

2015 SENATE JUDICIARY

SB 2335

2015 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

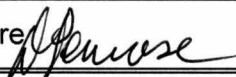
SB 2335

2/2/2015

23020

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Minutes:

1,2,3

Ch. Hogue: We will open the hearing on SB 2335.

Sen. Brad Bekkedahl, ND National Guard, Commander of the State Medical Units and State Medical Detachment: Sponsor, support (see attached #1).

Sen. Luick: Would you identify unrestricted and restricted.

Sen. Bekkedahl: Unrestricted basically means that if the victim has been sexually assaulted and wants to report the event so that it can be followed by an investigation, then their identity is released for that to occur. That's a decision the victim makes at that time. In some cases, the restricted means that they can confidentially seek access to medical professional treatment without having their name released to authorities. Some of the victims, for whatever reason, prefer to make the decision to stay in that restricted category. Some of them later on will switch to unrestricted once they have had the appropriate medical care and the professional counseling that goes with that.

Sen. Casper: So when they do the restricted report then they don't get access to healthcare.

Sen. Bekkedahl: If they do the restricted report, they do get access to the healthcare. The only difference is that they are not required or mandated to have law enforcement make their identity known. If they want to remain anonymous through this proceeding and seek the professional care, and then come out at a certain point and ask for the investigation, they can do that. They are not required to do under the restricted report at the time of the incident or the time that they go to medical care. Some people are actually

not seeking medical or professional care because they don't want to have their identity released as being exposed to this trauma. That's what this is intended to do; give them time for that professional care.

Sen. Grabinger: I understand their desire to keep their identity private; does that hamper our efforts to investigate and prosecute the assault in any way.

Sen. Bekkedahl: I don't have an answer to that.

Ch. Hogue: The genesis for this bill is to help certain guard members who happen to be victims of sexual assault. This bill would clearly apply to all civilian and guard members who wanted to remain anonymous about the incident.

Sen. Bekkedahl: That's the way I see it as well. We have Dept of Health personnel that can clarify that, because it was drafted specifically because of what we were seeing occurring within the guard on these instances.

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

Janelle Moos, Exec. Director of CAWS ND: Support (see attached #2).

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

Brigadier General Alan Dohrmann, Deputy Adjutant General for ND National Guard: Support (see attached #3).

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 2335

2/9/2015

23445

☐ Subcommittee

☐ Conference Committee

Committee Clerk Signature



Minutes:

Ch. Hogue: We will take a look at SB 2335. What are the committee's wishes? The National Guard wants to have the federal policies that are adopted by the National Guard Bureau for all personnel in all guard units in all 50 states and US Territories. They found that state law wasn't consistent with that. This bill will actually apply to everyone and it's basically to give the victim of the sexual offense some discretion and to have their name be confidential if that is what they choose. It takes away the reporting requirement.

Sen. Nelson: Don't most newspapers do that; keep the information confidential now if they are minors.

Ch. Hogue: I think they do it for minors...

Sen. Nelson: Upon request.

Ch. Hogue: I'm not sure about their policies but I know they will state in a news story that they declined to identify the individual because of their policy behind it. I think it is good policy. I think the person who is the victim of the sexual assault should have some control over, not only whether to go forward with the case, but that their information is out there because it's not just a violent crime, but it's a very humiliating crime as well.

Sen. Casper: I move a Do Pass on SB 2335.

Sen. Grabinger: Second the motion.

6 YES 0 NO 0 ABSENT

DO PASS

CARRIER: Sen. Casper

Date: 2/9/15

Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTE

BILL/RESOLUTION NO. 2335

Senate

JUDICIARY

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. Casper Seconded By Sen. Grabinger

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. Casper

REPORT OF STANDING COMMITTEE

SB 2335: Judiciary Committee (Sen. Hogue, Chairman) recommends **DO PASS**
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2335 was placed on the
Eleventh order on the calendar.

2015 HOUSE HUMAN SERVICES

SB 2335

2015 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee Fort Union Room, State Capitol

SB 2335
3/17/2015
Job #24970

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Beckie Stree

Explanation or reason for introduction of bill/resolution:

Relating to the duty of a physician to report certain injuries.

Minutes:

Testimony #1, #2, #3

Chairman Weisz opened the hearing on SB 2335.

Sen. Brad Bekkedahl, District 1

Introduced and testified in support of the bill. (See Testimony #1)

3:20

Chairman Weisz: By the language in here does this open it up for everyone?

Sen. Bekkedahl: Yes, that is my understanding.

Chairman Weisz: It's made to fit the military, but in reality it opens it up for anyone to make that decision on the mandatory reporting.

Sen. Bekkedahl: That is my understanding.

Rep. Damschen: In your testimony you referred to the 18 years of age and older, is that in the bill anywhere?

Sen. Bekkedahl: That deals with the federal standards that the military has to follow. I don't know if that is covered in the bill.

Rep. Damschen: I'm wondering if there would still be mandatory reporting for a victim under eighteen then?

Sen. Bekkedahl: I do think that is the case. I'm not familiar with North Dakota statute on reporting those instances on juveniles.

Chairman Weisz: We may need some clarification on that.

5:18

Col. Darcy Handt, Chief of Staff for the North Dakota National Guard

Testified in support of the bill. (See Testimony #2)

8:10

Janelle Moos, Executive Director of CAWS ND

Testified in support of the bill. (See Testimony #3)

12:40

Chairman Weisz: Under this provision outside of the military, do you think more people will be willing to come in to see a healthcare provider if they know they don't have to report it?

Moos: I do believe it would encourage more victims to come forward if they knew wouldn't be identified in a report, and have to be involved in a law enforcement investigation. Most victims will decide to come back after a couple of days and they are ready to talk to law enforcement. In our state we have a high rate of reporting to law enforcement for victims, and that really speaks to our relationship we have with the advocates, nurses and law enforcement.

NO OPPOSITION

Hearing closed on SB 2335.

2015 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

SB 2335
3/17/2015
Job #25023

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Vicky Crahtee

Minutes:

Chairman Weisz: Let's take up 2335. The way language reads it does include minors. If we want to we can exclude minors. It seems like a simple smart bill.

Rep. Muscha: We were wondering does this come from section of code that just deals with adults?

Chairman Weisz: No. It deals with everything. If we have concerns we can add language that says anyone 18 years or older.

Rep. Porter: In HB 1314 we addressed the component of the parents and the reasonable steps to notify the parents in regards to the forensic services so we covered that. This is saying if that victim wants to stay anonymous, and the physician is not mandatory to report it if the parents say no. I'm comfortable at the way the bill reads.

Rep. Oversen: I move a Do Pass on SB 2335.

Rep. D. Anderson: Second.

ROLL CALL VOTE: 13 y 0 n 0 absent

MOTION CARRIED

Bill Carrier: Rep. Rich Becker

Date: 3-17-15
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2335

House 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 Rep. Oversen Seconded By Rep. D. Anderson

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

Total (Yes) 13 No 0

Absent 0

Floor Assignment Rep. Rich Becker

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

REPORT OF STANDING COMMITTEE

SB 2335: Human Services Committee (Rep. Weisz, Chairman) recommends **DO PASS**
(13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2335 was placed on the
Fourteenth order on the calendar.

2015 TESTIMONY

SB 2335

SB 2335 - Relating to the duty of a Physician to report certain injuries.

Testimony by: Brad Bekkedahl, Senator, District 1

Hearing Date: February 2nd, 2015

Committee: Senate Judiciary Committee

Senator David Hogue, Chairman

Chairman Hogue and Committee Members,

SB 2335 was drafted to allow an option of reporting sexual assault, with the decision left up to the victim instead of mandatory medical reporting to Law enforcement at the time of presenting for medical care.

In the military, Service Members and military dependents 18 years of age and older who have been sexually assaulted have two reporting options, Unrestricted or Restricted reporting. The Unrestricted reporting option triggers an investigation, command notification and allows a person who has been sexually assaulted to access medical treatment and counseling. If the victim elects this reporting option, they may not change from an Unrestricted to a Restricted report. With the Restricted reporting option, there is NOT a trigger to an investigation. The command is notified that "an alleged sexual assault" has occurred, but is not given the victim's name or other personally identifying information. Restricted reporting allows the service members or military dependents who are adult sexual assault victims to confidentially disclose the assault to specified trained counseling individuals for care. If a victim elects restricted reporting, a victim may change from a Restricted report to an Unrestricted report. The Restricted reporting option is only available to Service Members and adult military dependents, and may not remain an option in a jurisdiction that requires mandatory reporting (as in North Dakota), or if a victim first reports to a civilian facility or authority which in North Dakota mandates reporting.

The issue is, in North Dakota, our National Guardsmen do not have the option of having both a Restricted report and receiving healthcare treatment because of the way our current Century Code is written, mandating healthcare providers to report instances of sexual assault to law enforcement. As a result, some Service Members have struggled with deciding between having a confidential (Restricted) report and seeking medical treatment. We have also heard of Service Members considering going across State lines to receive medical treatment and testing for STD's without having to worry about Law enforcement being notified as we currently do in North Dakota.

SB 2335 would correct this issue and give the appropriate option to the victim without fear of identity release while seeking medical attention and professional counseling.

I respectfully request the Judiciary Committee to vote a Do Pass on SB 2335



#2-1

525 N. 4th St. Bismarck, N.D. 58501
(P) 701.255.6240 (TF) 1.888.255.6240 (F) 701.255.1904
www.ndcaws.org • facebook.com/NDCAWS • Twitter @NDCAWS

Testimony on SB 2335

Senate Judiciary

February 2, 2015

Chairman Hogue and Members of the Committee:

My name is Janelle Moos and I am the Executive Director of 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.

Last year alone, our programs provided services to 913 sexual assault victims. A high percentage (40%) of the victims was assaulted by an acquaintance, friend or relative and 71% of victims reported the assault to law enforcement. Non-reporting and delayed reporting occurs very often in sexual assault cases. There are many reasons victims choose not to come forward including fear and embarrassment because they feel they may not be believed and they also want to stay anonymous when reporting. SB 2335 is an important step in allowing and encouraging victims to come forward to receive care and remain anonymous.

Although the primary intent behind SB 2335 was to focus on confidential reporting for members of the National Guard that are sexual assault victims this bill will obviously have a broader impact. As you can see under Section 2 the mandatory reporting section has been amended to exclude the identifying information of victims when reporting cases of sexual assault to law enforcement. There are several representatives from the National Guard here this morning that can outline why this change is so important to their members but obviously all victims will benefit from knowing that they can come forward for medical treatment and the forensic exam without having to have their name included in the report. Prior to asking the staff from the Guard to come up to outline the specifics I do want to point out that we had several meetings with the Chiefs and Sheriffs Association, the Attorney General's office and the Administrator for the Violence Against Women Act (VAWA) funds and this change will not impact the following:

- Law enforcement can still respond to the hospital and ask to talk to the victim. The victim can still share information related to the details of the case including characteristics of the offender and the location of the assault (if she chooses to) so they can investigate the crime. If she does choose to talk with law enforcement, under SB 2335 her name will only be included if she signs a release.
- The name of the victim will still be on the forensic kit and law enforcement can still pick it up and store it until the victim chooses to move forward with the case. Hospitals can still submit the request for payment even if victims choose to not have their name in the report.

As you can see our intent with the bill is to allow for victims with the ability to remain confidential in cases of sexual assault. We by no means want to hinder law enforcement's ability to do their job. When responding to a sexual assault, advocates always lay out the options and pros/cons of immediate vs. delayed reporting so victims can make the decision on how involved they want to be in the process. This won't change. But she can already choose to not talk with law enforcement or receive an exam. We believe it is important for victims to come forward and receive services and work with law enforcement this change in the statute very well may increase reporting victims if they know their name won't be included in the report and that they have time to decide whether they want to move forward.

I ask that you look favorably on SB 2335 and move a DO PASS recommendation.

Thank you.

TESTIMONY OF
BRIGADIER GENERAL ALAN S. DOHRMANN
THE DEPUTY ADJUTANT GENERAL
BEFORE THE
JUDICIARY COMMITTEE
2 FEBRUARY 2015
SENATE BILL 2335

Good morning Mr. Chairman, members of the committee, I am Brigadier General Alan Dohrmann, The Deputy Adjutant General for the North Dakota National Guard. I am here today to testify in support of Senate Bill 2335.

Over the last several years the Department of Defense (DoD) has developed a sexual assault prevention and response program in an effort to address the high number of sexual assaults in the military. One of the things this program is meant to do is create a safe environment for the victims to come forward, get help, and start the healing process. To this end, the DoD created an option for victims to file what is called a restricted report.

Under restricted reporting, a victim can come forward, receive services and have evidence collected by trained medical personnel; however, the crime would not be reported to law enforcement or the chain of command, allowing for anonymity from all but the support team. This reporting option helps ensure victims pursue medical and behavioral services in situations where they are not, at that time, ready to bring the crime to law enforcement's attention.

Unfortunately, this DoD option is not available for members of the North Dakota National Guard since under NDCC 43-17-41 physicians and other hospital personnel must report the victims of sexual assault to law enforcement. Evidence shows that this requirement prevents many victims from seeking medical treatment. Without services, the victims may struggle to become survivors. Moreover, there are cases where victims, after dealing with the initial trauma of a sexual assault, change their minds and come forward to law enforcement. Under this bill, the chance of there being forensic evidence from the crime substantially increases.

We support this bill because it would create a law that would work in harmony with a survivor focused program.

I would be happy to stand for any questions you may have.

#1
SB 2335 - Relating to the duty of a Physician to report certain injuries.

Testimony by: Brad Bekkedahl, Senator, District 1

Hearing Date: March 17, 2015

Committee: House Human Services Committee

Representative Robin Weisz, Chairman

Chairman Weisz and Committee Members,

SB 2335 was drafted to allow an option of reporting sexual assault, with the decision left up to the victim instead of mandatory medical reporting to Law enforcement at the time of presenting for medical care.

In the military, Service Members and military dependents 18 years of age and older who have been sexually assaulted have two reporting options, Unrestricted or Restricted reporting. The Unrestricted reporting option triggers an investigation, command notification and allows a person who has been sexually assaulted to access medical treatment and counseling. If the victim elects this reporting option, they may not change from an Unrestricted to a Restricted report. With the Restricted reporting option, there is NOT a trigger to an investigation. The command is notified that "an alleged sexual assault" has occurred, but is not given the victim's name or other personally identifying information. Restricted reporting allows the service members or military dependents who are adult sexual assault victims to confidentially disclose the assault to specified trained counseling individuals for care. If a victim elects restricted reporting, a victim may change from a Restricted report to an Unrestricted report. The Restricted reporting option is only available to Service Members and adult military dependents, and may not remain an option in a jurisdiction that requires mandatory reporting (as in North Dakota), or if a victim first reports to a civilian facility or authority which in North Dakota mandates reporting.

The issue is, in North Dakota, our National Guardsmen do not have the option of having both a Restricted report and receiving healthcare treatment because of the way our current Century Code is written, mandating healthcare providers to report instances of sexual assault to law enforcement. As a result, some Service Members have struggled with deciding between having a confidential (Restricted) report and seeking medical treatment. We have also heard of Service Members considering going across State lines to receive medical treatment and testing for STD's without having to worry about Law enforcement being notified as we currently do in North Dakota.

SB 2335 would correct this issue and give the appropriate option to the victim without fear of identity release while seeking medical attention and professional counseling.

I respectfully request the Judiciary Committee to vote a Do Pass on SB 2335

#2

TESTIMONY OF
COLONEL DARCIE HANDT
NATIONAL GUARD CHIEF OF STAFF
BEFORE THE
HOUSE HUMAN SERVICES COMMITTEE
17 MARCH 2015
SENATE BILL 2335

Good morning Mr. Chairman, members of the committee, I am Colonel Darcie Handt, The Chief of Staff for the North Dakota National Guard. I am here today to testify in support of Senate Bill 2335.

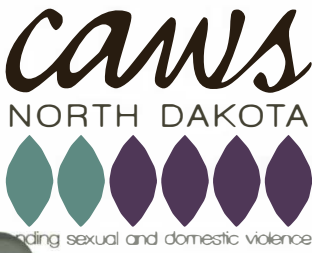
Over the last several years the Department of Defense (DoD) has developed a sexual assault prevention and response program in an effort to address sexual assaults in the military. One of the things this program is meant to do is create a safe environment for the victims to come forward, get help, and start the healing process. To this end, the DoD created an option for victims to file what is called a restricted report.

Under restricted reporting, a victim can come forward and receive services and have evidence collected by trained medical personnel, however, the crime would not be reported to law enforcement or the service member's chain of command, allowing for anonymity from all but the support team. This DoD reporting option helps ensure victims pursue medical and behavioral services in situations where they are not, at that time, ready to bring the crime to law enforcement's attention.

Unfortunately, the full benefits of the DoD restricted reporting option are not available for members of the North Dakota National Guard since under NDCC 43-17-41 physicians and other hospital personnel must report the victims of sexual assault to law enforcement. Evidence shows that this requirement prevents many victims from seeking medical treatment. Without services, the victims may struggle to become survivors. Moreover, there are cases where victims, after dealing with the initial trauma of a sexual assault, change their minds and come forward to law enforcement. Under this bill, the chance of there being forensic evidence from the crime substantially increases.

We support this bill because it would create a law that would work in harmony with the survivor focused DoD program.

I would be happy to stand for any questions you may have.



#3

525 N. 4th St. Bismarck, N.D. 58501
(P) 701.255.6240 (TF) 1.888.255.6240 (F) 701.255.1904
www.ndcaws.org • facebook.com/NDCAWS • [Twitter @NDCAWS](https://twitter.com/NDCAWS)

Testimony on SB 2335
House Human Services
March 17, 2015

Chairman Weisz and Members of the Committee:

My name is Janelle Moos and I am the Executive Director of 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.

Last year alone, our programs provided services to 913 sexual assault victims. A high percentage (40%) of the victims was assaulted by an acquaintance, friend or relative and 71% of victims reported the assault to law enforcement. Non-reporting and delayed reporting occurs very often in sexual assault cases. There are many reasons victims choose not to come forward including fear and embarrassment because they feel they may not be believed and they also want to stay anonymous when reporting. SB 2335 is an important step in allowing and encouraging victims to come forward to receive care and remain anonymous.

Although the primary intent behind SB 2335 was to focus on confidential reporting for members of the National Guard that are sexual assault victims this bill will obviously have a broader impact. As you can see under Section 2 the mandatory reporting section has been amended to exclude the identifying information of victims when reporting cases of sexual assault to law enforcement. There are several representatives from the National Guard here this morning that can outline why this change is so important to their members but obviously all victims will benefit from knowing that they can come forward for medical treatment and the forensic exam without having to have their name included in the report. Prior to asking the staff from the Guard to come up to outline the specifics I do want to point out that we had several meetings with the Chiefs and Sheriffs Association, the Attorney General's office and the Administrator for the Violence Against Women Act (VAWA) funds and this change will not impact the following:

- Law enforcement can still respond to the hospital and ask to talk to the victim. The victim can still share information related to the details of the case including characteristics of the offender and the location of the assault (if she chooses to) so they

can investigate the crime. If she does choose to talk with law enforcement, under SB 2335 her name will only be included if she signs a release.

- The name of the victim will still be on the forensic kit and law enforcement can still pick it up and store it until the victim chooses to move forward with the case. Hospitals can still submit the request for payment even if victims choose to not have their name in the report.

As you can see our intent with the bill is to allow for victims with the ability to remain confidential in cases of sexual assault. We by no means want to hinder law enforcement's ability to do their job. When responding to a sexual assault, advocates always lay out the options and pros/cons of immediate vs. delayed reporting so victims can make the decision on how involved they want to be in the process. This won't change. But she can already choose to not talk with law enforcement or receive an exam. We believe it is important for victims to come forward and receive services and work with law enforcement this change in the statute very well may increase reporting victims if they know their name won't be included in the report and that they have time to decide whether they want to move forward.

I ask that you look favorably on SB 2335 and move a DO PASS recommendation.

Thank you.