

2017 SENATE JUDICIARY

SB 2216

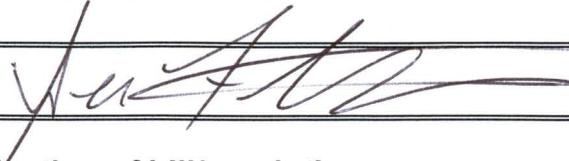
2017 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2216
1/25/2017
27365

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to assault on a health care facility provider and contact by bodily fluids or excrement; and to provide a penalty.

Minutes:

Testimony attached #

1,2,3,4,5,6,7

Chairman Armstrong called the committee to order on SB 2216. All committee members were present.

Attachments 6 and 7 were handed in but not presented verbally to the committee.

Dick Dever, North Dakota District 32 Senator, introduced and testified in support of the bill. No written testimony. He discussed how the bill has to do with assaulting health care personnel. He briefly discussed how this is similar to a bill that was killed last session and that he hopes this one will get passed.

Courtney Koebele, Executive Director for the North Dakota Medical Association, testified in support of the bill. (see attachment 1)

Senator Luick: "What happens if a nurse or medical provider is outside the parameter of their institution when they are assaulted?"

Courtney Koebele: "My understanding is that they will not be protected."

Chairman Armstrong: "I think the answer is that they would just be treated like everybody else. I have a question though, I know that other states have passed these laws, is there data supporting that once these laws have been passed that things have gotten safer for health care providers?"

Courtney Koebele: "I do not have any data to prove that."

Kristin Roers, Vice President of Government Relations for the North Dakota Nurses Association, testified in support of the bill. (see attachment 2)

Senator Osland: "These assaults have been increasing over the last 10 years?"

Kristin Roers: "Yes."

Senator Osland: "What kind of folks do this type of stuff?"

Kristin Roers: "All of them, any of them. Any patient could do it, especially if they have mental health issues."

Senator Osland: "Is this getting worse?"

Kristin Roers: "I don't know the exact number, but in my impression, in what I see every day, yes."

Senator Larson: "What if they contacted you without trying to intentionally harm you, is that covered in this?"

Kristin Roers: "From my understanding, it's knowingly and willingly."

Senator Larson: "You're right, it does say it under the assault portion."

Senator Osland: "Is this bill going to alleviate any of this problem?"

Kristin Roers: "It's not the cure all, but like I said, this is a good first step."

Gabriela Balf, Clinical Associate Director of the University of North Dakota School of Medicine Psychiatry, testified in support of the bill. (see attachment 3)

Chairman Armstrong: "If these laws are enacted will the numbers of burnouts (overworked, and tired employees) go down?"

Gabriela Balf: "We have part of the answer in the evidence that we will supply. I've done studies and know studies and I think this will help with burnouts."

Senator Larson: "We have a conundrum, with the psychiatric facilities there are sometimes situations where the staff says we will not deal with you anymore, you need to go to jail. Then the prisons will say we are locking people up who need treatment instead of being locked up, essentially, contradicting each other. So there's a back and forth on what is the appropriate action with some of these people. Wat do you say to that?"

Gabriela Balf: "My answer is that these are not the same people. We can triage this, the emergency room is protected. We do get people to evaluate from jail, we can help triage them to decide where is the best place for them to go."

Jerry E. Jurena, President of the North Dakota Hospital Association (NDHA), testified in support of the bill. (see attachment 4)

Jackson Lofgren, President of the Association for Criminal Defense Lawyers, testified in opposition of the bill. No written testimony. He said he doesn't deny that there are workplace violence issues in hospital settings, but he questions what does this bill do.

"We have to look at who's going to be responsible for these acts. They aren't going to look at the Century Code to figure out what the level of the offense is. A lot of these patients are stressed out, they could be mentally ill, they could be in pain, there could be a lot of factors for why they may have acted out. In North Dakota, we treat everyone the same in terms of assault. If we pass this this bill which gives special importance to nurses, then what comes next? Teachers could be next, or even lawyers."

Patrick Bohn, Director for Transitional Planning Services for the North Dakota Department of Corrections and rehabilitation (DOCR), testified in opposition of the bill. (see attachment 5)

Chairman Armstrong closed the hearing on SB 2193.

No motions were made.

2017 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2216 Committee Work
2/7/2017
27982

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to assault on a health care facility provider and contact by bodily fluids or excrement; and to provide a penalty.

Minutes:

Attachments

1

Chairman Armstrong began the discussion on SB 2216. All committee members were present.

Chairman Armstrong handed out his proposed amendment to the committee and explained it. (see attachment 1)

Senator Nelson questioned some issues on the amendment that she wasn't sure about. She was wondering if there should be a section G on the Amendment that describes what a health care facility is.

Chairman Armstrong: "It will all be one paragraph. Everything will be in section F."

Senator Larson: "They're guilty of an offense, what does that mean in terms of . . . umm, like under number 1?"

Chairman Armstrong: "It's a Class C Felony or a Class A Misdemeanor depending on if the crime was knowingly vs recklessly. If it's recklessly it's a Class A Misdemeanor, if it's knowingly it's a Class C Felony."

Senator Osland: "Would a temporary facility include home health care services?"

Chairman Armstrong: "I think more of what you're talking about is those temporary facilities like emergency shelters. You got to prove it beyond reasonable doubt is my answer to that."

Senator Larson motioned to Adopt the Amendment. **Senator Myrdal** seconded.

A Roll Call Vote was taken. Yea: 6 Nay: 0 Absent: 0.
The motion carried.

Senator Larson motioned Do Pass as Amended. **Senator Osland** seconded.

A Roll Call Vote was taken. Yea: 6 Nay: 0 Absent: 0.
The motion carried.

Senator Luick carried the bill.

Chairman Armstrong ended the discussion on SB 2216.

ck
2/7/17

February 7, 2017

PROPOSED AMENDMENTS TO SENATE BILL NO. 2216

Page 1, line 1, remove "sections 12.1-17-01, 12.1-17-01.1, and"

Page 1, line 2, remove "assault on a health care"

Page 1, line 3, remove "facility provider and"

Page 1, remove lines 5 through 24

Page 2, remove lines 1 through 31

Page 3, line 17, after "contact" insert ". A "health care facility" means an office or institution providing health care services or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychosocial conditions, including a hospital; clinic; ambulatory surgery center; outpatient care facility; weight control clinic; nursing home; basic care or assisted living facility; laboratory; or office of any medical professional licensed or registered under title 43 or any individual who is included within a specialty and subspecialty of those fields. The term includes a waiting room, hallway, private room, semiprivate room, ward, and any mobile or temporary facility"

Renumber accordingly

**2017 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. SB 2216**

Senate Judiciary Committee

Subcommittee

Amendment LC# or Description: 17.0613, 02001

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 Senator Larson Seconded By Senator Myrdal

Senators	Yes	No	Senators	Yes	No
Chairman Armstrong	X		Senator Nelson	X	
Vice-Chair Larson	X				
Senator Luick	X				
Senator Myrdal	X				
Senator Osland	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

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

**2017 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. SB 2216**

Senate Judiciary Committee

Subcommittee

Amendment LC# or Description: 17.0613.02001

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 Senator Larson Seconded By Senator Osland

Senators	Yes	No	Senators	Yes	No
Chairman Armstrong	X		Senator Nelson	X	
Vice-Chair Larson	X				
Senator Luick	X				
Senator Myrdal	X				
Senator Osland	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Luick

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

REPORT OF STANDING COMMITTEE

SB 2216: Judiciary Committee (Sen. Armstrong, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2216 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "sections 12.1-17-01, 12.1-17-01.1, and"

Page 1, line 2, remove "assault on a health care"

Page 1, line 3, remove "facility provider and"

Page 1, remove lines 5 through 24

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Page 3, line 17, after "contact" insert ". A "health care facility" means an office or institution providing health care services or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychosocial conditions, including a hospital; clinic; ambulatory surgery center; outpatient care facility; weight control clinic; nursing home; basic care or assisted living facility; laboratory; or office of any medical professional licensed or registered under title 43 or any individual who is included within a specialty and subspecialty of those fields. The term includes a waiting room, hallway, private room, semiprivate room, ward, and any mobile or temporary facility"

Renumber accordingly

2017 HOUSE JUDICIARY

SB 2216

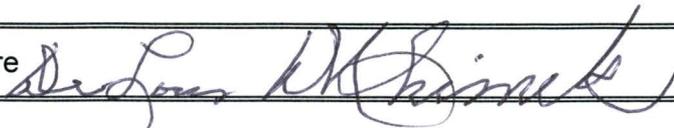
2017 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

SB 2216
3/8/2017
28924

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to contact by bodily fluids or excrement; and to provide a penalty.

Minutes:

1,2,3

Chairman K. Koppelman: Opened the hearing on SB 2216.

Senator Dever: Introduced the bill. This is about people who cause nasty things to be placed in other people in positions of authority. Current law includes law enforcement. This would to apply also to healthcare facility workers. I would encourage favorable consideration.

Representative Nelson: Why is this in offense against law enforcement and now potentially healthcare and why not everybody?

Senator Dever: This should be everybody.

Representative Jones: They are guilty of an offense. What is the penalty?

Senator Dever: I believe the penalty for an offense is \$1000 fine, maximum? It is a Class C felony if a person knowingly causes the contact and is a Class A misdemeanor if the individual recklessly does this.

Representative Jones: Someone had aids and they were trying it figure out whether it was transmittable through saliva and I know there was a big article because they had been intentionally spitting on other people.

Senator Dever: I think the concern is communicable diseases being transmitted.

Representative Vetter: The penalty hasn't changed? We are just adding healthcare workers?

Senator Dever: That is my understanding.

Representative Vetter: We are trying to target prisoners; would this also help nursing homes? Could an older person in a nursing home be guilty of this not knowing what they are doing?

Senator Dever: I think intent is a big part of this.

Representative Hanson: The original statute says it does not apply to a mentally ill person.

Chairman K. Koppelman: This bill deals with 12.1-11-17 which is only about four lines to the statute that is not included in this bill, but they are things we are talking about.

Courtney Koebele, Executive Director for the ND Medical Association: (#1) (9:00-13:25)

Representative Nelson: The law has this exclusion in there if you are mentally ill; maybe we should say the judge should take into consideration the mental health of the person to give the court the ability to deal with all the types of things you run into?

Courtney Koebele: I think the court already does this.

Representative Nelson: Now if I am considering mentally ill if I am contained I don't have any responsibility for it.

Courtney Koebele: There is enough in the law now that people wouldn't get away with this. That would exclude people in Jamestown who are mentally ill.

Representative Hanson: If a healthcare worker is assaulted in a traditional sense; how do the penalties parallel with what has been outlined if it is an assault with bodily fluids?

Courtney Koebele: I did bring along the assault statute. If it is willfully causing that offense is a class B misdemeanor. This is somebody who is not a healthcare worker. Regular assault is a substantial bodily injury and that is a Class A misdemeanor.

Representative Roers Jones: So the difference in the assault penalties for regular persons working in the healthcare facility is it outside the emergency department; there is no difference in the penalties?

Courtney Koebele: Yes, the current law only protects emergency room workers. We are seeing that when somebody gets assaulted on the OB floor; for example, they are treated like a regular assault; whereas if it was in the emergency room it would have that higher penalty.

Representative Roers Jones: Do you have statistics where it says healthcare workers are 4 X more likely to have serious workplace violence. Do you have statistics in being assaulted and being assaulted with bodily fluids, I see now those are all assaults from patients?

Courtney Koebele: Yes. I don't have any statistics about bodily fluids?

Representative Nelson: Why are we not including first responders?

Courtney Koebele: They are covered by the higher level penalties in their statutes. It would only apply to the protective category for simple assault in another section.

Chairman K. Koppelman: There was a rise of concern with the rise of aids. What has medical science shown in the potential of this kind of activity to result in transmitting disease?

Courtney Koebele: If you look at the types of things that are in there; if somebody had an open wound if somebody threw blood on them; there are some diseases that are spread just by saliva.

Chairman K. Koppelman: Should there be something in here that is all inclusive?

Courtney Koebele: That is a good question. We are forced to be in contact with these people and we have more likelihood to be around these situations. I can't tell you the amount of times they get spit on.

Chairman K. Koppelman: Lines 12 & 13 of the bill say if you look at a correctional facility; that could be someone visiting someone?

Courtney Koebele: Legislative counsel liked individual. I understand what you are saying. It is an opportunity to deescalate.

Representative Paur: On lines 6 & 7 if we would change this sentence; then the penalties would be up there.

Kristin Roers, ND Nurses Association: (#2) Handout. (26:09-33:20) Went over the information on this handout.

Chairman K. Koppelman: Do you know what the reasoning was for the amendment in the Senate?

Courtney Koebele: They took those two assault provisions out because they didn't think the elevated penalties were appropriate for this specific category.

Chairman K. Koppelman: We are taking a close look at penalties for various crimes and saying is this reasonable or do we put someone in jail for this?

Kristin Roers: Just speaking with staff I know how disheartening that person had been charged with a felony and ended up with a misdemeanor; she felt devalued.

Chairman K. Koppelman: Newer legislators may not be aware how often what you just described occurs.

Kristin Roers: Senator Lee's daughter got a call. If they were an emergency worker or not because it would be the difference between a misdemeanor or felony. If it isn't a felony the states attorney won't even come in if it is not a felony.

House Judiciary Committee

SB 2216

March 8, 2017

Page 4

Jerry Jerena, President of the ND Hospital Association: (#3) This is a frequent topic of discussion. We have a shortage of nurses across the state and we have issues with violence. This is a big issue.

Opposition: None

Neutral: None

Hearing closed

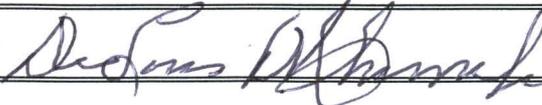
2017 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

SB 2216
3/13/2017
29112

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to contact by bodily fluids or excrement; and to provide a penalty.

Minutes:

1

Chairman K. Koppelman: Opened the meeting on SB 2216

Representative Nelson: Passed out a proposed amendment and went over it. (#1) I think in many cases emergency responders are the people who deal with this. We are seeing a ramp up in the hospitals, but I think like we protect police in the prisons that people that are out of control; that it is not unusual for these first responders so adding the language would be another topic and it is any emergency responder including a licensed medical service provider, law enforcement officer, fire fighter, officer of a non-profit volunteer fire department, emergency medical tech, emergency nurse, ambulance operator, provider of civil defense services or any other individual in good faith renders emergency care or assistance at a crime scene or the scene of an emergency or accident.

**Motion Made to Move the Proposed Nelson amendment by Representative Nelson:
Seconded by Rep. Satrom**

Discussion:

Voice vote carried.

Chairman K. Koppelman: This is a Class C felony? Wondering if that is a little stiff?

Representative Roers Jones: Even though we are moving away from felony's. This gives law enforcement a tool and they don't have to use it.

Representative Jones: This is just the top end charge which they don't have to use. I think it is appropriate to have a serious penalty here.

Representative Vetter: There is a big difference between spitting and throwing poop on someone. I don't like the whole saliva thing here. That could be two people yelling at each other. They are grouping everything together.

Representative Klemin: This whole thing came up with prisoners in jail or state pen that were throwing this stuff at correctional officers. We don't want to give them a slap on the hands for this.

Chairman K. Koppelman: What about someone doing this?

Representative Roers Jones: The sections not included in the bill; they have to knowingly cause the contact so this isn't an accidental situation. It is not always a Class C felony.

Chairman K. Koppelman: Does the committee believe there should be something more in code on this?

Representative Paur: When you brought up whether we should go with a felony or not. It is whether it is a violent offense or not?

Do Pass as Amended Motion Made by Representative Roers Jones: Seconded by Rep. Blum

Discussion:

Roll Call Vote: 14 Yes 1 No 0 Absent **Carrier: Representative Roers Jones:**

Closed.

3/13/17 DA

17.0613.04001
Title.05000

Prepared by the Legislative Council staff for
Representative M. Nelson
March 13, 2017

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2216

Page 1, line 17, remove "or"

Page 2, line 5, after "facility" insert "; or

- g. An emergency responder, including a licensed medical services provider, law enforcement officer, firefighter, volunteer firefighter, officer of a nonprofit volunteer fire department, emergency medical technician, emergency nurse, ambulance operator, provider of civil defense services, or any other individual who in good faith renders emergency care or assistance at a crime scene or the scene of an emergency or accident"

Renumber accordingly

Date: 3-13-17
Roll Call Vote 1

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2016

House Judiciary Committee

Subcommittee

Amendment LC# or Description: Nelson Amendment, 17.0613.04001

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. Nelson Seconded By Rep. Satrom

Representatives	Yes	No	Representatives	Yes	No
Chairman K. Koppelman			Rep. Hanson		
Vice Chairman Karls			Rep. Nelson		
Rep. Blum					
Rep. Johnston					
Rep. Jones					
Rep. Klemin					
Rep. Magrum					
Rep. Maragos					
Rep. Paur					
Rep. Roers-Jones					
Rep. Satrom					
Rep. Simons					
Rep. Vetter					

0
Total (Yes) _____ No _____

Absent _____

Floor Assignment Rep. _____

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

*Voice
Vote
carried*

Date: 3/13/17
 Roll Call Vote 2

**2017 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. SB 2216**

House 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 Rep. Roers Jones Seconded By Rep. Blum

Representatives	Yes	No	Representatives	Yes	No
Chairman K. Koppelman	✓		Rep. Hanson	✓	
Vice Chairman Karls	✓		Rep. Nelson	✓	
Rep. Blum	✓				
Rep. Johnston	✓				
Rep. Jones	✓				
Rep. Klemin	✓				
Rep. Magrum	✓				
Rep. Maragos	✓				
Rep. Paur	✓				
Rep. Roers-Jones	✓				
Rep. Satrom	✓				
Rep. Simons		✓			
Rep. Vetter	✓				

0
 Total (Yes) 14 No 1

Absent 0

Floor Assignment Rep. Roers Jones

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

REPORT OF STANDING COMMITTEE

SB 2216, as engrossed: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2216 was placed on the Sixth order on the calendar.

Page 1, line 17, remove "or"

Page 2, line 5, after "facility" insert "; or

- g. An emergency responder, including a licensed medical services provider, law enforcement officer, firefighter, volunteer firefighter, officer of a nonprofit volunteer fire department, emergency medical technician, emergency nurse, ambulance operator, provider of civil defense services, or any other individual who in good faith renders emergency care or assistance at a crime scene or the scene of an emergency or accident"

Renumber accordingly

2017 CONFERENCE COMMITTEE

SB 2216

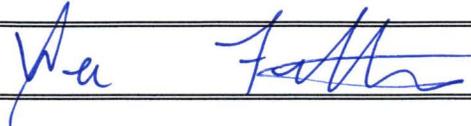
2017 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2216 Conference Committee
4/5/2017
29942

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to assault on a health care facility provider and contact by bodily fluids or excrement; and to provide a penalty.

Minutes:

Attachments

1

Madam Chairman Larson called the committee to order on SB 2216. All committee members were present: Senators Larson, Luick, Myrdal; Representatives Karls, Roers Jones, Nelson.

Senator Larson: "Why don't we begin by having the House explain what amendments were put on and why."

Representative Nelson (:40 – 3:00) discussed why the amendments were brought forth. (see attachment 1)

"The source of it is what I just handed out. It came in because we basically had healthcare workers that were concerned. They said that they have this coverage for law enforcement officers, but we are seeing more of these types of assaults in a healthcare facility and so they wanted coverage. After digging into a little I discovered that the people who are most involved with these types of incidents are first responders. You get these people who are out of control and are attacking people and all this stuff. Sometimes it's a police man, but other times it's other people. So we essentially took it word for word out of the Montana code, which has been in place since 2005. The people I called in Montana all said they liked the bill."

Senator Larson: "I'll tell you what happened on the Senate side. When the bill first came to us, it talked about specific occupations like nurses and psychiatrists, and such. What we decided that rather than labeling a profession; simply label a place. That's why this is in the penitentiary, or the way we labeled the bill, was that it would be in a hospital setting. In this year, especially, when we are looking at trying to reduce enhanced penalties on things, this moves things to a Class C Felony. It seemed to us that it would be better off saying that you are in a setting now where you should be able to control yourself."

Senator Myrdal (5:07): “Just to continue what you said. I think we discussed that we are elevating a group of people over another group of people. It’s somewhat ambiguous since it can grow. I think it’s a slippery slope because where does it end? It’s ambiguous. How are you going to have a testimony, or how can you prove in an emergency situation if it was intentional or not? So that’s why we think it should be better.”

Representative Roers Jones (6:30): “The conversations we had went over several lines. First, we looked at this as leaving a tool in the toolbox for law enforcement for situations where you could easily establish intent. We aren’t talking about emergency situations. The other thing is, I understand some of the concern with the language for someone who might be a good faith renderer of emergency assistance. The discussions we had about nurses or people working in the hospital industry was that these people have a duty to provide services to these patients regardless if they attacked you.”

Senator Luick (9:05): “Representative Nelson, did you ask the people in Montana how often they see something like this or what their penalties were?”

Representative Nelson: “We talked about that a little bit, and they said when it passed it was to just get their attention. Then it got really quiet, but the last few years with the whole drug thing going on, it started to become more common. They feel it is becoming more a control and effect issue. Those people involved in the healthcare system don’t tend to be first timers.”

Senator Luick: “Do you know what that penalty is today?”

Representative Nelson: “No, I don’t.”

Senator Myrdal (12:05): “There seems to be some redundancy, that I noticed, in this bill.”

Representative Nelson: “I believe, if I remember right, it’s while they were within a facility. We had a double definition there. An ambulance worker would be covered if they were in the hospital, but they wouldn’t be covered if they were off site.”

Senator Luick: “That’s one of the reasons we’ve had this bill in front of us over the last few sessions.”

Courtney Koebele, North Dakota Medical Association, came up to answer questions for committee.

Senator Luick: “Over last few years, has this has been increasing, what kind of problems have you been seeing?”

Courtney Koebele: “We’ve been seeing a steady increase of situations, I’m not sure about the emergency vehicles or that type of information at all, but it has been increasing.”

Senator Luick: "I look at this in two different manners. I want these people protected. My concern is that by increasing these penalties for these activities, do you think the people who do this are capable of understand what they are doing? Will this be a deterrent?"

Courtney Koebele: "I do think it's a deterrent of the de-escalating factor. The word will get out that you will get in more trouble by doing that. The word will get out. It's just one tool in the toolbox."

Senator Myrdal (17:00): "We're not talking about more protection; we are talking about more penalties. To me, a hospital setting is a lot different than an emergency situation. Do you really see this as a deterrent to people who are in an emergency situation, since that's not a controlled setting?"

Courtney Koebele: "I do think it would. I'm not familiar with what the House did on their side. So I can't speak specifically to what they did, but it's still a crime."

Senator Larson (18:45): "I guess I feel that the conversation we had in the senate revolved around the idea of do we want to enhance penalties for things? The other one was, if we start adding more people, where do we end? It seemed in the Senate conversation that it was something we don't want to go down that road and start adding more categories of professions at this point."

Senator Luick: "I would believe that if we end up with this in code that we will see other professions coming back next session to be included in this. More people will jump on board and we will end up having to increase the penalty for everyone."

Senator Myrdal (20:30): "I think it's important to remember that we're increasing a penalty here. Which concerns me. As this amendment stands right now, I don't think I can support it. It's already a crime, that's important to note, we are just enhancing it."

Representative Roers Jones: "The reason I don't have a problem with the enhanced penalty is because of intent. The Class C Felony only applies if you can prove they willfully did the crime, and if there wasn't mental capacity of the individual, then this isn't a crime. Someone who is obligated to provide services to those people don't have a choice to walk away."

Representative Nelson (23:15): "It doesn't apply to a mentally ill person. It's a very broad definition. This doesn't apply to one of those people who can't emotionally control yourself. Another thing, this is not an enhanced penalty. You are only guilty of assault if you injure someone. So what this does is, for example, if I spit on you did I injure you? No. We are trying to send messages here. I don't really have a problem with making this fairly broad. I don't see it as an enhancement, we're saying we don't want you to do this behavior. All of these people are required to wade into this situation. I think it's important to make this fairly broad and we need to send a message that we don't want people to do this."

Senator Larson: "Well spitting on someone is Disorderly Conduct."

Representative Roers Jones (26:40): “The last thing I want to add is that the ‘knowingly element’ is going to be a hard burden to prove. That alone will restrict the number of times this will be a C felony. This is going to be something that is very limited in its application.”

Senator Larson (27:10): “I agree with some of the things. One of things I’d like to add is that we don’t want to continue keep on expanding the number of people that can be charged with a felony for doing certain things. We considered not even passing the bill because we don’t want to keep giving felonies to all types of people. This could be a never ending group of people that we would have to protect. This opens a door. I think we may need to reschedule this for a later time after we think.”

Senator Larson ended the discussion on SB 2216 and kept the hearing open until tomorrow when the committee reconvenes.

2017 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2216 Conference Committee 2
4/6/2017
29964

Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to assault on a health care facility provider and contact by bodily fluids or excrement; and to provide a penalty.

Minutes: **No written testimony**

Chairman Larson called the committee to order on SB 2216. All committee members were present: Senators Larson, Luick, Myrdal; Representatives Karls, Roers Jones, M. Nelson.

Patrick Bohn, Director for Transitional Planning Services, came up to the podium to discuss some things about the bill.

"I did testify on this bill earlier and it had to do with the medical staff. I expressed some concerns how that will change the landscape of this occurring throughout the state. I talked a little bit too about our love affair regarding felonies, and adding people to the felony class. We're currently sitting at about 40% increase in the number of felonies on the book since 1997. Before you act on this, I'd ask that you question what is the goal? How will you know that this is really paying dividends in reducing the likelihood of recurring to these people that are providing these services to you and I?"

Representative Karls: "That being said, Pat. Your people are protected under this, correct?"

Pat Bohn: "That is true. Maybe the question is, how broad do you make it?"

Representative Karls: "I'd just like to say that your people are in a confined situation. Healthcare professionals have a duty to care, which is a different situation. Are you suggesting putting in another area of code where it wouldn't be subject to a felony charge?"

Pat Bohn: "I certainly think that that could be a possibility; to look at the necessary penalty and decide. Does a Class C felony accomplish this? Class A misdemeanor? Again, how are we going to know if this is actually going to impact the behavior of these people?"

Senator Larson (4:48): "You said 40% increase of felonies on the book since when?"

Pat Bohn: "1997."

Senator Luick (5:45): “What is the penalty right now for simple assault?”

Pat Bohn: “There are different categories. There’s a Class C felony simple assault, which is on a peace officer or an individual working in a correctional institution, and things like that. Also, employees of the state hospital, as well as members of the municipal and volunteer fire department or emergency medical services personnel unit, or emergency department worker in the performance of another member’s duties.”

Senator Larson: “So that’s already in code?”

Pat Bohn: “Yes, for simple assault. Which is willfully causing bodily injury to another human being, or negligently causing bodily injury to another human being by means of a firearm, destructive device, or other weapon; the use of which against a human being that can cause death or serious bodily injury. There’s also a Class B misdemeanor simple assault, which involves a victim being a member of the actor’s family, and if it happens a 2nd time it will be a Class A misdemeanor, so domestic violence, etc.”

Senator Luick (7:30): “In a simple assault, what I was thinking of is, if I spit on someone on the street, what would I get charged with?”

Pat Bohn: “Could be several things, disorderly conduct, which would be a Class B misdemeanor. That wouldn’t be a simple assault since there’s no bodily injury.”

Senator Myrdal (8:17): “To me, it seems that those that are in prison, this would be a deterrent for what we already have in the books because they are already in the system. If we tell them don’t do that or we’ll add on to your sentence, they would get it. But out in public, would this be a deterrent?”

Pat Bohn: “That’s the question. I think we always have this idea when we make these laws that everybody is going to be updated and know all of these things, and whether that’s today, months or even years from now. The reality is that that is not true.”

Senator Luick (10:55): “You had to look up these penalties you had on your sheet. Which makes me think that there’s no way these people would have any inkling of what they may be looking at in terms of crimes.”

Pat Bohn: “Some of the biggest things are how to educate people. How can you spread the word that this is a crime? In 2013, we decided to crack down on DUI’s, and recently, texting while driving. So what we did is put up a bunch of billboard signs. That’s why when you’re on the interstate, you will see signs that says buckle up, don’t drink and drive, etc. The issue is how can we educate people so they understand that this is a crime. This is different than DUI’s.”

Representative Roers Jones (12:25): “One of the things we heard in the testimony from the nurses, is that some of these penalties could be used by the nurses to talk people down from doing these crimes. Do you think that could be a deterrent here? Could this also be a deterrent to those people who know the laws and so they can do crimes that they know are

only misdemeanors as opposed to felonies? Such as a protester who throws a bucket of feces at somebody.”

Pat Bohn: “That’s the question. Could it be effective? Possibly, but without measuring it, we will never know. It’s just hard to answer that without having some type of data. I did notice that there are many nurses who choose not to press charges during these types of attacks. So if they don’t want to enforce existing law, will they even enforce enhanced penalties? It’s an interesting perspective.”

Representative Roers Jones: “If I could just clarify. The person who testified from the nursing association said that the Sanford attorney has an issue with this because the state’s attorney won’t even come in to press charges unless it’s a felony. I think that’s where the purpose of increasing this comes from. That prosecutors won’t even take the time to come in and deal with these cases at the misdemeanor level.”

Pat Bohn: “I don’t remember that part, I believe they said it, though. I think that’s more of a prosecutor issue over a law issue.”

Senator Larson (16:55), asked **Courtney Koebele, North Dakota Medical Association,** to come to the podium to answer a question.

“Courtney, I understand from talking to our Chairman, Senator Armstrong, that he worked with you extensively over this to have the right language, and he would hate to see the work you put into this go away, correct?”

Courtney Koebele: “Yes. This failed last session. So we worked in the interim with Senator Armstrong to work on some language to include the people that he thought should be protected, and who we thought should be protected, and that’s the healthcare facility language. He was very supportive in the admissions portion, and he said he’ll try to do the assault as well. So we would hope that this bill passes.”

Senator Luick: “In an instant where you have a situation that someone has a bucket full of feces and they throw it at somebody. Is there a chance of that being an infraction and not a crime?”

Senator Larson: “It seems to me that if someone threw something at somebody and it was tested positive for aids, that seems to me that it would rise to the level of an assault with a deadly weapon. Higher up than something merely disgusting. I’m not sure how the committee feels, but I am very resistant to add more felonies into our system. I don’t see this as something that will make it through the senate by adding a bunch of people. I think it opens doors for more felonies to be incorporated.”

Representative Karls: “As much as I disagree with some of the things you said, we will have to go along with you and support the bill as is.”

Senator Larson: I appreciate the discussion and it made me think a lot more about those things as well. I just feel it’s much more of an issue of expanding felonies, which we don’t need.

Representative M. Nelson motioned that the House recede from the House amendments.

Representative Roers Jones seconded.

A Roll Call Vote was taken. Yea: 6 Nay: 0 Absent: 0.

The motion carried.

Senator Larson carried the bill.

Representative Karls carried the bill.

Senator Larson closed the hearing on SB 2216.

2017 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2216 Conference Committee 3
4/11/2017
30047

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to assault on a health care facility provider and contact by bodily fluids or excrement; and to provide a penalty.

Minutes:

No written testimony

Chairman Larson called the committee to order on SB 2216. All committee members were present: Senators Larson, Luick, Myrdal; Representatives Karls, Roers Jones, Nelson.

Representative Karls: "I've asked Representative Porter to step in to discuss the bill. He was the main responsibility for convincing the House to vote no."

Representative Todd Porter, District 34 (1:15 – 3:30), came in to testify.

"I've asked the conference report to be killed because the amendment that the House put on was an amendment that included EMS people, and these people are good people. Earlier in the session, we passed a bill on behalf of the hospital association that said they could hire EMT's and paramedics, and utilize them in the hospital. So an issue popped up where you would have an EMS service working for the county, and there may be a situation where you have the ambulance service headquartered in that area. These employees are then asked to help out in the emergency department if they're not on call; not being paid in the hospital, and not being covered in this new law."

Senator Larson (3:30): "It says that a healthcare facility employee, or contractor, acting within the scope of employment."

Representative Porter (3:40): "They would not be either; they would just be helping out because they just so happened to be there. So that wouldn't include them. This bill doesn't include some key people like EMS providers, and the ambulance care. I think if the person is willfully spreading their disease, they are in essence committing murder."

Senator Larson: "That's still a felony, doesn't matter what position they have. That is already a felony."

Representative Porter: “And you think that it’s covered on the individual who in good faith renders emergency care also?”

Senator Larson: “That is the discussion we had in our committee here. We didn’t want to extend to individual professions a felony offense. Our chairman said why don’t we just put an amendment in that says it is a felony to spit on anyone then? Why would it be a felony for me to spit on you, as an EMS, but not on Senator Myrdal, as a regular citizen?”

Representative Porter (6:25): “I don’t necessarily disagree with that comment, if you knowingly have Hepatitis or HIV.”

Senator Larson: “Right. That’s already a felony in statute, separate from this bill. That would be considered a lethal weapon.”

Representative Roers Jones (7:00): “I want to clarify, the intent element is knowingly causes, not willingly causes?”

Senator Larson: “Right.”

Representative Roers Jones: “That’s a little bit semantics but I just want to make sure that we are on the same page. The other thing is that the protection we are providing here is not so much for someone who knows that they have a disease like AIDS, but rather, it would also protect someone from a person who may not be sure if they have AIDS or a disease. That’s the difference in what we are doing compared to what is already in law. It’s already a felony if that person knows they have a disease like AIDS, but this would expand that to people who may not know. The other thing is that the felony standard is very high. The person has to knowingly cause their bodily fluids to come in contact with these other people, and so, I think a lot of the concern for the people who are opposed to adding additional people to the protected class, is the fact that we don’t want to create more felonies, we don’t want to put everyone away, and I think that we’re looking at this the wrong way. This should be just an additional tool in the law enforcement for prosecuting these kinds of people who continue to be bad actors.”

Representative Porter (9:30): “I see an issue with the 4000 version, when you look at page 1 line 16, you see where it says an individual transporting an individual who is lawfully detained. When you do that, you do include EMS for the person who has been placed under arrest, but not for the person who has not been placed under arrest.”

Senator Larson: “So why wouldn’t they be included?”

Representative Porter: “Because they are not lawfully detained unless law enforcement detains them. I think this bill sets up a double standard where some are covered and some are not.”

Senator Luick (11:00): “To fix that item on line 17, if we were to take “detained” out and add in “who is lawfully being transported”, would that work?”

Representative Porter: "No, because again you are still using who is lawfully being transported. There really isn't a way to differentiate between the patients. I think you have to look at it as the intent of the language on line 16 was for corrections and law enforcement, but it also covered EMS, because when law enforcement is at the scene and they have a patient who is going to the psychiatric unit, or was intoxicated and injured himself, law enforcement would not be transferring that patient, even if they need medical care. If law enforcement doesn't place them under arrest and you get half way to the hospital and they want to leave, we have to let them leave because we can't detain them, only law enforcement can. It does cover EMS, when the person has been detained. If they are not detained, then it does not cover it."

Senator Larson (13:55): "I felt that Representative Roers Jones had a very compelling argument to say that the EMS and firefighters have a duty to serve, they can't just say no. The thing we felt is that we were not willing to extend the number of felonies that we were going to do this session. We were reluctant to include hospitals. Spitting on somebody is already a crime for doing that, if they knowingly or recklessly do that to people then the penalties are already enhanced. That's why we didn't want to clarify nurses and things like that."

Representative Porter: "I would argue that Pandora's box is already opened. The janitors inside hospital are already protected in the hospital, but EMT aren't covered."

Senator Larson: "Well, then we may need to kill the bill."

Senator Luick (17:45): "I think the difference in what we are looking at is the facility where we are looking at enforcing this, rather than it being on a site and/or the personnel. The question came up, what happens when a health worker walks out into the parking lot, and meets up with that individual who spit on them inside? They are not protected out there. At what point does that protection stop? That's why it came back to being a facility and not a person."

Senator Larson (18:40): "This doesn't really provide protection, per se."

Representative Roers Jones: "I think the differential here is not a physical location, but it's more about the scope of employment. When a hospital employee walks out to the parking lot to go to their care, that's not part of their employment. We are not talking about that same element where they don't have the ability to walk away or not walk away."

Senator Larson (20:00): "I think we need to reschedule this hearing again."

Senator Luick (20:20): "The concerns I have are several, but we have been working in our judiciary committee on the senate side to reduce felonies in North Dakota because of having full jails. If this goes through, we are sticking our necks out to add more felonies and more institutions being involved in this and I think it will increase the number of crimes. I don't think the pulse is going to be there to expand this. We have already taken out the felonies for non-violent crimes just to reduce the inmate quantity. That Pandora's box is going to be opened up if we open this."

Representative Roers Jones: “Senator Luick has said some things that are correct, but I don’t think the goal of the legislature isn’t to get rid of all felonies. I would argue that this situation would be a very violent crime to those who are being assaulted by getting spit on and things like that. I think it would be unlikely that this would result in more jail for people. I think this would be used as a tool for people to use to try to calm down and action.”

Senator Luick (24:00): “At what point do we draw the line? My wife is a teacher and she is mandated to stay in that room, if something happens why wouldn’t she be protected?”

Representative Nelson: “We have modified things already for children crimes. I don’t think this will increase the amount of people in jail. I’ve talked to EMS people and they said they have had a lot of those things happen to them. I think we need to control this and we need to have stronger penalties so our professionals don’t have to deal with this so often. We are trying to get things right.”

Senator Larson (26:30): “I think we still don’t agree with each other fully. I think we should give it a day again and come back and try to rehash this.”

Chairman Larson closed the hearing on SB 2216.

2017 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2216 Conference Committee 4
4/12/2017
30082

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to assault on a health care facility provider and contact by bodily fluids or excrement; and to provide a penalty.

Minutes:

No written testimony

Chairman Armstrong called the committee to order on SB 2216. All committee members were present: Senators Armstrong, Luick, Myrdal; Representatives Karls, Roers Jones, Nelson.

Chairman Armstrong: "Anybody have any thoughts?"

Representative Nelson: "I thought of a few different things we could do to try to move forward. I thought about going with first offense being a misdemeanor no matter what, then enhanced after. I still think the knowingly and the recklessly ends up being a burden of proof, and a lot of times prosecutors move down to the misdemeanors anyway. We talked about removing the good Samaritan from the list to try and clear things up a little bit. We're just not in a position to be able to pull this whole thing off."

Chairman Armstrong (1:25): "Here's my question, essentially, for a significant portion of these, there is a 2 level enhancement. It is a Class B misdemeanor activity that becomes Class C felony activity. We do it for law enforcement, and it's been in the code for a long time. So what you are saying is that there is a 2 level enhancement. You go from a class B misdemeanor, which is maximum 30 days in jail and 1 year of unsupervised probation to a Class C felony. If I spit on Senator Luick, it's a Class B misdemeanor, if I spit on Representative Porter who is an EMT and who is standing right next to Senator Luick – it's a Class C felony. It is a felonized conduct where it singles people out. Our question on the Senate side was: did anybody come in to testify and show you where there is a real need for this bill? We didn't have this amendment. So we didn't have firefighters, or EMTs at our hearings asking us to do this."

Representative Nelson (3:20): "It was my amendment and it came from Montana. We took it word for word from Montana. I talked to them over there and they said they had no problems with it, but they were considering raising their penalties since they were

considerably weaker than ours. I talked to Representative Guggisberg, who is a firefighter, and he said he has experienced the entire list of things that are related to this bill – blood, excrement, etc.”

Chairman Armstrong (4:10): “Why is it different if you decide to throw your infected blood in the hospital, and why is it different to throw your blood at a nurse and not an administrative person? So when we worked on the bill, we deduced that it makes more sense to put it as a facility and not an individual person.”

Representative Nelson (5:50): “The thing with this is that they can’t walk away. They have a duty to serve these people. The people we want to protect are those who are there in an official capacity and have to help those aggressive actors.”

Chairman Armstrong: “That is absolute incorrect. The criminal definition of mental incompetence and the civil definition of mental incompetence are completely different. You would hope a prosecutor would use discretion, but the definition of criminal mental disease is so much significantly harsher than a civil definition. That definition controls in the criminal statute; not the civil one. That’s just how criminal law works.”

Representative Nelson (8:00): “No, I read it. There is a specifically reference. I don’t know if it’s actually in the bill, but it’s in that section, and it’s a very broad exemption. Section 25-03.1-02. We’re probably just dealing with the law enforcement ones then. It’s pretty broad.”

Chairman Armstrong: “Yeah, but it only requires people who are detained, and that’s part of a commitment proceeding. That exclusion is not nearly as broad as it appears to be. Is there any data that shows these laws work? Our goal isn’t to felonize someone, it’s to make people safer.”

Representative Karls (10:40): “I guess we go back to basics, this is a Senate bill and your body crafted it and sent it to us. We like the bill; we just wanted to add EMS and others because our feeling is that they are just as deserving. That wasn’t brought up until Representative Porter brought it on the floor the other day.”

Senator Myrdal: “We had discussions in the Senate about whether this bill will actually deter someone from doing this behavior. Senator Luick said it in the last meeting, if we add them into this, this will continue to broaden and every session more and more people will be added into this. With this added, I think it opens up this Pandora’s box.”

Representative Nelson (13:25): “We don’t have the option of taking this off. Is there something the Senate feels that they can do to make it palatable? We don’t have the choice to take this back to the House. It will just get sent back to conference.”

Chairman Armstrong: “The vast majority of these cases are going to be spitting. The way the bill is currently written if you spit on a firefighter it’s a Class C felony. My question is, if we gave the enhancement from a Class B misdemeanor to a Class A misdemeanor and keep it in the misdemeanor realm and let felonies be treated as felonies in the process of how they normally develop, then would be something you could agree with?”

Representative Roers Jones (15:20): “If we did something along those lines, could we make it a first step, next step, thing? So for these people who are repeat offenders?”

Chairman Armstrong: “I’m thinking . . . one moment.”

Senator Luick: “What is the penalty for the misdemeanors you were talking about? Is there a fine and jail time?”

Chairman Armstrong: “Well that’s kind of what I’m thinking more on the lines of. Instead of stepping it up, we could put some minimum mandatories in or something like that.”

Senator Luick (16:45): “I think if you slap an infraction on any of these folks they will remember that more than a misdemeanor. That’s why I’m asking what is the punishment for a misdemeanor is.”

Chairman Armstrong: “Class A misdemeanor is up to a year in jail and 2 years of supervised probation.”

Senator Luick: “But typically, they don’t serve that?”

Chairman Armstrong: “No. It’s usually probation. How about we adjourn and talk this out again on Friday? I will try to come up with some language for this.”

Chairman Armstrong closed the hearing on SB 2216.

2017 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2216 Conference Committee 5
4/13/2017
Job # 30109

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to assault on a health care facility provider and contact by bodily fluids or excrement; and to provide a penalty.

Minutes:

Attachments

1

Senator Armstrong called the committee to order on SB 2216. All committee members were present: Senators Armstrong, Luick, Myrdal; Representatives Karls, Roers Jones, Nelson.

Proposed Amendment was handed out to the committee. (see attachment 1)

Chairman Armstrong: "Since we met yet yesterday, I spoke with Representatives Jones and Porter, and we kind of came up with a compromise that I think will be acceptable to everybody on this committee. What Representative Porter told me regarding EMTs and stuff, is why when I'm taking somebody into a hospital would I not be treated the same as any other responder who's dealing with them? I didn't believe that was the case, but it turns out that I was wrong. So what we did is we took Representative Nelson's definition of emergency responder; took the good Samaritan language out, and then we said while they are acting in the scope of employment and present at a health care facility. Then we defined the health care facility the same way. I think, over the interim, we should work on an aggravated disorderly conduct standard, and deal with it in the code where it belongs instead of parsing out a new place for it based on that stuff. That would be my goal for the interim."

Representative Karls: Moved that the House recede from House amendments and amend as follows: adopt amendment 17.0613.04002.

Representative Roers Jones: Seconded the Motion.

Roll Call Vote Was Taken: 6 yeas, 0 nays, 0 absent.

Motion carries.

Senate Judiciary Committee

SB 2216

4/13/2017

Page 2

Senator Armstrong and Representative Karls will carry the committee's recommendation to the floor.

April 12, 2017

CA
4/13/17

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2216

That the House recede from its amendments as printed on page 810 of the Senate Journal and page 964 of the House Journal and that Engrossed Senate Bill No. 2216 be amended as follows:

Page 1, line 1, after "to" insert "create and enact a new subsection to section 12.1-17-11 of the North Dakota Century Code, relating to the definition of a health care facility; to"

Page 1, line 17, remove "or"

Page 1, line 20, remove ". A "health care""

Page 1, remove lines 21 through 24

Page 2, remove lines 1 through 4

Page 2, line 5, replace "facility" with:

"; or"

- g. An emergency responder, including a licensed medical services provider, law enforcement officer, firefighter, volunteer firefighter, officer of a nonprofit volunteer fire department, emergency medical technician, emergency nurse, ambulance operator, or a provider of civil defense services, who while acting in the scope of employment is present at a health care facility"

Page 2, after line 5, insert:

"SECTION 2. A new subsection to section 12.1-17-11 of the North Dakota Century Code is created and enacted as follows:

As used in this section, "health care facility" means an office or institution providing health care services or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including a hospital; clinic; ambulatory surgery center; outpatient care facility; weight control clinic; nursing home; basic care or assisted living facility; laboratory; or office of any medical professional licensed or registered under title 43 or any individual who is included within a specialty and subspecialty of those fields. The term includes a waiting room, hallway, private room, semiprivate room, ward, and any mobile or temporary facility."

Re-number accordingly

4/6/17

Date: 4/6/17
Roll Call Vote #: 1

2017 SENATE CONFERENCE COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2216 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: Rep. M. Nelson Seconded by: Rep. Roers Jones

Senators	4/6			Yes	No	Representatives	4/6			Yes	No
Sen. Larson	X			X		Rep. Karls	X			X	
Sen. Luick	X			X		Rep. Nelson	X			X	
Sen. Myrdal	X			X		Rep. Roers Jones	X			X	
Total Senate Vote				3		Total Rep. Vote				3	

Vote Count Yes: 6 No: 0 Absent: 0

Senate Carrier Sen. Larson House Carrier Rep. Karls

LC Number _____ of amendment

LC Number _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

4/13/17

Date: 4/13/17
Roll Call Vote # 1

2017 SENATE CONFERENCE COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2216 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: Rep. Karls Seconded by: Rep. Roers Jones

Senators	4/13		Yes	No	Representatives	4/13		Yes	No
Armstrong			X		Karls			X	
Luick			X		Roers Jones			X	
Myrdal			X		Nelson			X	
Total Senate Vote			3		Total Rep. Vote			3	

Vote Count Yes: 6 No: 0 Absent: 0

Senate Carrier Armstrong House Carrier Karls

LC Number 17.0613 . 04002 of amendment

LC Number 06000 . _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

REPORT OF CONFERENCE COMMITTEE

SB 2216, as engrossed: Your conference committee (Sens. D. Larson, Luick, Myrdal and Reps. Karls, Roers Jones, M. Nelson) recommends that the **HOUSE RECEDE** from the House amendments and place SB 2216 on the Seventh order.

Engrossed SB 2216 was placed on the Seventh order of business on the calendar.

SECTION 4. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2016."

Renumber accordingly

REPORT OF CONFERENCE COMMITTEE

SB 2216, as engrossed: Your conference committee (Sens. D. Larson, Luick, Myrdal and Reps. Karls, Roers Jones, M. Nelson) recommends that the **HOUSE RECEDE** from the House amendments and place SB 2216 on the Seventh order.

Engrossed SB 2216 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

SB 2303: Your conference committee (Sens. D. Larson, Nelson, Osland and Reps. Jones, Roers Jones, Hanson) recommends that the **SENATE ACCEDE** to the House amendments as printed on SJ page 811, adopt further amendments as follows, and place SB 2303 on the Seventh order:

That the Senate accede to the House amendments as printed on page 811 of the Senate Journal and page 964 of the House Journal and that Senate Bill No. 2303 be further amended as follows:

Page 2, line 21, after "written" insert "or electronic"

Page 3, line 25, after the period insert "If an individual required to register in North Dakota, including in a tribal registry, resides in another state or on tribal lands, that individual shall register employment and school addresses and any changes in required registration information with the law enforcement agency having local jurisdiction over the school or employment address."

Renumber accordingly

SB 2303 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

SB 2223, as engrossed: Your conference committee (Sens. Burckhard, Casper, Marcellais and Reps. Sukut, Bosch, Dobervich) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 847-849, adopt amendments as follows, and place SB 2223 on the Seventh order:

That the House recede from its amendments as printed on pages 847-849 of the Senate Journal and pages 1011-1014 of the House Journal and that Engrossed Senate Bill No. 2223 be amended as follows:

Page 1, line 1, after "10-32.1-30.1" insert "of the North Dakota Century Code, relating to sharing of profits and losses"

Page 1, line 2, remove "subsection 1 of"

Page 1, line 2, after the third comma insert "and"

Page 1, remove lines 17 through 24

Page 2, replace lines 1 and 2 with:

"SECTION 2. AMENDMENT. Section 10-32.1-30 of the North Dakota Century Code is amended and reenacted as follows:

10-32.1-30. Sharing of and right to distributions before dissolution.

1. ~~Subject~~Except as provided in subsection 5 and subject to paragraphs 1 through 4 of subdivision c of subsection 4 of section 10-32.1-05, any distributions made by a limited liability company before its dissolution and winding up must be in equal shares among members and dissociated members, except to the extent necessary to comply with any transfer

JOURNAL OF THE SENATE

Sixty-fifth Legislative Assembly

* * * * *

Bismarck, April 24, 2017

The Senate convened at 1:00 p.m., with President Sanford presiding.

The prayer was offered by Senator Myrdal, District 10.

The roll was called and all members were present except Senator Nelson.

A quorum was declared by the President.

CORRECTION AND REVISION OF THE JOURNAL

MR. PRESIDENT: Your **Committee on Correction and Revision of the Journal (Sen. Davison, Chairman)** has carefully examined the Journal of the Forty-third, Fifty-third, and Sixty-third Days and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 710, remove lines 20 through 31

Page 710, after line 19 insert:

"COMMUNICATION FROM GOVERNOR DOUG BURGUM

This is to inform you that on March 9, 2017, I have signed the following: SB 2048, SB 2092, SB 2095, SB 2103, SB 2108, SB 2109, SB 2112, SB 2118, SB 2122, SB 2126, and SB 2140."

Page 866, line 28, remove "and has committee recommendation of DO PASS,"

Page 866, line 37, remove ", as amended,"

Page 867, line 7, remove "and has committee recommendation of DO PASS,"

Page 867, line 16, remove ", as amended,"

Page 867, line 26, remove "and has committee recommendation of DO PASS,"

Page 867, line 35, remove ", as amended,"

Page 867, line 46, remove "and has committee recommendation of DO PASS,"

Page 868, line 6, remove ", as amended,"

Page 868, line 21, remove "and has committee recommendation of DO PASS,"

Page 868, line 31, remove ", as amended,"

Page 868, line 46, remove "and has committee recommendation of DO PASS,"

Page 869, line 5, remove ", as amended,"

Page 869, line 16, remove "and has committee recommendation of DO PASS,"

Page 869, line 25, remove ", as amended,"

Page 869, line 36, remove "and has committee recommendation of DO PASS,"

Page 869, line 45, remove ", as amended,"

Page 870, line 9, remove "and has committee recommendation of DO PASS,"

Page 870, line 19, remove ", as amended,"

Page 871, remove lines 14 and 15

Page 1277, line 6, replace "D. Larson, Luick, Myrdal" with "Myrdal, Luick, D. Larson"

Page 1277, line 11, replace "Nelson, Osland" with "Osland, Nelson"

SEN. ANDERSON MOVED that the report be adopted, which motion prevailed.

REPORT OF STANDING COMMITTEE

HB 1015, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1015 was placed on the Sixth order on the calendar.

Page 1, line 2, after "budget" insert "; to provide an appropriation to Dickinson state university"

Page 1, line 3, after the semicolon insert "to create and enact a new subsection to the new section to chapter 40-05 of the North Dakota Century Code as created by section 1 of Senate Bill No. 2166, as approved by the sixty-fifth legislative assembly, relating to property tax incentives granted by a city;"

Page 1, line 3, replace "section" with "sections 6-09-15.1 and 15-18.2-06, section 43-26.1-05.1 as created by section 2 of Senate Bill No. 2131, as approved by the sixty-fifth legislative assembly, and sections"

Page 1, line 3, after "54-06-04.3" insert "and 57-20-04"

Page 1, line 4, after the first "to" insert "temporary loans to the general fund, higher education funding formula minimums, criminal history record checks,"

Page 1, line 4, after "fees" insert ", and property tax increase reports; to repeal section 57-20-05 of the North Dakota Century Code, relating to tax certifications"

Page 1, line 4, replace "an exemption" with "exemptions"

Page 1, line 5, replace "and" with "to provide for a legislative management study; to provide for a report to the legislative management;"

Page 1, line 5, after "report" insert "; to provide an effective date; and to declare an emergency"

Page 1, remove lines 15 through 24

Page 2, replace lines 1 through 3 with:

"Salaries and wages	\$19,798,254	\$2,242,970	\$22,041,224
Operating expenses	13,855,260	213,178	14,068,438
Emergency commission contingency fund	500,000	(150,000)	350,000
Capital assets	200,000	1,573,477	1,773,477
Grants	555,000	(501,000)	54,000
Guardianship grants	1,328,600	200,000	1,528,600
Prairie public broadcasting	1,600,000	(200,000)	1,400,000
State student internship program	200,000	(200,000)	0
Cybersecurity remediation pool	0	1,000,000	1,000,000
Total all funds	\$38,037,114	\$4,178,625	\$42,215,739
Less estimated income	7,210,390	4,023,697	11,234,087
Total general fund	\$30,826,724	\$154,928	\$30,981,652
Full-time equivalent positions	122.50	(4.50)	118.00"

Page 2, line 5, replace "\$340,576" with "\$315,900"

Page 2, line 5, replace "\$279,990" with "\$259,704"

Insert LC: 17.0613.04002
Senate Carrier: Armstrong
House Carrier: Karls

REPORT OF CONFERENCE COMMITTEE

SB 2216, as engrossed: Your conference committee (Sens. Armstrong, Luick, Myrdal and Reps. Karls, Roers Jones, M. Nelson) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ page 810, adopt amendments as follows, and place SB 2216 on the Seventh order:

That the House recede from its amendments as printed on page 810 of the Senate Journal and page 964 of the House Journal and that Engrossed Senate Bill No. 2216 be amended as follows:

Page 1, line 1, after "to" insert "create and enact a new subsection to section 12.1-17-11 of the North Dakota Century Code, relating to the definition of a health care facility; to"

Page 1, line 17, remove "or"

Page 1, line 20, remove ". A health care"

Page 1, remove lines 21 through 24

Page 2, remove lines 1 through 4

Page 2, line 5, replace "facility" with:

"; or

- g. An emergency responder, including a licensed medical services provider, law enforcement officer, firefighter, volunteer firefighter, officer of a nonprofit volunteer fire department, emergency medical technician, emergency nurse, ambulance operator, or a provider of civil defense services, who while acting in the scope of employment is present at a health care facility"

Page 2, after line 5, insert:

"SECTION 2. A new subsection to section 12.1-17-11 of the North Dakota Century Code is created and enacted as follows:

As used in this section, "health care facility" means an office or institution providing health care services or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including a hospital; clinic; ambulatory surgery center; outpatient care facility; weight control clinic; nursing home; basic care or assisted living facility; laboratory; or office of any medical professional licensed or registered under title 43 or any individual who is included within a specialty and subspecialty of those fields. The term includes a waiting room, hallway, private room, semiprivate room, ward, and any mobile or temporary facility."

Re-number accordingly

Engrossed SB 2216 was placed on the Seventh order of business on the calendar.

	Increases ¹	Positions ²			
Adult services	(\$139,937)		(\$336,000)	\$500,000	\$24,063
Youth services	(34,150)	(251,615)	(270,461)		(556,226)
Total all funds	(\$174,087)	(\$251,615)	(\$606,461)	\$500,000	(\$532,163)
Less estimated income	(10,894)	0	0	500,000	489,106
General fund	(\$163,193)	(\$251,615)	(\$606,461)	\$0	(\$1,021,269)
FTE	0.00	(2.00)	0.00	0.00	(2.00)

¹ Funding for employee health insurance is adjusted to reflect the updated premium amount of \$1,241 per month. This amount was adjusted from the House version to recognize the health insurance increase associated with the 2 additional FTE positions.

² Funding from the general fund is reduced and 2 new FTE Youth Correctional Center positions are removed, providing 8 new FTE positions and \$1,006,461 from the general fund to maintain compliance with the federal Prison Rape Elimination Act. The Senate added 10 new FTE positions and \$1,258,076 from the general fund to maintain compliance with the federal Prison Rape Elimination Act. The House provided for 6 new FTE positions and \$754,846 from the general fund to maintain compliance with the federal Prison Rape Elimination Act.

³ Funding from the general fund for operating expenses is reduced by \$606,461, including \$160,461 for youth services information technology data processing, the same as the House version.

⁴ One-time funding of \$500,000 from other funds is added for implementing justice reinvestment initiatives, the same as the House version.

This amendment also:

- Adds a new section to identify the amount appropriated relating to increases in employee health insurance premiums from \$1,130 to \$1,241 per month. This section was updated from the House version to recognize the health insurance increase associated with the 2 additional FTE positions.
- Adds a new section to designate \$844,000 for the purchase of a 36-bed housing unit at the Missouri River Correctional Center, the same as the House version.
- Adds a new section to provide for a Legislative Management study of the Tompkins Rehabilitation Center, the same as the House version.
- Amends a section added by the Senate relating to management of inmate population at local and regional correctional facilities, the same as the House version.
- Adds a new section to provide for a Justice Reinvestment Oversight Committee, which is to study the implementation of justice reinvestment policies and report to the Legislative Management. This section was not included in the House or the Senate version.

Engrossed SB 2015 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

SB 2216, as engrossed: Your conference committee (Sens. Armstrong, Luick, Myrdal and Reps. Karls, Roers Jones, M. Nelson) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ page 810, adopt amendments as follows, and place SB 2216 on the Seventh order:

That the House recede from its amendments as printed on page 810 of the Senate Journal and page 964 of the House Journal and that Engrossed Senate Bill No. 2216 be amended as follows:

Page 1, line 1, after "to" insert "create and enact a new subsection to section 12.1-17-11 of the North Dakota Century Code, relating to the definition of a health care facility; to"

Page 1, line 17, remove "or"

Page 1, line 20, remove ". A health care"

Page 1, remove lines 21 through 24

Page 2, remove lines 1 through 4

Page 2, line 5, replace "facility" with:

"; or

- g. An emergency responder, including a licensed medical services provider, law enforcement officer, firefighter, volunteer firefighter, officer of a nonprofit volunteer fire department, emergency medical technician, emergency nurse, ambulance operator, or a provider of civil defense services, who while acting in the scope of employment is present at a health care facility"

Page 2, after line 5, insert:

"SECTION 2. A new subsection to section 12.1-17-11 of the North Dakota Century Code is created and enacted as follows:

As used in this section, "health care facility" means an office or institution providing health care services or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including a hospital; clinic; ambulatory surgery center; outpatient care facility; weight control clinic; nursing home; basic care or assisted living facility; laboratory; or office of any medical professional licensed or registered under title 43 or any individual who is included within a specialty and subspecialty of those fields. The term includes a waiting room, hallway, private room, semiprivate room, ward, and any mobile or temporary facility."

Renumber accordingly

Engrossed SB 2216 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

HB 1300: Your conference committee (Sens. Unruh, Cook, Armstrong and Reps. Klemin, K. Koppelman, Hanson) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1434-1436 and place HB 1300 on the Seventh order.

HB 1300 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

HB 1016, as engrossed: Your conference committee (Sens. Bowman, Hogue, Robinson and Reps. Brandenburg, Nathe, Delmore) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1280-1282, adopt amendments as follows, and place HB 1016 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1280-1282 of the House Journal and pages 997-1000 of the Senate Journal and that Engrossed House Bill No. 1016 be amended as follows:

Page 1, remove lines 14 through 24

Page 2, replace lines 1 and 2 with:

"Salaries and wages	\$6,640,086	\$26,439	\$6,666,525
Operating expenses	3,685,547	(159,613)	3,525,934
Capital assets	249,046	32,975,000	33,224,046
Grants	509,514	(190,961)	318,553

General fund						
FTE	136.00	133.00	0.00	133.00	133.00	0.00

Department No. 127 - State Tax Commissioner - Detail of Conference Committee Changes

	Adjusts Funding for Health Insurance Increases ¹	Adds Funding for Salaries and Wages ²	Rebalances Funding for Tax Credit Programs ³	Total Conference Committee Changes
Salaries and wages	(\$27,579)	\$150,000		\$122,421
Operating expenses				
Capital assets				
Homestead tax credit			(1,200,000)	(1,200,000)
Disabled veterans' credit			1,200,000	1,200,000
Total all funds	(\$27,579)	\$150,000	\$0	\$122,421
Less estimated income	0	0	0	0
General fund	(\$27,579)	\$150,000	\$0	\$122,421
FTE	0.00	0.00	0.00	0.00

¹ Funding for employee health insurance is adjusted to reflect the updated premium amount of \$1,241 per month. Section 2 of the bill is adjusted to reflect this change.

² Funding of \$150,000 from the general fund is added to restore funding for 1 FTE sales tax audit position that had been reduced as part of the 2015-17 biennium budget reductions. The Senate restored \$640,000 from the general fund relating to 4 FTE audit positions.

³ Funding of \$1.2 million is transferred from the homestead tax credit program to the disabled veterans' tax credit program to align the appropriations with the anticipated funding needs for the 2017-19 biennium, the same as the Senate.

A section is added to provide an exemption to allow up to \$75,000 of unspent 2015-17 biennium appropriation authority to continue in the 2017-19 biennium for a sales tax auditor position. With the \$150,000 from the general fund restored by the Conference Committee as described above, a total of \$225,000 is provided to restore funding for 2 FTE sales tax audit positions.

Engrossed HB 1006 was placed on the Seventh order of business on the calendar.

MOTION

SEN. KLEIN MOVED that the Senate stand in recess until 1:00 p.m., which motion prevailed.

THE SENATE RECONVENED pursuant to recess taken, with President Sanford presiding.

CORRECTION AND REVISION OF THE JOURNAL

MR. PRESIDENT: Your **Committee on Correction and Revision of the Journal (Sen. Davison, Chairman)** has carefully examined the Journal of the Sixty-first, Sixty-fourth, Sixty-sixth, Sixty-eighth, Sixty-ninth, and Seventieth Days and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 1154, line 47, replace " P. Anderson; B. Koppelman; Olson" with "B. Koppelman; Olson; P. Anderson"

Page 1154, line 48, replace "Grueneich; Howe; Olson" with "Olson; Howe; Grueneich"

Page 1154, line 50, replace "M. Nelson; Roers Jones" with "Roers Jones; M. Nelson"

Page 1154, line 52, replace "Guggisberg; Hatlestad; M. Johnson" with "Hatlestad; M.

Johnson; Guggisberg"

Page 1154, line 53, replace "Bosch; Devlin; Marschall" with "Devlin; Marschall; Bosch"

Page 1154, line 54, replace "Hanson; Jones; Roers Jones" with "Jones; Roers Jones; Hanson"

Page 1155, line 2, replace "Roers Jones; Seibel" with "Seibel; Roers Jones"

Page 1292, line 19, replace "Brandenburg" with "Brabandt"

Page 1402, line 8, replace "Senatem" with "Senate"

Page 1413, line 9, replace "Boehning, Brabandt" with "Brabandt, Boehning"

Page 1444, line 42, remove "amended"

Page 1445, line 4, remove ", as amended,"

Page 1473, line 42, replace "Armstrong, Luick, Myrdal" with "Myrdal, Luick, Armstrong"

Page 1495, line 31, replace "17" with "16"

Page 1495, line 31, replace "18" with "17"

Page 1495, line 35, replace "18" with "17"

Page 1495, line 35, replace "22" with "21"

Page 1495, line 41, replace "M. Nelson" with "Magrum"

Page 1500, line 15, replace "D. Johnson" with "Johnston"

Page 1506, line 46, before "SB" insert "Engrossed"

Page 1542, line 30, replace "Monson, Schreiber-Beck" with "Schreiber-Beck, Monson"

SEN. ANDERSON MOVED that the report be adopted, which motion prevailed.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. WANZEK MOVED that the conference committee report on Engrossed HB 1006 be adopted, which motion prevailed on a voice vote.

SECOND READING OF HOUSE BILL

HB 1006: A BILL for an Act to provide an appropriation for defraying the expenses of the office of the tax commissioner and for payment of state reimbursement under the homestead tax credit and disabled veterans' credit; to provide for a continuing appropriation; to provide for transfers; to provide an exemption; to create and enact a new section to chapter 57-01 of the North Dakota Century Code, relating to a multistate tax audit fund; and to declare an emergency.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Anderson; Armstrong; Bekkedahl; Burckhard; Campbell; Casper; Clemens; Cook; Davison; Dever; Dotzenrod; Erbele; Grabinger; Heckaman; Hogue; Holmberg; Kannianen; Kilzer; Klein; Krebsbach; Kreun; Laffen; Larsen, O.; Larson, D.; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Meyer; Myrdal; Nelson; Oban; Oehlke; Osland; Piepkorn; Poolman; Robinson; Roers; Rust; Schaible; Sorvaag; Unruh; Vedaa; Wanzek; Wardner

ABSENT AND NOT VOTING: Bowman

Engrossed HB 1006, as amended, passed and the emergency clause was declared carried.

2017 TESTIMONY

SB 2216



Senate Judiciary Committee

SB 2216

January 25, 2017

Chairman Armstrong and Committee Members, I am Courtney Koebele and I serve as Executive Director for the North Dakota Medical Association. The North Dakota Medical Association is the professional membership organization for North Dakota physicians, residents, and medical students.

The North Dakota Medical Association is in strong support of SB 2216. This issue was brought to us by the North Dakota Chapter of Emergency Physicians. They are seeing a large increase in assaults in the workplace – outside of the Emergency Rooms. The NDMA House of Delegates reviewed this issue and adopted a resolution to move forward in protecting all healthcare providers. In 2015 NDMA brought a similar bill that did not pass the Senate. The concept has been re-worked, and NDMA worked with the ND Nurses Association on the version before you today.

There are three sections to the bill which add healthcare employee as a protected category.

Section one addresses Simple Assault.

Section one makes a couple of style changes and makes it a ***class A misdemeanor if the victim of a simple assault is employed or contracted by a health care facility.*** "Health care facility" means an office or institution providing health care services or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including a hospital; clinic; ambulatory surgery center; outpatient care facility; weight control clinic; nursing home; basic care or assisted living facility; laboratory; or office of any medical professional licensed or registered under title 43 or any individual who is included within a specialty and subspecialty of those fields. The term includes a waiting room, hallway, private room, semiprivate room, ward, and any mobile or temporary facility.

Section 2 of the bill addresses assault.

Section 2 makes it a class C felony to assault a health care facility employee or contractor. This section already provides that an assault against a twelve-year-old or under is a Class C Felony.

Section 3 addresses bodily fluids.

Section 3 of the bill adds health care facility employee or contractor acting in the scope of employment to the list of victims of contact with blood, emesis, excrement, mucus, saliva, etc. This offense does not apply to a mentally ill person who has been detained. ***The offense is a class C felony if the individual knowingly causes the contact and is a class A misdemeanor if the individual recklessly causes the contact.***

Assaults against healthcare workers are rising. According to OSHA, from 2002 to 2013, incidents of serious workplace violence (those requiring days off for the injured worker to recuperate) were four times more common in healthcare than in private industry on average. This law would increase the penalties for individuals convicted of assaulting a healthcare facility employee. This will send a clear message that we are serious about protecting the professionals who make it their life's work to protect others. Similar to the currently protected professional individuals, healthcare providers are obligated to offer assistance, therefore, we believe the same protections should be in place.

For all of the above stated reasons, we request that your support for SB 2216. I would be happy to answer any questions. Thank you.

Healthcare Worker Assault SB 2216

Kristin Roers, MS, RN, CPPS
North Dakota Nurses Association
Vice President of Government Relations



Define Workplace Violence

- CDC: "physically and psychologically damaging actions that occur in the workplace or while on duty" (2014)
- OSHA: violent acts, including physical assaults and threats of assault, directed toward persons at work or on duty (2015)
- Precipitating factors for the risk of violence included status as a behavioral health patient; patients who were under the influence of drugs or alcohol; crowding; and high patient volume and prolonged wait times (Papa & Venella, 2013)



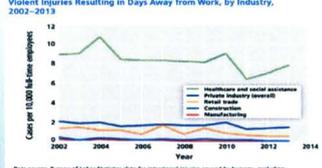

Prevalence of Workplace Violence in Healthcare

- "Concerns about on-the-job violence increased from 25% in 2001 to 34% in 2011" (ANA, 2011)
- 13% of lost work days in healthcare were from violence
- 43% of nurses verbally and or physically threatened by a patient, family member or patient
- 24% have been physically assaulted (ANA, 2011)
- 15,000-20,000 US healthcare worker injuries from 2011-2013 (OSHA, 2015)



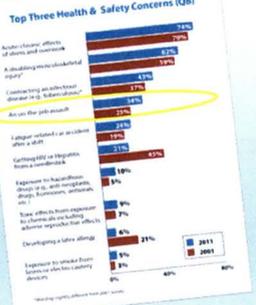

Prevalence of Workplace Violence in Healthcare

Violent Injuries Resulting in Days Away from Work, by Industry, 2002-2013



Data source: Bureau of Labor Statistics data for occupational injuries caused by humans, excluding self-inflicted injuries. (OSHA, 2015)

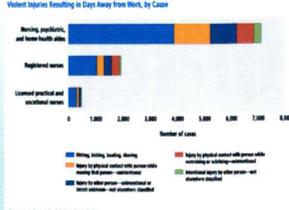
Top Three Health & Safety Concerns (QR)




Prevalence of Workplace Violence in Healthcare

- Violence is more common source of injury in healthcare than in other industries (10-13% vs 3%)
- Under 20% of all workplace violence injuries happen to healthcare workers, healthcare workers suffer 50% of all assaults (OSHA, 2015)

Violent Injuries Resulting in Days Away from Work, by Cause



Data source: Bureau of Labor Statistics, 2015 data. (OSHA, 2015)



Effects of Workplace Violence

- Emotional
- Job satisfaction
- Financial
- Physical/health
- Patient safety




Applicable State Law

- ND Law – upcharges assault to felony of “emergency workers” but not all other healthcare workers
- Surrounding State Laws
- More than half of the states in America have formalized a criminal penalty for such offenders (Papa & Venella, 2013)



2017 Proposed Changes

Class	Current Law for Assault on a Non-Emergency Worker in a Healthcare Facility	SB 2216
Simple Assault	Class B Misdemeanor	Class A Misdemeanor
Assault	Class A Misdemeanor	Class C Felony
Aggravated Assault		No change

12.1-17-11 Contact by bodily fluids or excrement

- An individual is guilty of an offense if the individual causes blood emesis, excrement, mucus, saliva, semen, vaginal fluid, or urine to come in contact with:
 - A health care facility employee or contractor acting within the scope of employment unless the employee or contractor is performing an act within the scope of employment which requires or causes the contact
 - Does not apply to a mentally ill person as defined in section 25-03.1-02 who has been detained pursuant to chapter 25-03.1.
 - The offense is a class C felony if the individual knowingly causes the contact and is a class A misdemeanor if the individual recklessly causes the contact



Prevention & Education are Key

- Penalties are only one piece, but they are the first step
- Education of healthcare workers
 - Violence is not an expected part of the job
 - Reporting
- Prevention – access to Mental Health & Addiction services are necessary



Questions?



References

1. American Nurses Association. (2011, August). 2011 ANA Health and safety survey. Retrieved September 27, 2016, from 2011 ANA Health and Safety Survey. <http://www.nursingworld.org/MainMenuCategories/WorkplaceSafety/HealthyWork-Environment/Work-Environment/2011-HealthSafetySurvey.html>
2. Centers for Disease Control. (2014, June 6). Violence occupational hazards in hospitals. Retrieved September 27, 2016, from Violence Occupational Hazards in Hospitals. <https://www.cdc.gov/niosh/docs/2002-109/>
3. Guidelines for Preventing Workplace Violence for Healthcare and Social Service Workers. (2015). Retrieved September 01, 2016, from <https://www.osha.gov/Publications/OSHA3148.pdf>
4. Incivility, bullying, and workplace violence. (2015, July 22). Retrieved from <http://nursingworld.org/DocumentVault/Position-Statements/Practice/Position-Statement-on-Incivility-Bullying-and-Workplace-Violence.pdf>
5. Papa, A., & Venella, J. (2013). Workplace violence in healthcare: Strategies for advocacy. *The Online Journal of Issues in Nursing*, 18(1). Retrieved from <http://www.nursingworld.org/MainMenuCategories/ANAMarketplace/ANAPeriodicals/OJIN/TableOfContents/Vol-18-2013/Yes-I-am-2013-Workplace-Violence-Strategies-for-Advocacy.html>
6. Workplace Violence. (2016, May). Retrieved September 1, 2016, from <http://nursingworld.org/workplaceviolence>
7. Workplace violence penalties and terminology database. (2013, February 25). Retrieved from <https://www.ena.org/government/State/Documents/WVP/Penalties.pdf>
8. Workplace violence in healthcare: Understanding the challenge (2015, December). Retrieved January 23, 2017, from <https://www.osha.gov/Publications/OSHA3826.pdf>



3

~~1/25/17~~ 1/25/17

Vote Yes to SB 2216

April 2016: "Health care workplace violence is an underreported, ubiquitous, and persistent problem that has been tolerated and largely ignored," - Dr. James Phillips of Harvard Medical School in the New England Journal of Medicine.

- "Our industry is, statistically, **the most violent non-law-enforcement industry** in the United States. And that's using government statistics that have been shown to under-report the actual violence that takes place by up to 70 percent"
- The violence is often tied to patients with dementia and mental health or substance abuse problems. But in a significant number of cases, firearms can be involved.
- In a mental health setting, 70 percent of staff members are physically assaulted each year, and "among psychiatric aides, the rate is 69 times the national rate of violence in the workplace," Phillips writes.
- And in nursing homes, where dementia is a problem, one survey found that 59 percent of nursing home aides reported being assaulted weekly.
- "One reason health care providers are reluctant to report these is that we have compassion for our patients, and we don't want to treat patients like they're criminals or the enemy," Phillips said. "So we probably make excuses when we shouldn't, and we overlook patients who are intoxicated or on drugs, and other patients who have altered mental status because of chronic dementia or acute delirium. They are already vulnerable, and we don't want to treat them as if they are criminals."
- almost 75% of all workplace assaults between 2011 and 2013 happened in healthcare settings;
- 80% of emergency medical workers will experience violence during their careers;
- 78% of emergency department physicians nationwide report being the target of workplace violence in 2015;
- 100% of emergency department nurses report verbal assault and 82.1% report physical assault during 2015;
- 40% of psychiatrists report physical assault;
- the rate of workplace violence among psychiatric aides is 69 times higher than the national rate of workplace violence;
- 61% of home healthcare workers report violence annually

An "iceberg problem" - Gordon Gillespie, PhD, associate professor and deputy director of the Occupational Health Nursing Program at the University of Cincinnati in Ohio,

- half of violent incidents involve behavioral health patients, whereas the other **half involve patients who have nothing to do with mental health**. But those types of encounters are **not always reported** because of a perceived lower likelihood that the patient will be seen again.
- Just 30% of nurses report workplace violence, whereas 26% of physicians do, according to one study. The professional culture of healthcare, which often considers violence as "part of the job," likely contributes.

Shanafelt et al –Potential impact of burnout on US physician workforce. Nov 2016 - Mayo Clinic Proceedings

- 54.4% of the physicians reported burnout in 2014 compared with 45.5% in 2011. Satisfaction with work-life balance also declined in physicians between 2011 and 2014 (48.5% vs 40.9%)

In contrast to the trends in physicians, minimal changes in burnout or satisfaction with work-life balance were observed between 2011 and 2014 in probability-based samples of working US adults, resulting in an increasing disparity in burnout and satisfaction with work-life balance in physicians relative to the general US working population

- physicians are at a 2 times increased risk of burnout and are by one third less likely to be satisfied with work-life balance.

Burnout and satisfaction with work-life balance in US physicians worsened from 2011 to 2014. More than half of US physicians are now experiencing professional burnout –

Goldman et al. Depression and suicide among physician trainees: recommendations for a national response. JAMA Psychiatry. 2015 May

We are losing 400 physicians / year to suicide – equivalent of a small medical school like UND

I would be glad to answer any questions: Gabriela Balf, MD, MPH

Clinical Associate Director UND School of Medicine Psychiatry

ND Psychiatric Society President Elect

Phone 701 323 2350

4



Vision

The North Dakota Hospital Association will take an active leadership role in major Healthcare issues.

Mission

The North Dakota Hospital Association exists to advance the health status of persons served by the membership.

**Testimony: 2017 SB 2216
Senate Judiciary Committee
Senator Kelly Armstrong, Chairman
January 25, 2017**

Good morning Chairman Armstrong and Members of the Senate Judiciary Committee. I am Jerry E. Jurena, President of the North Dakota Hospital Association (NDHA). I am here to testify regarding 2017 Senate Bill 2216 and ask that you give this bill a **Do Pass** recommendation.

Health care workers experience workplace violence at a rate far higher than the national average. The health care industry is statistically the most violent non-law-enforcement industry in the United States. In one study, eighty two percent of emergency department nurses reported being physically assaulted and one hundred percent reported being verbally assaulted during the past year. Twenty five percent of physicians reported having been the target of physical assault in the past year and physicians practicing in psychiatric settings are even more prone to assault – forty percent reported being physically assaulted at work.

Retention of workers in the health care field can be increased by supporting specific protection for all health care workers assaulted on the job. All those who work in a health care setting, whether it is a nurse in a hospital, a maintenance technician in a clinic, or a food service worker in a nursing home, as well as those who work in an emergency department setting, deserve such protection. Enhanced criminal penalties against those who commit assault against anyone who works in the health care setting sends a strong message that violence in this setting will not be tolerated.

We support this bill and ask that you give it a **Do Pass** recommendation.

I would be happy to try to answer any questions you may have. Thank you.

Respectfully Submitted,

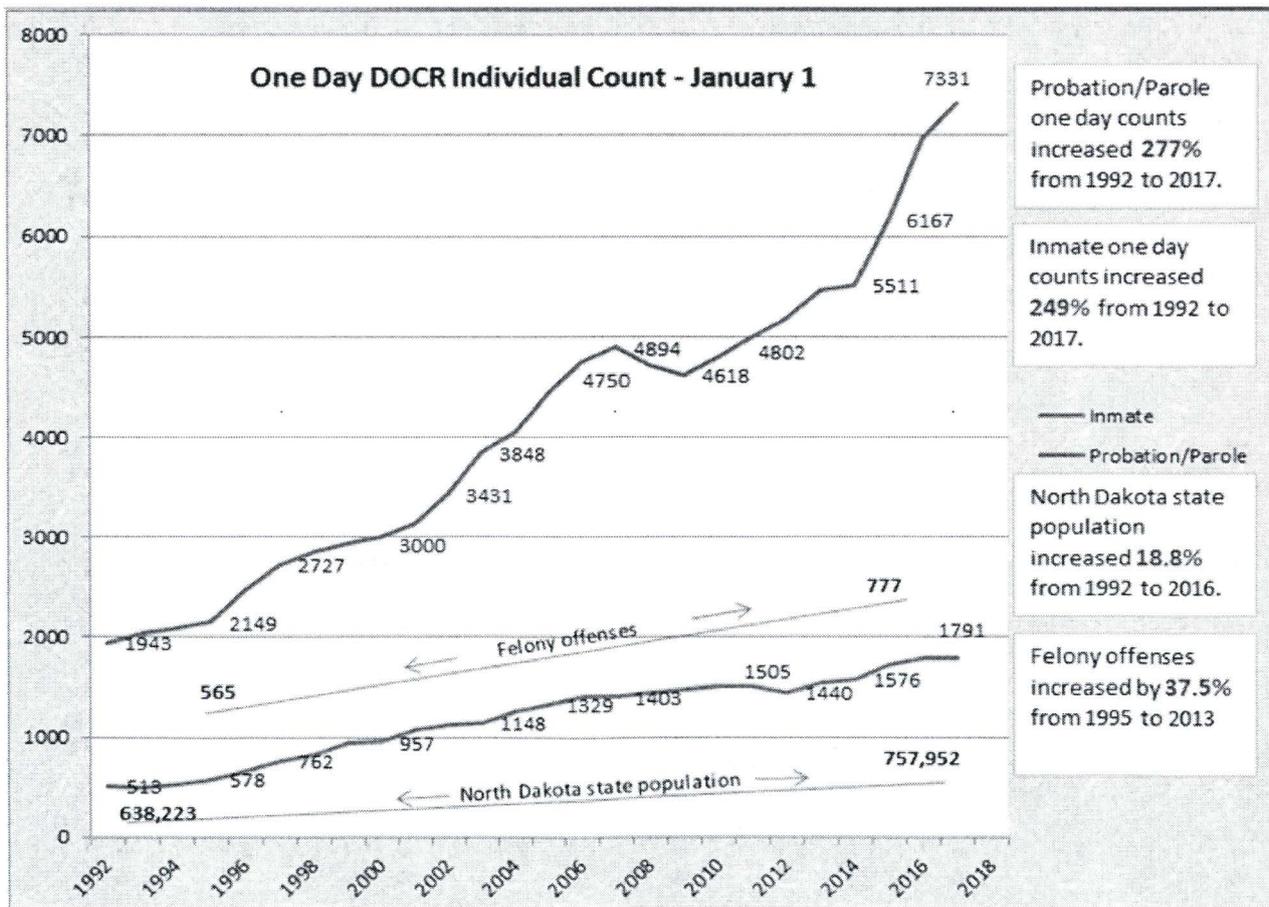
Jerry E. Jurena, President
North Dakota Hospital Association

SENATE JUDICIARY COMMITTEE
SENATOR KELLY ARMSTRONG, CHAIRMAN
JANUARY 25, 2017

PATRICK N. BOHN, DIRECTOR FOR TRANSITIONAL PLANNING SERVICES,
NORTH DAKOTA DEPARTMENT OF CORRECTIONS & REHABILITATION
PRESENTING TESTIMONY RE: SB 2216

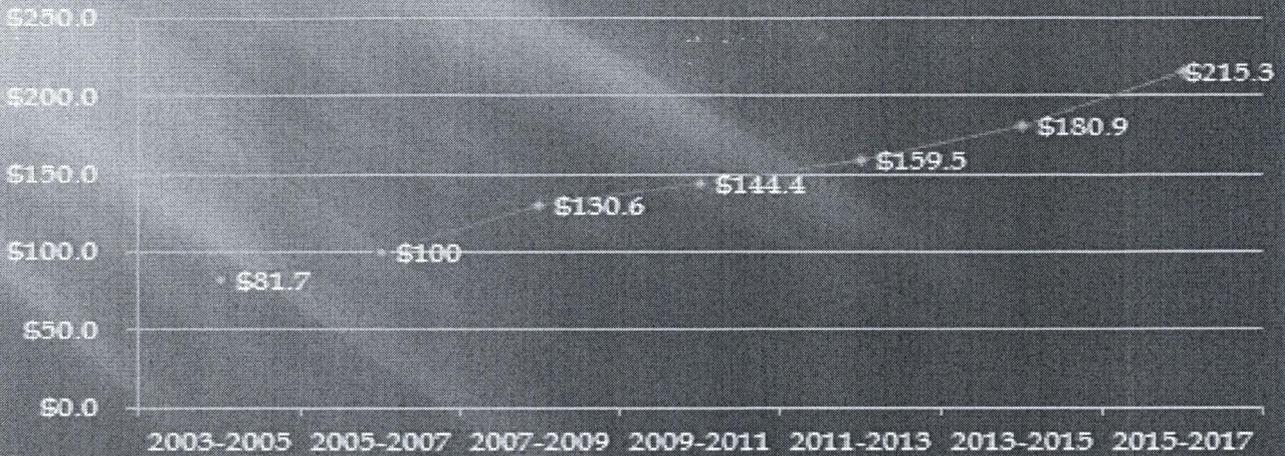
My name is Pat Bohn and I am the Director for Transitional Planning Services for the North Dakota Department of Corrections and Rehabilitation (DOCR). I am here to testify on behalf of the department in opposition to SB 2216.

The department is generally opposed to these types of penalty enhancements. There is no evidence that this enhancement will result in a reduction in this type of behavior. By no means are we condoning this type of behavior. It is these types of enhancements that incrementally contribute to the growth in not only corrections but our broader criminal justice system.



What is the cost?

**General Fund Appropriation
In Millions (163% Increase)**



In closing, if you have any questions, I'd be glad to try and answer them.

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1/25/17



Letter of Support:

I am Cheryl Rising, Family Nurse Practitioner (FNP) and Legislative Liaison for the North Dakota Nurse Practitioner Association (NDNPA).

NDNPA supports Senate Bill Number 2216, A BILL for an Act to amend and reenact sections 12.1-17-01, 12.1-17-01.1, and subsection 1 of section 12.1-17-11 of the North Dakota Century Code, relating to assault on a health care facility provider and contact by bodily fluids or excrement; and to provide a penalty.

Senate Bill Number 2216 does identify a class A and B misdemeanor and a class C felony. We also support additional language as written page 3 lines 15 through 17.

Cheryl Rising, FNP 701-527-2583 crisingnp@gmail.com

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1/25/17

SB 2216

**CHAPTER 12.1-17
ASSAULTS - THREATS - COERCION - HARASSMENT**

12.1-17-01. Simple assault.

1. A person is guilty of an offense if that person:
 - a. Willfully causes bodily injury to another human being; or
 - b. Negligently causes bodily injury to another human being by means of a firearm, destructive device, or other weapon, the use of which against a human being is likely to cause death or serious bodily injury.
2. The offense is:
 - a. A class C felony when the victim is a peace officer or correctional institution employee acting in an official capacity, which the actor knows to be a fact; an employee of the state hospital acting in the course and scope of employment, which the actor knows to be a fact, and the actor is an individual committed to or detained at the state hospital pursuant to chapter 25-03.3; a person engaged in a judicial proceeding; or a member of a municipal or volunteer fire department or emergency medical services personnel unit or emergency department worker in the performance of the member's duties.
 - b. A class B misdemeanor for the first offense when the victim is an actor's family or household member as defined in subsection 4 of section 14-07.1-01 and a class A misdemeanor for a second or subsequent offense when the victim is an actor's family or household member as defined in subsection 4 of section 14-07.1-01 and the actor has a prior conviction for simple assault under this section or an assault offense under section 12.1-17-01.1 or 12.1-17-02 involving the commission of domestic violence as defined in subsection 2 of section 14-07.1-01. For purposes of this subdivision, a prior conviction includes a conviction of any assault offense in which a finding of domestic violence was made under a law or ordinance of another state which is equivalent to this subdivision.
 - c. A class B misdemeanor except as provided in subdivision a or b.

12.1-17-01.1. Assault.

A person is guilty of a class A misdemeanor, except if the victim is under the age of twelve years in which case the offense is a class C felony, if that person:

1. Willfully causes substantial bodily injury to another human being; or
2. Negligently causes substantial bodily injury to another human being by means of a firearm, destructive device, or other weapon, the use of which against a human being is likely to cause death or serious bodily injury.

12.1-17-02. Aggravated assault.

1. Except as provided in subsection 2, a person is guilty of a class C felony if that person:
 - a. Willfully causes serious bodily injury to another human being;
 - b. Knowingly causes bodily injury or substantial bodily injury to another human being with a dangerous weapon or other weapon, the possession of which under the circumstances indicates an intent or readiness to inflict serious bodily injury;
 - c. Causes bodily injury or substantial bodily injury to another human being while attempting to inflict serious bodily injury on any human being; or
 - d. Fires a firearm or hurls a destructive device at another human being.
2. The person is guilty of a class B felony if the person violates subsection 1 and the victim is under the age of twelve years or the victim suffers permanent loss or impairment of the function of a bodily member or organ.

12.1-17-03. Reckless endangerment.

A person is guilty of an offense if he creates a substantial risk of serious bodily injury or death to another. The offense is a class C felony if the circumstances manifest his extreme

indifference to the value of human life. Otherwise it is a class A misdemeanor. There is risk within the meaning of this section if the potential for harm exists, whether or not a particular person's safety is actually jeopardized.

12.1-17-04. Terrorizing.

A person is guilty of a class C felony if, with intent to place another human being in fear for that human being's or another's safety or to cause evacuation of a building, place of assembly, or facility of public transportation, or otherwise to cause serious disruption or public inconvenience, or in reckless disregard of the risk of causing such terror, disruption, or inconvenience, the person:

1. Threatens to commit any crime of violence or act dangerous to human life; or
2. Falsely informs another that a situation dangerous to human life or commission of a crime of violence is imminent knowing that the information is false.

12.1-17-05. Menacing.

A person is guilty of a class A misdemeanor if he knowingly places or attempts to place another human being in fear by menacing him with imminent serious bodily injury.

12.1-17-06. Criminal coercion.

1. A person is guilty of a class A misdemeanor if, with intent to compel another to engage in or refrain from conduct, he threatens to:
 - a. Commit any crime;
 - b. Accuse anyone of a crime;
 - c. Expose a secret or publicize an asserted fact, whether true or false, tending to subject any person, living or deceased, to hatred, contempt, or ridicule, or to impair another's credit or business repute; or
 - d. Take or withhold official action as a public servant or cause a public servant to take or withhold official action.
2. It is an affirmative defense to a prosecution under this section that the actor believed, whether or not mistakenly:
 - a. That the primary purpose of the threat was to cause the other to conduct himself in his own best interest; or
 - b. That a purpose of the threat was to cause the other to desist from misbehavior, engage in behavior from which he could not lawfully abstain, make good a wrong done by him, or refrain from taking any action or responsibility for which he was disqualified.

12.1-17-07. Harassment.

1. A person is guilty of an offense if, with intent to frighten or harass another, the person:
 - a. Communicates in writing or by electronic communication a threat to inflict injury on any person, to any person's reputation, or to any property;
 - b. Makes a telephone call anonymously or in offensively coarse language;
 - c. Makes repeated telephone calls or other electronic communication, whether or not a conversation ensues, with no purpose of legitimate communication; or
 - d. Communicates a falsehood in writing or by electronic communication and causes mental anguish.
2. The offense is a class A misdemeanor if it is under subdivision a of subsection 1 or subsection 4. Otherwise it is a class B misdemeanor.
3. Any offense defined herein and committed by use of electronic communication may be deemed to have been committed at either the place at which the electronic communication was made or at the place where the electronic communication was received.
4. A person is guilty of an offense if the person initiates communication with a 911 emergency line, public safety answering point, or an emergency responder

communication system with the intent to annoy or harass another person or a public safety agency or who makes a false report to a public safety agency.

- a. Intent to annoy or harass is established by proof of one or more calls with no legitimate emergency purpose.
 - b. Upon conviction of a violation of this subsection, a person is also liable for all costs incurred by any unnecessary emergency response.
5. Any offense defined herein is deemed communicated in writing if it is transmitted electronically, by electronic mail, facsimile, or other similar means. Electronic communication means transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo-electronic, or photo-optical system.

12.1-17-07.1. Stalking.

1. As used in this section:
 - a. "Course of conduct" means a pattern of conduct consisting of two or more acts evidencing a continuity of purpose. The term does not include constitutionally protected activity.
 - b. "Immediate family" means a spouse, parent, child, or sibling. The term also includes any other individual who regularly resides in the household or who within the prior six months regularly resided in the household.
 - c. "Stalk" means:
 - (1) To engage in an intentional course of conduct directed at a specific person which frightens, intimidates, or harasses that person and which serves no legitimate purpose. The course of conduct may be directed toward that person or a member of that person's immediate family and must cause a reasonable person to experience fear, intimidation, or harassment; or
 - (2) The unauthorized tracking of the person's movements or location through the use of a global positioning system or other electronic means that would cause a reasonable person to be frightened, intimidated, or harassed and which serves no legitimate purpose.
2. A person may not intentionally stalk another person.
3. In any prosecution under this section, it is not a defense that the actor was not given actual notice that the person did not want the actor to contact or follow the person; nor is it a defense that the actor did not intend to frighten, intimidate, or harass the person. An attempt to contact or follow a person after being given actual notice that the person does not want to be contacted or followed is prima facie evidence that the actor intends to stalk that person.
4. In any prosecution under this section, it is a defense that a private investigator licensed under chapter 43-30 or a peace officer licensed under chapter 12-63 was acting within the scope of employment.
5. If a person claims to have been engaged in a constitutionally protected activity, the court shall determine the validity of the claim as a matter of law and, if found valid, shall exclude evidence of the activity.
6. a. A person who violates this section is guilty of a class C felony if:
 - (1) The person previously has been convicted of violating section 12.1-17-01, 12.1-17-01.1, 12.1-17-02, 12.1-17-04, 12.1-17-05, or 12.1-17-07, or a similar offense from another court in North Dakota, a court of record in the United States, or a tribal court, involving the victim of the stalking;
 - (2) The stalking violates a court order issued under chapter 14-07.1 protecting the victim of the stalking, if the person had notice of the court order; or
 - (3) The person previously has been convicted of violating this section.
- b. If subdivision a does not apply, a person who violates this section is guilty of a class A misdemeanor.

12.1-17-07.2. Distribution of intimate images without or against consent - Penalty.

1. As used in this section:

- a. "Distribute" means selling, exhibiting, displaying, wholesaling, retailing, providing, giving, granting admission to, providing access to, or otherwise transferring or presenting an image to another individual, with or without consideration.
 - b. "Hosting company" means a person that provides services or facilities for storing or distributing content over the internet without editorial or creative alteration of the content.
 - c. "Intimate image" means any visual depiction, photograph, film, video, recording, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, that depicts:
 - (1) Exposed human male or female genitals or pubic area, with less than an opaque covering;
 - (2) A female breast with less than an opaque covering, or any portion of the female breast below the top of the areola; or
 - (3) The individual engaged in any sexually explicit conduct.
 - d. "Service provider" means an internet service provider, including a person who leases or rents a wire or cable for the transmission of data.
 - e. "Sexually explicit conduct" means actual or simulated:
 - (1) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;
 - (2) Masturbation;
 - (3) Bestiality;
 - (4) Sadistic or masochistic activities;
 - (5) Exhibition of the genitals, pubic region, buttocks, or female breast of any individual;
 - (6) Visual depiction of nudity or partial nudity;
 - (7) Fondling or touching of the genitals, pubic region, buttocks, or female breast; or
 - (8) Explicit representation of the defecation or urination functions.
 - f. "Simulated sexually explicit conduct" means a feigned or pretended act of sexually explicit conduct that duplicates, within the perception of an average person, the appearance of an actual act of sexually explicit conduct.
2. A person commits the offense of distribution of intimate images if the person knowingly or intentionally distributes to any third party any intimate image of an individual eighteen years of age or older, if:
 - a. The person knows that the depicted individual has not given consent to the person to distribute the intimate image;
 - b. The intimate image was created by or provided to the person under circumstances in which the individual has a reasonable expectation of privacy; and
 - c. Actual emotional distress or harm is caused to the individual as a result of the distribution under this section.
 3. This section does not apply to:
 - a. Lawful practices of law enforcement agencies;
 - b. Prosecutorial agency functions;
 - c. The reporting of a criminal offense;
 - d. Court proceedings or any other judicial proceeding;
 - e. Lawful and generally accepted medical practices and procedures;
 - f. An intimate image if the individual portrayed in the image voluntarily allows public exposure of the image; or
 - g. An intimate image that is portrayed in a lawful commercial setting.
 4. This section also does not apply to:
 - a. An internet service provider or interactive computer service, as defined in 47 U.S.C. 230(f)(2);
 - b. A provider of an electronic communications service, as defined in 18 U.S.C. 2510;

- c. A telecommunications service, information service, or mobile service, as defined in 47 U.S.C. 153, including a commercial mobile service, as defined in 47 U.S.C. 332(d);
 - d. A cable operator, as defined in 47 U.S.C. 552, if:
 - (1) The distribution of an intimate image by the cable operator occurs only incidentally through the operator's function of:
 - (a) Transmitting or routing data from one person to another person; or
 - (b) Providing a connection between one person and another person;
 - (2) The operator does not intentionally aid or abet in the distribution of the intimate image; and
 - (3) The operator does not knowingly receive from or through a person who distributes the intimate image a fee greater than the fee generally charged by the operator, as a specific condition for permitting the person to distribute the intimate image; or
 - e. A hosting company, if:
 - (1) The distribution of an intimate image by the hosting company occurs only incidentally through the hosting company's function of providing data storage space or data caching to a person;
 - (2) The hosting company does not intentionally engage, aid, or abet in the distribution of the intimate image; and
 - (3) The hosting company does not knowingly receive from or through a person who distributes the intimate image a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute, store, or cache the intimate image.
5. Distribution of an intimate image is a class A misdemeanor.

12.1-17-08. Consent as a defense.

- 1. When conduct is an offense because it causes or threatens bodily injury, consent to such conduct or to the infliction of such injury by all persons injured or threatened by the conduct is a defense if:
 - a. Neither the injury inflicted nor the injury threatened is such as to jeopardize life or seriously impair health;
 - b. The conduct and the injury are reasonably foreseeable hazards of joint participation in a lawful athletic contest or competitive sport; or
 - c. The conduct and the injury are reasonably foreseeable hazards of an occupation or profession or of medical or scientific experimentation conducted by recognized methods, and the persons subjected to such conduct or injury, having been made aware of the risks involved, consent to the performance of the conduct or the infliction of the injury.
- 2. Assent does not constitute consent, within the meaning of this section, if:
 - a. It is given by a person who is legally incompetent to authorize the conduct charged to constitute the offense and such incompetence is manifest or known to the actor;
 - b. It is given by a person who by reason of youth, mental disease or defect, or intoxication is manifestly unable or known by the actor to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense; or
 - c. It is induced by force, duress, or deception.

12.1-17-09. Killing or injury of law enforcement support animal - Definition - Penalty.

- 1. A person is guilty of a class C felony and is subject to a civil penalty of up to ten thousand dollars if that person willfully and unjustifiably kills, shoots, tortures, torments, beats, kicks, strikes, mutilates, disables, or otherwise injures a law enforcement support animal.
- 2. A person is guilty of a class A misdemeanor and is subject to a civil penalty of up to five thousand dollars if that person willfully:

- a. Harasses, taunts, or provokes a law enforcement support animal;
 - b. Interferes with a law enforcement support animal while the animal is working; or
 - c. Interferes with the individual handling the animal.
3. For purposes of this section, "law enforcement support animal" means any animal used by or on behalf of a law enforcement officer in the performance of the officer's functions and duties, including crowd control, corrections, arson investigation, or search and rescue, regardless of whether the animal is on or off duty.
 4. This section does not apply to a law enforcement officer or a veterinarian who terminates the life of a law enforcement support animal to relieve the animal of undue suffering and pain.

12.1-17-10. Hazing - Penalty.

A person is guilty of an offense when, in the course of another person's initiation into or affiliation with any organization, the person willfully engages in conduct that creates a substantial risk of physical injury to that other person or a third person. As used in this section, "conduct" means any treatment or forced physical activity that is likely to adversely affect the physical health or safety of that other person or a third person, or which subjects that other person or third person to extreme mental stress, and may include extended deprivation of sleep or rest or extended isolation, whipping, beating, branding, forced calisthenics, overexposure to the weather, and forced consumption of any food, liquor, beverage, drug, or other substance. The offense is a class A misdemeanor if the actor's conduct causes physical injury, otherwise the offense is a class B misdemeanor.

12.1-17-11. Contact by bodily fluids or excrement.

1. An individual is guilty of an offense if the individual causes blood, emesis, excrement, mucus, saliva, semen, vaginal fluid, or urine to come in contact with:
 - a. A law enforcement officer acting in the scope of employment;
 - b. An employee of a correctional facility or the department of corrections and rehabilitation acting in the scope of employment unless the employee does an act within the scope of employment which requires or causes the contact;
 - c. Any person lawfully present in a correctional facility who is not an inmate;
 - d. Any person lawfully present in the penitentiary or an affiliated facility of the penitentiary who is not an inmate; or
 - e. Any person who is transporting an individual who is lawfully detained.
2. Subsection 1 does not apply to a mentally ill person as defined in section 25-03.1-02 who has been detained pursuant to chapter 25-03.1.
3. The offense is a class C felony if the individual knowingly causes the contact and is a class A misdemeanor if the individual recklessly causes the contact.

12.1-17-12. Assault or homicide while fleeing peace officer.

A person is guilty of a class A felony if that person negligently causes the death of another or a class B felony if that person negligently causes serious bodily injury to another while in violation of section 39-10-71.

12.1-17-13. Mandated treatment of domestic violence offenders.

The sentence for an offense under section 12.1-17-01, 12.1-17-01.1, 12.1-17-02, 12.1-17-03, 12.1-17-04, or 12.1-17-05 against an actor's family or household member, as defined in subsection 4 of section 14-07.1-01, must include an order to complete a domestic violence offender treatment program. A court may not order the offender to attend anger management classes or individual counseling unless a domestic violence offender treatment program is not reasonably available to the defendant and the court makes findings for the record explaining why an order to complete a domestic violence offender treatment program would be inappropriate.

1

17.0613.02001
Title.03000

Adopted by the Judiciary Committee

February 7, 2017

PROPOSED AMENDMENTS TO SENATE BILL NO. 2216

Page 1, line 1, remove "sections 12.1-17-01, 12.1-17-01.1, and"

Page 1, remove lines 5 through 24

Page 2, remove lines 1 through 31

Page 3, line 17, after the period insert "A "health care facility" means an office or institution providing health care services or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychosocial conditions, including a hospital; clinic; ambulatory surgery center; outpatient care facility; weight control clinic; nursing home; basic care or assisted living facility; laboratory; or office of any medical professional licensed or registered under title 43 or any individual who is included within a specialty and subspecialty of those fields. The term includes a waiting room, hallway, private room, semiprivate room, ward, and any mobile or temporary facility."

Re-number accordingly

#1
2216
3-8-17



**House Judiciary Committee
SB 2216
March 8, 2017**

Chairman Koppelman and Committee Members, I am Courtney Koebele and I serve as Executive Director for the North Dakota Medical Association. The North Dakota Medical Association is the professional membership organization for North Dakota physicians, residents, and medical students.

The North Dakota Medical Association is in strong support of SB 2216. This issue was brought to us by the North Dakota Chapter of Emergency Physicians. They are seeing a large increase in assaults in the workplace – outside of the Emergency Rooms. North Dakota criminal law already has increased penalties for assaults against emergency room workers along with police officers and other first responders. The emergency physicians wanted this higher level of penalties to cover all health care providers. The NDMA House of Delegates reviewed this issue and adopted a resolution to move forward in protecting all healthcare providers. In 2015 NDMA brought a similar bill that did not pass the Senate. The concept has been re-worked, and NDMA worked with the ND Nurses Association on the bill originally presented to the Senate.

Original Bill: The bill originally filed had three sections: Section 1 made it a class A misdemeanor if the victim of a simple assault is employed or contracted by a health care facility; Section 2 made it a class C felony to assault a health care facility employee or contractor; Section 3 made it a class C felony to knowingly cause blood, emesis, etc to come in contact with a health care facility employee and a class A misdemeanor if the individual recklessly causes the contact.

Engrossed bill: The bill was amended in the Senate to remove sections 1 and 2. Therefore, the engrossed SB 2216 only contains a higher penalty for those types of assaults involving bodily fluid emissions against health care facility employees.

The engrossed bill now does two things: 1. places a health care facility employee or contractor acting in the scope of employment to the list of victims of contact with blood, emesis, excrement, mucus, saliva, etc. This offense does not apply to a mentally ill person who has been detained. ***The offense is a class C felony if the individual knowingly causes the contact and is a class A misdemeanor if the individual recklessly causes the contact.*** 2. The engrossed bill also defines what a health care facility means.

Assaults against healthcare workers are rising. According to OSHA, from 2002 to 2013, incidents of serious workplace violence (those requiring days off for the injured worker to recuperate) were four times more common in healthcare than in private industry on average. This law would increase the penalties for individuals convicted of assaulting a healthcare facility employee with bodily fluids. This will send a clear message that we are serious about protecting the professionals who make it their life's work to protect others. Similar to the currently protected professional individuals, healthcare providers are obligated to offer assistance, therefore, we believe the same protections should be in place.

For all of the above stated reasons, we request that your support for SB 2216 with DO PASS. I would be happy to answer any questions. Thank you.

#2
2216
3-8-17

Healthcare Worker Assault SB 2216

Kristin Roers, MS, RN, CPPS
North Dakota Nurses Association
Vice President of Government Relations



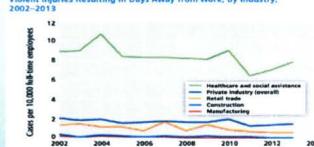
Prevalence of Workplace Violence in Healthcare

- CDC: "physically and psychologically damaging actions that occur in the workplace or while on duty" (2014)
- OSHA: violent acts, including physical assaults and threats of assault, directed toward persons at work or on duty (2015)
- "Concerns about on-the-job violence increased from 25% in 2001 to 34% in 2011" (ANA, 2011)
 - 43% of nurses verbally and or physically threatened by patient, family member or patient
 - 24% have been physically assaulted (ANA, 2011)




Prevalence of Workplace Violence in Healthcare

Violent Injuries Resulting in Days Away from Work, by Industry, 2002-2013



Top Three Health & Safety Concerns (OSR)

Concern	2011 (%)	2007 (%)
Health-care effects of stress and burnout	16%	12%
A disabling musculoskeletal injury	12%	9%
Exposure to hazardous materials or agents	11%	8%
Exposure to bloodborne pathogens (e.g., HIV, hepatitis B virus, hepatitis C virus, tuberculosis, pertussis, etc.)	10%	7%
Exposure to ionizing radiation	9%	6%
Exposure to violence from patients or other facility clients	8%	5%
Exposure to violence from coworkers	7%	4%
Exposure to violence from visitors or other facility clients	6%	3%
Exposure to violence from other facility clients	5%	2%
Exposure to violence from other facility clients	4%	1%
Exposure to violence from other facility clients	3%	1%
Exposure to violence from other facility clients	2%	1%
Exposure to violence from other facility clients	1%	0%

(OSHA, 2015) (ANA, 2011)



Effects of Workplace Violence

- Emotional
- Job satisfaction
- Financial
- Physical/health
- Patient safety




Applicable State Law

- Current ND Law – upcharges assault to felony of "emergency workers" but not all other works in a healthcare facility
- More than half of the states in America have formalized a criminal penalty for such offenders (Papa & Venella, 2013)




SB 2216 – Original Draft

Class	Current Law for Assault on a Non-Emergency Worker in a Healthcare Facility	SB 2216
Simple Assault	Class B Misdemeanor	Class A Misdemeanor
Assault	Class A Misdemeanor	Class C Felony
Aggravated Assault		No change

12.1-17-11 Contact by bodily fluids or excrement

- An individual is guilty of an offense if the individual causes blood emesis, excrement, mucus, saliva, semen, vaginal fluid, or urine to come in contact with:
 - A health care facility employee or contractor acting within the scope of employment unless the employee or contractor is performing an act within the scope of employment which requires or causes the contact
 - Does not apply to a mentally ill person as defined in section 25-03.1-02 who has been detained pursuant to chapter 25-03.1.
 - The offense is a class C felony if the individual knowingly causes the contact and is a class A misdemeanor if the individual recklessly causes the contact



Prevention & Education are Key

- Penalties are only one piece, but they are the first step
- Education of healthcare workers
 - Violence is not an expected part of the job
 - Reporting
- Prevention – access to Mental Health & Addiction services are necessary



Questions?



References

1. American Nurses Association. (2011, August). 2011 ANA Health and safety survey. Retrieved September 27, 2016, from 2011 ANA Health and Safety Survey, <http://www.nursingworld.org/MainMenuCategories/WorkplaceSafety/Healthy-Work-Environment/Work-Environment/2011-HealthSafetySurvey.html>
2. Centers for Disease Control. (2014, June 6). Violence occupational hazards in hospitals. Retrieved September 27, 2016, from Violence Occupational Hazards in Hospitals, <https://www.cdc.gov/niosh/docs/2014/101/>
3. Guidelines for Preventing Workplace Violence for Healthcare and Social Service Workers. (2015). Retrieved September 01, 2016, from <https://www.osha.gov/Publications/OSHA3348.pdf>
4. Incivility, bullying, and workplace violence. (2015, July 22). Retrieved from <http://nursingworld.org/DocumentVault/Position-Statements/Practice/Position-Statement-on-Incivility-Bullying-and-Workplace-Violence.pdf>
5. Papp, A., & Venello, J. (2013). Workplace violence in healthcare: Strategies for advocacy. *The Online Journal of Issues in Nursing*, 18(1). Retrieved from [http://www.nursingworld.org/MainMenuCategories/ANAMarketplace/ANAPeriodicals/OJIN/TablesOfContents/Vol-18-2013/18\(1\)Jan-2013-Workplace-Violence-Strategies-for-Advocacy.html](http://www.nursingworld.org/MainMenuCategories/ANAMarketplace/ANAPeriodicals/OJIN/TablesOfContents/Vol-18-2013/18(1)Jan-2013-Workplace-Violence-Strategies-for-Advocacy.html)
6. Workplace Violence. (2016, May). Retrieved September 1, 2016, from <http://nursingworld.org/workplaceviolence>
7. Workplace violence penalties and terminology database. (2013, February 25). Retrieved from <https://www.ana.org/government/State/Documents/WPVPenalties.pdf>
8. Workplace violence in healthcare: Understanding the challenge (2015, December). Retrieved January 23, 2017, from <https://www.osha.gov/Publications/OSHA3876.pdf>





Vision

The North Dakota Hospital Association will take an active leadership role in major Healthcare issues.

Mission

The North Dakota Hospital Association exists to advance the health status of persons served by the membership.

#3
2216
3-8-17

**Testimony: 2017 SB 2216
House Judiciary Committee
Representative Kim Koppelman, Chairman
March 8, 2017**

Good morning Chairman Koppelman and members of the House Judiciary Committee. I am Jerry E. Jurena, President of the North Dakota Hospital Association (NDHA). I ask that you give 2017 Engrossed Senate Bill 2216 a **Do Pass** recommendation.

NDHA supports the protection of all health care workers from violence in the workplace. While we would have preferred the more comprehensive protections in the bill as introduced, we do support the amendments to the bill as a way to show our health care workers their safety matters. Health care workers unfortunately experience workplace violence at a rate far higher than the national average. In one study, eighty two percent of emergency department nurses reported being physically assaulted and one hundred percent reported being verbally assaulted during the past year. Twenty five percent of physicians reported having been the target of physical assault in the past year and physicians practicing in psychiatric settings are even more prone to assault – forty percent reported being physically assaulted at work.

NDHA supports enhanced criminal penalties against those who commit assault against anyone who works in a health care setting and we appreciate your efforts to send a strong message that violence in this setting will not be tolerated.

We support this bill and ask that you give it a **Do Pass** recommendation. I would be happy to try to answer any questions you may have. Thank you.

Respectfully Submitted,
Jerry E. Jurena, President
North Dakota Hospital Association

PO Box 7340 Bismarck, ND 58507-7340 Phone 701 224-9732 Fax 701 224-9529

#1
2216
3-13-17

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2216

Page 1, line 17, remove "or"

Page 2, line 5, after "facility" insert "; or

- g. Any emergency responder, including a licensed medical services provider, law enforcement officer, firefighter, volunteer firefighter, officer of a nonprofit volunteer fire department, emergency medical technician, emergency nurse, ambulance operator, provider of civil defense services, or any other individual who in good faith renders emergency care or assistance at a crime scene or the scene of an emergency or accident"

Renumber accordingly

4/5/17

①

SB 2216

Montana Code Annotated 2015

[Previous Section](#) [MCA Contents](#) [Part Contents](#) [Search](#) [Help](#) [Next Section](#)

45-5-214. Assault with bodily fluid. (1) A person commits the offense of assault with a bodily fluid if the person purposely causes one of the person's bodily fluids to make physical contact with:

(a) a law enforcement officer, a staff person of a correctional or detention facility, or a health care provider, as defined in [50-4-504](#), including a health care provider performing emergency services, while the health care provider is acting in the course and scope of the health care provider's profession and occupation:

(i) during or after an arrest for a criminal offense;

(ii) while the person is incarcerated in or being transported to or from a state prison, a county, city, or regional jail or detention facility, or a health care facility; or

(iii) if the person is a minor, while the youth is detained in or being transported to or from a county, city, or regional jail or detention facility or a youth detention facility, secure detention facility, regional detention facility, short-term detention center, state youth correctional facility, health care facility, or shelter care facility; or

(b) an emergency responder.

(2) A person convicted of the offense of assault with a bodily fluid shall be fined an amount not to exceed \$1,000 or incarcerated in a county jail or a state prison for a term not to exceed 1 year, or both.

(3) The youth court has jurisdiction of any violation of this section by a minor, unless the charge is filed in district court, in which case the district court has jurisdiction.

(4) As used in this section, the following definitions apply:

(a) "Bodily fluid" means any bodily secretion, including but not limited to feces, urine, blood, and saliva.

(b) "Emergency responder" means a licensed medical services provider, law enforcement officer, firefighter, volunteer firefighter or officer of a nonprofit volunteer fire company, emergency medical technician, emergency nurse, ambulance operator, provider of civil defense services, or any other person who in good faith renders emergency care or assistance at a crime scene or the scene of an emergency or accident.

History: En. Sec. 1, Ch. 388, L. 1999; amd. Sec. 1, Ch. 292, L. 2005.

Provided by Montana Legislative Services

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2216

That the House recede from its amendments as printed on page 810 of the Senate Journal and page 964 of the House Journal and that Engrossed Senate Bill No. 2216 be amended as follows:

Page 1, line 1, after "to" insert "create and enact a new subsection to section 12.1-17-11 of the North Dakota Century Code, relating to the definition of a health care facility; to"

Page 1, line 17, remove "or"

Page 1, line 20, remove ". A "health care"

Page 1, remove lines 21 through 24

Page 2, remove lines 1 through 4

Page 2, line 5, replace "facility" with:

": or

- g. An emergency responder, including a licensed medical services provider, law enforcement officer, firefighter, volunteer firefighter, officer of a nonprofit volunteer fire department, emergency medical technician, emergency nurse, ambulance operator, or a provider of civil defense services, who while acting in the scope of employment is present at a health care facility"

Page 2, after line 5, insert:

"SECTION 2. A new subsection to section 12.1-17-11 of the North Dakota Century Code is created and enacted as follows:"

As used in this section, "health care facility" means an office or institution providing health care services or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including a hospital; clinic; ambulatory surgery center; outpatient care facility; weight control clinic; nursing home; basic care or assisted living facility; laboratory; or office of any medical professional licensed or registered under title 43 or any individual who is included within a specialty and subspecialty of those fields. The term includes a waiting room, hallway, private room, semiprivate room, ward, and any mobile or temporary facility."

Renumber accordingly