in terms of putting together something like a 2 hour curriculum, most of the trainings that I do orienting people to the social justice/human rights impact of prostitution of engaging in prostitution they are an hour or two long. They are not 12 hours long. Rep. Larson had mentioned that for youth offenses they use an on-line portal to do some of the probation requirements for like minors in possession of alcohol. I don't see any reason we couldn't rule that out. But your right, I can't sit here and tell you we've done it and it's ready to go.

Representative Paur: I believe that we are averaging about 8 cases like this a year. Currently, whether, that number goes up or down, you know with these trafficking violations but the average fee for these classes is about \$400. Generally the offender pays for them. Does this all sound viable to you? I don't know how many of those 8 offenders a year would be sentence to the program. You know if it would be all 8 or if it would be 4, because does this stuff still sound viable?

Christine Sanbor: I sure think so. I mean that I think the issue with solicitation as an offense itself is that kind of a prerequisite that you have some disposable income. Right, people that go and line up an hour of commercial sex in North Dakota are paying around \$200/\$300 for that activity. So, it could be a sliding income scale but there are on-line courses available and there not. So to say there is nothing available that hasn't been somewhat better. I sent to Rep. Paur a letter that we got from Life Wisdom Foundation. It is an on line court program. These things are available now and so the on-line component is there and your right, there are long programs but, something in North Dakota specific I think would be ready within 6 months. I understand the committee's point about the lack of specificity there of so.

Senator Armstrong: I want to piggyback on that question. I understand that the disposable income in soliciting prostitution, but the declaration for indigency and that transaction is do you have enough money to hire a prostitute. The declaration for indigency in a court system is a little different. There is no mechanism in place. They brought up a brand new thing I hadn't even thought of before but if your declared indigent, and have to take this class who's paying for it? Because when you do alcohol treatment you go to a substance abuse center and they have a sliding scale and it's based on indigency and they do those things. So now I have another question about if it is a \$200 class, it could be a \$70 class it doesn't matter we dealt with this with 24/7 and the testing last session. But now I have another question about and I agree with you. You obviously have to have some money in order to do this. You would know better than I would know what the average price is, but we'll get to that in a minute. But I have another question about indigency and I think we're coming to the sessions.

Senator Nelson: My thought was when she was saying 6 months; this bill doesn't go into effect until August 1, 2015. That is 5 months so you're pretty much there. If you were apt to say if the court finds an offender education program is available on site or available on line, sentence 4, and put an effective date of January 1, 2016 on it then they should have the program ready.

Senator Armstrong: My question to you Senator Nelson is what if they don't. If there is a program in North Dakota or available on line, I mean I still have the indigency question but I don't know how does the rest of the committee feel about Rep. Johnson?

Representative Johnson: Well, if you were to develop a program 1-2 hour program wouldn't it be on-line or web- based or burn a CD, send it out. In that case I don't think the indigency comes into question because it's not going to be very costly.

Christine Sanbor: I think we would certainly if a court wanted in person training for some reason. We would certainly be available. I cannot imagine that we wouldn't develop an on-line component. So yes, anything we would do I think we would have an on-line component. If it is nothing more than putting program materials on a DVD or CD, for the court we could certainly do something like that.

Senator Armstrong: You understand this stuff way better than we do. Would that be offered at a lower cost to indigent defendants?

Christine Sanbor: I don't see any reason why we couldn't basically offer that for free. A two-hour something with an on-line component to court systems to provide indigent defendants; set a fee for that course, then waive it as part of the indigence finding.

Senator Armstrong: This is a small bill and it is an important issue and we've talked a lot about this session and I guess I somewhat apologize to everybody but everybody knows I am protective of the criminal code. I think policy decisions on these types of things are important that you make sure you know how it's being implemented before you put it in the Century Code. I guess my feeling after this conversation is we're not dead yet but we are going to need time to get some tightened up language before I would support it.

Senator Casper: I agree with that and I appreciate the sentiments of the committee and the work that is being done here. I think it is one of those issues where I think we all throw on the table and in general this is a good thing. It is a tough thing to do as it hasn't been implemented yet or not shown us a natural working program but I think there is a way of tighten up the language and put something in there for that could happen in this biennium so we're not waiting for two years from now to do something. But I think I would want to see some little tighter as well.

Christine Sanbor: I did send links to on-line resources so if you are interested in looking at what is currently available for on-line courses. I did send that to Rep. Paur by email. This is just for the committee's reference to care to look at what in terms of what is currently available that information can be presented to the committee.

Representative Paur: I was trying to go over our change to the bill of taking out the first offense, your write that. Yes absolutely. You like having the on-line option in there. You have trouble with the lacking of supervised probation which we probably can't address. You have trouble with who pays with the indigency.

Senator Armstrong: Less now that I've heard the testimony. That is for sure.

Representative Paur: I think we should tighten up, do you have trouble with that 75 miles sounds like that.

Senator Armstrong: We just wanted some. My concern was that it didn't exist yet. At the end of the day, Rep. Paur that was our concern that the program

doesn't exist and we are putting it in the code as a potential portion of a criminal sentence. That was our concern, so if we can get the language around where we can order once we know its available online or available in the state I think we would support it.

Representative Paur: So taking that 75 miles out doesn't bother you?

Senator Armstrong: No

Representative Paur: Then you would like tighten it up? Do you have any specifics on tightening it up or do we just think about it until next session?

Senator Armstrong: I don't think we need to think about it until next session. I think Senator Nelson is kind of, I mean I think the discussion we are kind of getting to something we can put a date in here that they have to have available by or it goes away. I would be more comfortable with adding it. If you said it is not available by January 1, 2016, whatever, August 1, January 1st we will put this in code, but if the program doesn't exist then that part, it has to go away.

Senator Casper: So the on-line option or these on-line options would just be out if we don't have a developed program in state, the whole bill would expire. Is that correct?

Senator Armstrong: The North Dakota program was the on-line option which is and they can still do that.

Senator Casper: But I mean it has to be up, a Dakota based program.

Senator Armstrong: Yes, well I believe when your sentencing someone to a criminal judgment in North Dakota we should have a North Dakota based program that they are complying with. We've been allotted a half hour and we went over one minute and so I will have them reschedule one for Monday or Tuesday. Senator Nelson would you help work on some of that language? It is must my opinion I think that was kind of a good way to do this for everybody to get what they want.

Representative Johnson Don't we have to direct some agency to adopt the program that is going to be implemented?

Senator Armstrong: We don't, we subbed this kind of stuff out in other areas. Anger management, counseling, those types of things and this would be along those lines. But I know a lot of people are waiting and want to get home.
Hearing is adjourned.

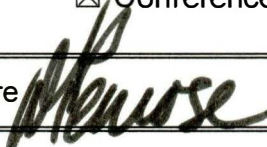
2015 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2332
4/14/2015
26074

☐ Subcommittee
☒ Conference Committee

Committee Clerk Signature



Minutes:

1

Senator Armstrong called the conference committee to order on SB 2332. Senators Armstrong, Casper, Nelson, Representatives Paur, Johnson, Anderson were all in attendance.

Senator Armstrong: Well committee as we left last time we were discussing some of the practical uses. I think I started to say that everybody agrees with the concept of the program. The practicality of getting it up and running was a concern. After that meeting, Senator Nelson worked with people and got an amendment drafted.

Senator Nelson: We basically turned it into a pilot program. If you're looking at version 3000 which is what Vonette worked off of. We left Section 1 as it is and in Section 2, we deleted the first line and half of the second line up until the word "online" and started then the sentence, " a sentence for an offense under Section 12.12606 which is Section 1. It goes on and then put a Section 3 in which said, "the effective date will be January 1", which gives them time to get the program up and running and it will sunset on July 31, 2017 and thereafter be ineffective however we meet in between there and if it is effective then we can take the sunset off, and we can also mandate it if we decide to do that next session. But we have another period of time in which we can work. But this would set up a pilot program. We talked to the people from PEW and they are fine with it, and talked to Rep. Paur and I am hoping it is okay.

Senator Armstrong: Then essentially because I know Rep. Anderson wants it mandated and I think we all kind of agree with that, it is just we are really early in the process and then we talked to Legislative Council about a reporting requirement but we didn't know who we could even name necessarily in the reporting requirement so we felt the best avenue for this was to. The

expiration date is not like January, it's July 31st. So next session, if this program is up and running and we implement it and mandate it, there will be no lapse in the law. So it will carry all the way through. I appreciate Senator Nelson's work. I think it is a real world solution to a problem; I mean the practical aspect of implementing it and it keeps it discretionary now with this committee and our Senate Committee is fully comfortable mandating it once we know what the program is.

Senator Nelson: I move the amendment (see attached #1).

Sen. Casper: Second the motion.

Rep. Paur: I think this is a nice amendment and I appreciate the Senator's efforts.

Senator Nelson: I was very appreciative of getting the link that you sent me. I found it really interesting reading. Did you ever find out what FOPT stood for?

Rep. Paur: Yes, First Offender Prostitution. It was the initial program. I will send you the link. I contacted the author of that report. It was the first program in the nation and it was in San Francisco; it was called FOPP. They used that to kind of compare.

Senator Nelson: I think that helps diffuse people too, to know where the template might be for taking a look at what we might want to do.

Senator Armstrong: Any other discussion. We will take a roll call vote.

6 Yea, 0 No, 0 Absent

House recede from House amendments and amend further.

Carrier: Sen. Nelson

Carrier: Rep. Paur

April 13, 2015

TD
4/4/15

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2332

That the House recede from its amendments as printed on page 1140 of the Senate Journal and page 1263 of the House Journal and that Engrossed Senate Bill No. 2332 be amended as follows:

Page 1, line 3, remove "and"

Page 1, line 4, after "penalty" insert "; to provide an effective date; and to provide an expiration date"

Page 1, remove line 16

Page 1, line 17, replace "offender's residence or is available online. a" with "A"

Page 1, line 17, replace "a first" with "an"

Page 1, after line 21, insert:

"SECTION 3. EFFECTIVE DATE - EXPIRATION DATE. Section 2 of this Act is effective from January 1, 2016, through July 31, 2017, and is thereafter ineffective."

Renumber accordingly

Date: 4/14/15
Roll Call Vote #: 1

**2015 SENATE CONFERENCE COMMITTEE
ROLL CALL VOTES**

BILL/RESOLUTION NO. 2332 as (re) engrossed

Senate Judiciary Committee

- Action Taken
- ☐ SENATE accede to House Amendments
 - ☐ SENATE accede to House Amendments and further amend
 - ☐ HOUSE recede from House amendments
 - ☒ HOUSE recede from House amendments and amend as follows
 - ☐ Unable to agree, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Sen. Nelson Seconded by: Sen. Casper

| Senators | 4/10 | 4/14 | | Yes | No | | Representatives | 4/10 | 4/14 | | Yes | No |
|-----------------------|------|------|--|-----|----|--|---------------------|------|------|--|-----|----|
| <u>Sen. Armstrong</u> | ✓ | ✓ | | ✓ | | | <u>Rep. B. Paur</u> | ✓ | ✓ | | ✓ | |
| <u>Casper</u> | ✓ | ✓ | | ✓ | | | <u>M. Johnson</u> | ✓ | ✓ | | ✓ | |
| <u>Nelson</u> | ✓ | ✓ | | ✓ | | | <u>P. Anderson</u> | ✓ | ✓ | | ✓ | |
| | | | | | | | | | | | | |
| | | | | | | | | | | | | |
| Total Senate Vote | | | | | | | Total Rep. Vote | | | | | |

Vote Count Yes: 6 No: 0 Absent: 0

Senate Carrier Sen. Nelson House Carrier Rep. Paur

LC Number 15.0969.03002 . 05000 of amendment

LC Number _____ of engrossment

Emergency clause added or deleted: _____

Statement of purpose of amendment: _____

REPORT OF CONFERENCE COMMITTEE

SB 2332, as engrossed: Your conference committee (Sens. Armstrong, Casper, Nelson and Reps. Paur, M. Johnson, P. Anderson) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ page 1140, adopt amendments as follows, and place SB 2332 on the Seventh order:

That the House recede from its amendments as printed on page 1140 of the Senate Journal and page 1263 of the House Journal and that Engrossed Senate Bill No. 2332 be amended as follows:

Page 1, line 3, remove "and"

Page 1, line 4, after "penalty" insert "; to provide an effective date; and to provide an expiration date"

Page 1, remove line 16

Page 1, line 17, replace "offender's residence or is available online, a" with "A"

Page 1, line 17, replace "a first" with "an"

Page 1, after line 21, insert:

"SECTION 3. EFFECTIVE DATE - EXPIRATION DATE. Section 2 of this Act is effective from January 1, 2016, through July 31, 2017, and is thereafter ineffective."

Renumber accordingly

Engrossed SB 2332 was placed on the Seventh order of business on the calendar.

2015 TESTIMONY

SB 2332

#1-1
2/3/15

TESTIMONY OF SENATOR MAC SCHNEIDER (DISTRICT 42 - GRAND FORKS)

SENATE BILL 2332

SENATE JUDICIARY COMMITTEE - FEBRUARY 2, 2015

Mr. Chairman and members of the committee, my name is Mac Schneider and I represent Grand Forks' District 42 in the North Dakota Senate. I am the prime sponsor of SB 2332, legislation which aims to reduce demand for the illicit services supplied by sex traffickers.

SB 2332 asks us to recognize a hard reality: If there were no individuals in North Dakota who were willing to pay for sex, there would be no market for sex trafficking. But there is, and I believe this bill is an important part of a comprehensive approach to putting traffickers out of business in our state.

The bill proposes to do two things in an effort to reduce demand for commercial sex. Number one, for a first offense of hiring or agreeing to hire an individual with the intention of engaging in sexual activity, the court would be required to order the offender to participate in an offender education program where such a program is reasonably available.

This mandatory education program is patterned after the so-called "john school" administered in St. Paul, Minnesota by the nonprofit Breaking Free. In 2013-14, the program was attended by 155 men, most of whom were arrested in the Twin Cities area. The statistics collected by Breaking Free shed light on exactly who is buying or attempting to buy sex:

- 66% had children;
- 49% had at least one daughter;
- 72% attended some college or completed college degrees; and
- 61% had paid for sex before.

Breaking Free's john school stresses that prostitution is not a victimless crime, something that is too frequently not understood or overlooked by johns. What is more, the program works. As noted by the Minneapolis Star Tribune, around 700

#1-2
2/3/15

men attended the john school in a three year period. Only three re-offended in the city of St. Paul.

We have every reason to believe that we can replicate this success in reducing demand in North Dakota. Where johns are caught and prosecuted, they can also be educated to ensure they understand that the commercial sex industry is inherently exploitative.

I have worked closely with North Dakota FUSE and the Council on Abused Women's Services in drafting this legislation, and I believe the mandatory education program can be made reasonably available across the state through in-person education or, where necessary, webinars. Importantly, this legislation gives the court the option of ordering the offender to pay for the cost of the offender education program. Presumably, if an offender has the resources to pay for sex, they more often than not will have the resources to pay for john school.

Secondly, where education fails and a john re-offends within a ten year period, the crime would be a class A misdemeanor and he would be required to register as a sexual offender under chapter 12.1 of the North Dakota Century Code. I am under no delusions about how serious this is to an individual and his family and recognize that registries typically serve the criminal justice purpose of warning the public of dangerous individuals, which re-offending johns may not necessarily be. However, I also believe the possibility of being required to register as a sex offender serves as a strong deterrent.

There is support for this belief. According to research conducted by Demand Abolition, a nonprofit group committed to eradicating the illegal commercial sex industry in the US and around the world, 88 percent of men said being put on a sex offender registry would deter them from engaging in this type of activity.

Mr. Chairman, the heinous crime of human trafficking is in many ways driven by the laws of economics. I applaud the committee for its consideration of legislation to make it more costly to supply commercial sex in North Dakota. I also hope you will consider attacking the demand side of the equation by making those who consider patronizing this illegal industry think twice before doing so.

SB 2332

#2-1
2/3/15

Testimony before Senate Judiciary Committee

SB 2332

Christina Sambor

Coordinator, FUSE – ND Statewide anti-trafficking coalition

Chairman Hogue and Committee Members:

I am before you today to speak in favor of SB 2332. Depending on the source, research and interviews with commercial sex workers indicates that upwards of 98% of commercial sex workers experience coercion which pushes them into the commercial sex industry. Reports indicate that on average, commercial sex workers survive seven years beyond their entry into the industry, with the average age of death reported by recent studies as 34. This industry is driven by supply and demand. Trafficking victims are exploited because there are customers ("Johns") who have a seemingly endless desire to engage in commercial sex, and traffickers stand to make hundreds of thousands, if not millions of dollars pimping out others. SB 2332 seeks to address the demand side of the equation by 1) requiring education for first time offenders, and 2) increasing penalties and requiring registry for repeat offenders. Currently, solicitation carries a B misdemeanor as a penalty. In addition, when law enforcement intervenes in a prostitution case, the commercial sex worker is overwhelmingly the arrested party, with Johns and traffickers together making up less than 10% of arrests. These types of policies make solicitation a low risk behavior. The risk of being arrested is low, and the penalties if you are caught are similarly low. In order to really make headway in the fight against commercial sexual exploitation, we need to educate the consumers of commercial sex, and have penalties that reflect the seriousness of the crime. We should have laws that illustrate North Dakota's understanding that prostitution is not a victimless crime. Accordingly, FUSE applauds efforts to show that we are serious about stemming the demand for commercial sex, and subsequently stemming the supply of exploited men, women and children.

FUSE is very supportive of the requirement of education for first time offenders, and recommends that this committee ensure that effective education for first time offenders is available and that courts do implement the offender education requirements. FUSE supports increased penalties for repeat customers, and would be supportive of further increasing the penalty class. FUSE also believes that if wielded carefully, and in conjunction with effective education, the sex offender registration for Johns can be an appropriate requirement. Those who know that the vast majority of commercial sex workers are coerced into the work or have no other means of survival, who know that the industry is highly lethal for the commercial sex workers, and nevertheless choose to ignore those realities and continue to patronize an industry that enslaves its 'employees' should be harshly punished. Johns should know that their fantasy of a consensual encounter with a liberated 'lady of the night' is just that – a fantasy. And once they know that their fantasy ensures the enslavement of thousands of people a year, they must stop, and seek appropriate treatment. If they do not, they should be subjected to the same penalties as other sexual predators who prey on others' vulnerabilities.

FUSE supports the effort to increase penalties for Johns as part of a comprehensive approach to ending sex trafficking in North Dakota.

SB 2332
2/3/15

Sen. Hogue
2-10-15
1-1

PROPOSED SB 2332

A BILL for an Act to create and enact section 12.1-29-07 of the North Dakota Century Code, relating to a mandated offender education program; to amend and reenact section 12.1-29-06 and subdivision e of subsection 1 of section 12.1-32-15 of the North Dakota Century Code, relating to hiring an individual to engage in sexual activity and sex offender registration; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-29-06 of the North Dakota Century Code is amended and reenacted as follows:

12.1-29-06. Hiring an individual to engage in sexual activity.

An individual who hires or offers or agrees to hire another individual with the intention of engaging in sexual activity is guilty of a:

1. A class B misdemeanor for a first offense; and
2. A class A misdemeanor for a second or subsequent offense within ten years.

SECTION 2. Section 12.1-29-07 of the North Dakota Century Code is created and enacted as follows:

Mandated offender education program.

15 If the court finds an offender education program is ~~reasonably~~ available, within
16 fifty miles of the offenders residence or online a sentence for a first offense under
17 section 12.1 - 29 - 06 must may include an order for the offender to participate in an
18 offender education program on the negative consequences of the commercial sex
19 industry, including health and legal consequences and the impact on communities,
20 survivors, spouses, and children. The court may order the offender to pay the cost of the
21 offender education program.

~~**SECTION 3. AMENDMENT.** Subdivision e of subsection 1 of section 12.1-32-15 of the North Dakota Century Code is amended and reenacted as follows:~~

~~e. "Sexual offender" means a person who has pled guilty to or been found guilty, including juvenile delinquent adjudications, of a violation of section 12.1-20-03, 12.1-20-03.1, 12.1-20-04, 12.1-20-05, 12.1-20-05.1, 12.1-20-06, 12.1-20-06.1, 12.1-20-07 except for subdivision a, 12.1-20-11, 12.1-20-12.1, or 12.1-20-12.2, chapter 12.1-27.2, or subsection 2 of section 12.1-22-03.1, subsection 2 of~~

2-10-15

1-2

SB 2332

- 25 ~~section 12.1-29-06, sex trafficking in violation of chapter 12.1-40, or an equivalent~~
26 ~~offense from another court in the United States, a tribal court, or court of another~~
27 ~~country, or an attempt or conspiracy to commit these offenses.~~

SB 2332 #1
2-18-15

TESTIMONY OF SENATOR MAC SCHNEIDER (DISTRICT 42 - GRAND FORKS)

SENATE BILL 2332

SENATE APPROPRIATIONS COMMITTEE - FEBRUARY 18, 2015

Mr. Chairman and members of the committee, my name is Mac Schneider and I represent Grand Forks' District 42 in the North Dakota Senate. I am the prime sponsor of SB 2332, legislation which aims to reduce demand for the illicit services supplied by sex traffickers.

SB 2332 asks us to recognize a hard reality: If there were no individuals in North Dakota who were willing to pay for sex, there would be no market for sex trafficking. But there is, and I believe this bill is an important part of a comprehensive approach to putting traffickers out of business in our state.

The amended bill gives courts the option to order a "john" to participate in an offender education program on the negative consequences of the commercial sex industry. The legislation also makes a second offense within 10 years punishable as a class A misdemeanor.

This education component of the bill is patterned after the so-called "john school" administered in St. Paul, Minnesota by the nonprofit Breaking Free. In 2013-14, the program was attended by 155 men, most of whom were arrested in the Twin Cities area. The statistics collected by Breaking Free shed light on exactly who is buying or attempting to buy sex:

- 66% had children;
- 49% had at least one daughter;
- 72% attended some college or completed college degrees; and
- 61% had paid for sex before.

Breaking Free's john school stresses that prostitution is not a victimless crime, something that is too frequently not understood or overlooked by johns. What is more, the program works. As noted by the Minneapolis Star Tribune, around 700 men attended the john school in a three year period. Only three re-offended in the city of St. Paul.

I realize the members of this committee are exceptionally busy this time of year, so I'll just cut to the chase: The bill does not create any new program or utilize taxpayer dollars. Rather, the offender education program is discretionary. Where the court orders it, it may also order the offender to pay the cost of the program.

The bottom line is that if one has the funds to pay for commercial sex, that person certainly has the funds to pay for their own tuition at "john school." I envision courts ordering participation in this program, but at the expense of the offender.

I would be happy to stand for any questions.

#1
SB2332
3-18-15

SB 2199, 2107, 2250, 2232, 2266 and 2332

**Testimony Before House Judiciary Committee
by Christina Sambor – Coordinator, FUSE – Statewide Anti-trafficking Coalition
March 17th and 18th, 2015**

Chairman Koppelman and members of the Committee:

My name is Christina Sambor, and I am the Coordinator of FUSE, the statewide anti-trafficking coalition in North Dakota. FUSE is a multidisciplinary coalition made up of direct service providers, advocacy organizations, state agencies, the faith community and law enforcement that seeks to build a coordinated, comprehensive response to sex trafficking in North Dakota.

FUSE has worked closely with the Attorney General's Office and the US Attorney's Office to conduct public awareness events, training for direct service providers and input on the legislation that is before you today. FUSE strongly supports SB 2199, and the additional bills that will be considered by the committee tomorrow. These bills, if passed, would increase services and remedies available to victims, increase penalties on traffickers, and ensure that victims of human trafficking are treated as victims, not as criminals.

During my work with FUSE, I have often encountered the question of whether or not sex trafficking is truly happening in North Dakota. Before I presented to a group of attorneys in December, I spent some time looking at ads on backpage.com, which is one of the most prominent internet websites where commercial sex is advertised. I counted approximately 170 ads placed in North Dakota on a Thursday. Of those ads, many of them advertised that the commercial sex worker was "back in town" or "only here for the weekend." At a recent training provided to prosecutors and law enforcement officers, the presence of that language in the ads was flagged as a strong indicator that the person in the ad was being "trafficked" or was under pimp control. This is because women who are being trafficked are typically moved from city to city, state to state, on a "track" in an effort to isolate the victims and evade law enforcement. Sadly, you need only take a digital "step" into this world to see the prevalence of trafficking in our state.

The statistics around the commercial sex industry are very troubling. We have long operated in this country under the impression that life for a commercial sex worker is like it was for Julia Roberts in the movie Pretty Woman. Plain and simple, it is not.

Researchers describe pimp control as follows:

"Pimps assume psychological, biological, social, and economic control over the lives of the women they sell to johns through the use of chronic terror, cunning use of various aspects of captivity, and isolation from others who might offer support and validation. In addition they employ starvation, sleep deprivation, protein deprivation, conditioned physiologic hyperarousal, unexpected sexual violence, and learned helplessness."

In addition, consider the following statistics:

- 65% to 95% of those in prostitution were sexually assaulted as children.
- 70% to 95% were physically assaulted in prostitution
- 60% to 75% were raped in prostitution
- 75% of those in prostitution have been homeless at some point in their lives.
- 85% to 95% of those in prostitution want to escape it, but have no other options for survival.
- 68% of 854 people in strip club, massage, and street prostitution in 9 countries met criteria for posttraumatic stress disorder or PTSD

These statistics, and the prevalence of commercial sex in North Dakota, paint a picture of a crisis that must be addressed. We are here today in the hope that this legislation will begin the march toward eliminating this form of abuse from our state.

FUSE supports and joins in the testimony of the direct services providers and from Youthworks, and 4her North Dakota and urges a do pass recommendation on SB 2199 and the additional human trafficking bills package of bills to be considered tomorrow.

Respectfully submitted,

Christina Sambor

②

#2
SB2332
3-18-15

TESTIMONY OF SENATOR MAC SCHNEIDER (DISTRICT 42 - GRAND FORKS)

SENATE BILL 2332

HOUSE JUDICIARY COMMITTEE - MARCH 18, 2015

Mr. Chairman and members of the committee, my name is Mac Schneider and I represent Grand Forks' District 42 in the North Dakota Senate. I am the prime sponsor of SB 2332, legislation which aims to reduce demand for the illicit services supplied by sex traffickers.

SB 2332 asks us to recognize a hard reality: If there were no individuals in North Dakota who were willing to pay for sex, there would be no market for sex trafficking. But there is, and I believe this bill is an important part of a comprehensive approach to putting traffickers out of business in our state.

The bill proposes to do two things in an effort to reduce demand for commercial sex. Number one, for a first offense of hiring or agreeing to hire an individual with the intention of engaging in sexual activity, the court would have the authority to order the offender to participate in an offender education program where such a program is available within 75 miles of the offender's residence or available online.

This mandatory education program is patterned after the so-called "john school" administered in St. Paul, Minnesota by the nonprofit Breaking Free. In 2013-14, the program was attended by 155 men, most of whom were arrested in the Twin Cities area. The statistics collected by Breaking Free shed light on exactly who is buying or attempting to buy sex:

- 66% had children;
- 49% had at least one daughter;
- 72% attended some college or completed college degrees; and
- 61% had paid for sex before.

Breaking Free's john school stresses that prostitution is all too often not a victimless crime, something that is misunderstood or overlooked by johns. What is more, the program works. As noted by the Minneapolis Star Tribune, around 700

men attended the john school in a three year period. Only three re-offended in the city of St. Paul.

We have every reason to believe that we can replicate this success in reducing demand in North Dakota. Where johns are caught and prosecuted, they can also be educated to ensure they understand that the commercial sex industry is inherently exploitative.

I have worked closely with North Dakota FUSE and the Council on Abused Women's Services in drafting this legislation, and I believe the education program can be made reasonably available across the state through in-person education or, where necessary, webinars. Importantly, this legislation gives the court the option of ordering the offender to pay for the cost of the offender education program. Presumably, if an offender has the resources to pay for sex, they more often than not will have the resources to pay for john school.

Secondly, where education fails and a john re-offends within a ten year period, the crime would be a class A misdemeanor.

Mr. Chairman, the heinous crime of human trafficking is in many ways driven by the laws of economics. I applaud the committee for its consideration of legislation to make it more costly to supply commercial sex in North Dakota. I also hope you will consider attacking the demand side of the equation by making those who consider patronizing this illegal industry think twice before doing so.

#1
SB 2332
3-31-15

Proposed Amendments to SB 2332 from Representative Koppelman

Page 1, line 16, remove "within seventy-five miles of the"

Page 1, line 17, remove "offender's residence or is available online"

April 13, 2015

1-1
4/14/15

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2332

That the House recede from its amendments as printed on page 1140 of the Senate Journal and page 1263 of the House Journal and that Engrossed Senate Bill No. 2332 be amended as follows:

Page 1, line 3, remove "and"

Page 1, line 4, after "penalty" insert "; to provide an effective date; and to provide an expiration date"

Page 1, remove line 16

Page 1, line 17, replace "offender's residence or is available online, a" with "A"

Page 1, line 17, replace "a first" with "an"

Page 1, after line 21, insert:

"SECTION 3. EFFECTIVE DATE - EXPIRATION DATE. Section 2 of this Act is effective from January 1, 2016, through July 31, 2017, and is thereafter ineffective."

Renumber accordingly