2023 HOUSE JUDICIARY

HB 1518

2023 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Room JW327B, State Capitol

HB 1518
2/1/2023

Relating to rights of a sexual assault survivor.

Chairman Klemin opened the hearing on HB 1518 at 11:14 AM. Members present: Chairman Klemin, Vice Chairman Karls, Rep. Bahl, Rep. Christensen, Rep. Cory, Rep. Henderson, Rep. S. Olson, Rep. Rios, Rep. S. Roers Jones, Rep. Satrom, Rep. Schneider, Rep. VanWinkle, Rep. Vetter

Discussion Topics:

- Amendments
- Sexual assault rights
- Attorney fees

Rep. Richter: Introduced the bill. Proposed amendment with Christmas tree. Testimony #27038

Seith O'Neil, Rep. Davis, MSW, CAWS ND. Testimony #18392, #18393

Jaci Hall, Executive Director ND Association for Justice. Testimony #18342

Stephanie Dassinger Eslinger, ND Chief of Police Association: No written testimony.

Jonathan Byers, ND States Attorney: Neutral. No written testimony.

Travis Finck, Executive Director, NDCLCI: No written testimony.

Additional written testimony:

Hanna Johnson: Testimony # 18423
Tegan Amundson: Testimony #18425
Kristie Wolff, Coordinator, Central Dakota Forensic Nurse Examiners: Testimony #18352
Mark Jorritsma, ND Family Alliance; Testimony #18324

Hearing closed at 11:48 AM.

Delores Shimek, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Room JW327B, State Capitol

HB 1518
2/1/2023

Relating to rights of a sexual assault survivor.

Chairman Klemin opened the meeting on HB 1518 at 3:00 PM. Members present: Chairman Klemin , Vice Chairman Karls, Rep. Bahl, Rep. Christensen, Rep. Cory, Rep. Henderson, Rep. S. Olson, Rep. Rios, Rep. S. Roers Jones, Rep. Satrom, Rep. Schneider, Rep. VanWinkle, Rep. Vetter

Discussion Topics:

- Committee Action

Rep. Bahl moved a Do Not Pass.
Seconded by Rep. Rios

Representatives	Vote
Representative Lawrence R. Klemin	Y
Representative Karen Karls	Y
Representative Landon Bahl	Y
Representative Cole Christensen	N
Representative Claire Cory	A
Representative Donna Henderson	Y
Representative SuAnn Olson	Y
Representative Nico Rios	Y
Representative Shannon Roers Jones	Y
Representative Bernie Satrom	N
Representative Mary Schneider	N
Representative Lori VanWinkle	Y
Representative Steve Vetter	N

Roll Call Vote: 8 Yes 4 No 1 Absent

Representative VanWinkle will carry the bill.

Meeting closed at 3:13 PM.

Delores Shimek, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1518: Judiciary Committee (Rep. Klemin, Chairman) recommends **DO NOT PASS** (8 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). HB 1518 was placed on the Eleventh order on the calendar.

TESTIMONY

HB 1518

NORTH DAKOTA Family Alliance LEGISLATIVE ACTION

Faith · Family · Freedom

Testimony Supporting House Bill 1518

Mark Jorritsma, Executive Director
North Dakota Family Alliance Legislative Action
February 1, 2023

Dear Chairman Klemin and members of the House Judiciary Committee,

North Dakota Family Alliance Legislative Action would like to testify in support of House Bill 1518 and respectfully request that you render a "DO PASS" on this bill.

Our organization believes that all people are made in the image of God; to be treasured, nurtured, and protected. For that reason and many others, it's incumbent upon us as a state to help ensure that those who have been victimized by sexual assault receive proper help and treatment. Their world has been torn apart and we are duty-bound to help them.

House Bill 1518 provides this help. It covers a number of areas, from ensuring that forensic evidence is preserved and that there is appropriate access to records/reports, to making certain an attorney or sexual assault counselor is available to them. Further, we agree with the section of this bill which ensures that the victim should not have to take on the costs of a forensic medical examination. They should not have to pay for evidence collection.

We need to do everything in our power as a state to help people who have been victimized by sexual assault. This bill is another step in the right direction. For these reasons, our organization requests that you render a "DO PASS" on House Bill 1518.

Please feel free to contact me if you have any questions regarding our testimony. Thank you.

Sincerely,

Mark Jorritsma
Executive Director

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Jaclyn Hall, Executive Director
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HB 1518 – House Judiciary

Good morning, Chairman Klemin and members of the House Judiciary. My name is Jaci Hall and I am the Executive Director of the North Dakota Association for Justice. I am here today in support of HB 1518.

Every 68 seconds in this country a sexual assault happens. Every nine minutes that assault involves a child. In 2021, the Attorney General's Office indicated that 1,089 sexual offences under Chapter 12 were investigated.

North Dakota is not immune to these predators. With the rise of social platforms and opportunities for predators to find and assault men, women and children; support for victims is crucial.

A few weeks ago, this committee heard HB1145. It provided support to sexual assault victims who develop a disabling mental condition due to an attack. 99% of all victims suffer from a temporary or permanent mental illness after being assaulted. Although the bill was amended, HB1518 provides support the victims need to start the heal, while HB1145 gives them time to seek these services.

Victims should not be silenced or rushed to relive their trauma until they are ready. HB1518 gives victims the rights and the support they need to start the healing process.

I urge the committee to make a DO PASS recommendation on HB1518. I stand for questions.

Kristie Wolff – Communications and Engagement Coordinator,
Central Dakota Forensic Nurse Examiners

Support SB 1518
North Dakota House Judiciary Committee

February 1, 2023

Chairman Klemin and members of the House Judiciary Committee, my name is Kristie Wolff, I am the Communications and Engagement Coordinator for Central Dakota Forensic Nurse Examiners (CDFNE).

I am submitting testimony in support of SB 1518 with amendments.

CDFNE is a North Dakota based non-profit organization providing forensic medical services to children and adult survivors of sexual assault in western North Dakota. Our organization serves individuals in 23 counties, with our headquarters in Bismarck. CDFNE nurses work with a variety of partners including law enforcement, advocacy agencies, and children's advocacy centers, as part of local sexual assault response teams. CDFNE currently has 22 Sexual Assault Nurse Examiners on staff who work throughout our service area.

Whether in the acute, delayed, or follow-up setting, our nurses see firsthand the effects of sexual violence. Sexual violence can have lasting impacts on a survivor's life. Therefore, we believe that trauma-informed care, privacy, safety, and the rights of survivors are vital. We must do all we can to lessen the burden on those who were assaulted and provide them with as many tools as possible to help them to reclaim their lives.

CDFNE has concerns with the original version of this bill. We have worked with the bill sponsor and other advocacy organizations regarding those concerns, which were addressed through amendments.

Therefore, today I am asking you to give a DO PASS recommendation to SB 1518 with amendments.

Thank you,
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House Bill No. 1518
House Judiciary Committee
Testimony Presented by Seth O'Neill, JD, MSW
Email: soneill@cawsnorthdakota.org
February 1, 2023

Chairman Klemin and members of the Committee, my name is Seth O'Neill and I am representing CAWS North Dakota in support of HB 1518. In 2021, our member programs served 1,139 new victims of sexual assault. Nationwide, one in four women and one in nine men report being sexual assaulted during their lifetime.[1] HB1518 would provide for a list of rights that sexual assault survivors are entitled to. This would ensure that sexual assault survivors are notified of these rights and can assert them throughout the criminal justice process.

We have conferred with the bill sponsor on a few suggested amendments that provides clarity to the bill and conforms to current North Dakota law. Additionally, I would like to point out that most of the rights in this bill are already listed under 12.1-34-02. However, it is my understanding that the bill supporters would like a separate section specifically delineating the rights of sexual assault survivors. The new rights are the right to access the law enforcement report and acute forensic medical exam and the right to have an attorney or sexual assault advocate present when speaking to law enforcement.

We encourage the committee to give HB1518 a do pass recommendation with the amendments brought forward by Rep. Richter. I appreciate your time and I am happy to answer any questions you may have. Thank you.

[1] See National Intimate Partner and Sexual Violence Survey: 2016/2017 Report on Sexual Violence.

NORTH DAKOTA SEXUAL ASSAULT FACTS 2021

1,139 Primary Victims
+292 Secondary Victims

were served by **18** SEXUAL ASSAULT CRISIS CENTERS *throughout North Dakota.*

OF THOSE CASES:

- at least **933 victims** were **female**
- 59% of cases were **male assailant, female victim**
- **174 assailants** were female

- **752 assailants** were **male**
- 4% of cases were **male assailant, male victim**

A CLOSER LOOK

At least **298** of primary victims were under the age of 18 years old at the time of the assault(s).

In adult cases, **9%** of the assailants were strangers. In child cases, **3%** of the assailants were strangers.

In at least **29%** of all cases, the assailant was a friend/acquaintance/date of the victim.

At least **32%** of the assaults occurred in the victim's or assailant's home.

28% of new victims were people with disabilities. Of those, **18%** were people with developmental disabilities. **23%** had physical disabilities and **59%** were people with mental health disabilities.

**new = unduplicated for calendar year*

48% of the crimes were reported to law enforcement.

27% of adult victims contacted a sexual assault center about the crime within 2 days of the assault. 13% of adult victims contacted a sexual assault center within 3-30 days after the assault.

ADVOCACY

- At least 14,976 services were provided to primary victims by crisis center advocates from January to December 2021.
- At least 22% of the victims were referred to sexual assault service providers by themselves, friends, or family members.

March 2022. Sexual Assault Statistics are compiled by CAWS North Dakota for the State Health Department.
CAWS North Dakota 521 E Main Ave, Suite 320, Bismarck, ND, 58501 | 701.255.6240 | www.cawsnorthdakota.org

This project was supported by Grant No. 2019-MU-AX-0009 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication are those of the author and do not necessarily reflect the views of the U.S. Department of Justice.

Thank you Chairman and members of the committee for allowing me to speak today. My name is Hanna Johnson and I'm grateful to be speaking to my home state in favor of HB 1518.

Today, I am here to advocate for survivors of sexual violence. I do not speak for only myself, but of the more than 125,000 survivors in the state of North Dakota. I am asking you to see us, to hear us, and to help us change the law.

I have been formally working to secure justice for survivors of sexual violence for seven months across the nation, but it is now a source of pride and joy for me that I can testify in favor of this bill in the state that raised me.

Sexual violence is an epidemic in every state in the United States of America, and legislation is needed now to act on this. The law as it currently stands often causes survivors to feel re-traumatized. While we can't make the experience of an assault any easier, we can help survivors feel a little less burdened by our judicial system. Every additional right is important, and I believe that is why this bill is essential. Survivors deserve to know that their state legislature supports them, and even the inclusion of one or two more rights could be life-changing for a survivor who wants to pursue justice.

Today, you have a chance to make history by helping to improve the lives of survivors. You have the opportunity to join 40 other states, two separate sets of the U.S. Congress, and the United Nations in guaranteeing these rights for survivors. Sexual violence transcends party lines and it affects all of us in some capacit. To improve the way that survivors experience the justice system after trauma, action is needed now. I stand with survivors. Do you?

Thank you for your time!

Greetings Chairman and Ranking Members,

Although not in-person, I want to express my gratitude for allowing me to submit written support and testimony for HB1518. My name is Tegan Amundson and I am writing to show my support for further protections for survivors of sexual violence in North Dakota. Not only as an individual, but as a family member, friend, and community supporter, I ask you to stand up for those who deserve unequivocal justice and support from the place they call home.

As a native of our great state, my whole life I have felt the love and support of my close-knit community. Yet, I have been witness to multiple loved one's who have survived sexual violence. Because even when safety seems tangible, ~76% of survivors knew their perpetrator. And as a young adult, it is even more disheartening to know that 83% of my peers who are 25 and under have experienced some form of sexual violence. This epidemic has found its way into schools, work, and personal spaces that should traditionally provide safety.

All of this is to say, sexual violence is a life-altering event for anyone to endure. By codifying further protections into our legislation, we can give survivors the right to justice that they deserve. Furthermore, by building out these protections, we are supporting a vision of a future in which survivors can hold their perpetrators accountable with no fear of backlash from a broken legal system. This issue is nationwide, but here in North Dakota HB1518 is offering an opportunity to implement changes that are critical to providing survivors with resources. I hope that you all will take this testimony and the others like it as proof that North Dakotans desire progress and treat this bill with the dedication that it deserves.

Best Regards,

Tegan Amundson

23.1021.01001

Sixty-eighth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1518

Introduced by

Representatives Richter, Brandenburg, Ista, Meier, Roers Jones, Rohr, Steiner, Weisz

Senators Davison, Kannianen, Myrdal

A BILL for an Act to create and enact a new section to chapter 12.1-34 of the North Dakota Century Code, relating to rights of a sexual assault survivor.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 12.1-34 of the North Dakota Century Code is created and enacted as follows:

Sexual assault survivor rights.

1. As used in this section:
   a. "Sexual assault ~~counselor~~advocate" ~~has the same meaning as "counselor" as defined in section 43-47-01. The term includes~~means a victim witness advocate or a domestic violence sexual assault advocate certified under rule 34 of the North Dakota Supreme Court Administrative Rules.
   b. "Sexual assault survivor" means an individual who is a victim of a crime ~~defined~~ under ~~chapter 12.1-20 and, if the survivor is incompetent, deceased, or a minor who is unable to consent to counseling services, the parent, guardian, spouse, or any other individual related to the survivor by consanguinity or affinity to the second degree, or any other lawful representative of the survivor, unless the individual is the alleged assailant~~section 12.1-20-03, 12.1-20-03.1, 12.1-20-04, 12.1-20-05, 12.1-20-05.1, 12.1-20-06, 12.1-20-06.1, 12.1-20-07, 12.1-20-11, 12.1-20-12, 12.1-20-12.2, or 12.1-20-12.3.
2. In addition to the rights provided under section 12.1-34-02, a sexual assault survivor must be afforded the following rights where applicable:
   a. Preservation of evidence. A prosecuting attorney, law enforcement authority, criminal laboratory, or evidentiary storage facility may not destroy or dispose of

any evidence to a criminal offense before the limitation period for prosecution for the offense has ended or the offense has been adjudicated.

b. Services available. To be informed by the prosecuting attorney and arresting law enforcement agency of all appropriate and available public or private programs that provide sexual assault counseling, treatment, or support for sexual assault survivors, including rape crisis centers, assistance programs, victim assistance hotlines, and social service agencies.

c. Notice. To be informed by the prosecuting attorney of their rights provided under this chapter.

d. Acute forensic medical examination. When an acute forensic medical examination is performed, the costs incurred by a health care facility or health care professional for performing the acute forensic medical examination or any preliminary medical screening examination may not be charged, either directly or through a third-party payer, to the alleged sexual assault survivor.

(1) If the sexual assault survivor is a child, the costs incurred by a health care facility or health care professional for performing the child forensic medical examination or any preliminary medical screening examination may not be charged, either directly or through a third-party payer, to the alleged child sexual assault survivor or the child's parent, guardian, or custodian.

(2) Upon submission of appropriate documentation, the attorney general, within the limits of legislative appropriations, shall reimburse the health care facility or a health care professional for the reasonable costs incurred in performing the medical screening and acute forensic medical examination.

e. Access to report and record. Upon request of the sexual assault survivor over the age of eighteen, the prosecuting attorney, law enforcement authority, or health care facility shall provide the survivor with a copy of the law enforcement report corresponding with the victim's case number and the survivor's acute forensic medical examination record.

f. Counsel. To have an attorney or sexual assault ~~counselor~~advocate present when speaking with law enforcement about the assault.

3. If the sexual assault survivor is deceased, incompetent, incapacitated, or a minor, the sexual assault survivor's spouse, parent, grandparent, child, sibling, grandchild, or guardian, may exercise the rights granted to the sexual assault survivor under this chapter unless that individual is the alleged assailant.