

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

4033

2001 SENATE HUMAN SERVICES

SCR 4033

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SCR 4033

Senate Human Services Committee

Conference Committee

Hearing Date February 19, 2001

Tape Number	Side A	Side B	Meter #
1	X		40.8
Committee Clerk Signature <i>Paul Koldajchuk</i>			

Minutes:

The hearing was opened on SCR 4033.

SENATOR JACK TRAYNOR, sponsor, introduced resolution on behalf of an individual who was confined in a hospital for several days with no hearing. We need to into the rights of individuals on involuntary procedures.

KAREN ROMIG LARSON, Director of the Division of Mental Health and Substance Abuse Services in ND Department of Human Services., supports bill. (Written testimony) SENATOR

MATHERN: Is the number of days before hearing an issue of the department. MS. ROMIG

LARSON: It is a significant component. Exams and inquiries should be complete as soon as possible.

DAVE PESKE, ND Medical Assoc. And Psychiatrist Assoc., supports bill. Would participate in the study that might come out of this.

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Senate Human Services Committee

Bill/Resolution Number SCR-~~4034~~ 4033

Hearing Date February 19, 2001

ROSE STOLLER, ND Mental Health Assoc., supports this resolution. There are very few health conditions for which you have to receive your treatment by being handcuffed and transported by a law enforcement official. This has not been studied for a long time. We wish to be included in the study.

No opposition.

The hearing was closed on SCR 4033.

SENATOR MATHERN moved a DO PASS. SENATOR ERBELE seconded the motion. Roll call vote carried SENATOR MATHERN will carry.

Roll Call Vote #: 1

Date: 2/19/01

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 4033

Senate HUMAN SERVICES Committee

Subcommittee on \_\_\_\_\_

or

Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Sen Mathem Seconded By Sen Erbele

Senators	Yes	No	Senators	Yes	No
Senator Lee, Chairperson	✓		Senator Polovitz	✓	
Senator Kilzer, Vice-Chairperson	✓		Senator Mathem	✓	
Senator Erbele	✓				
Senator Fischer	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen Mathem

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

**REPORT OF STANDING COMMITTEE (410)**  
February 19, 2001 11:37 a.m.

**Module No: SR-30-3851**  
**Carrier: T. Mathern**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SCR 4033: Human Services Committee (Sen. Lee, Chairman) recommends DO PASS**  
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4033 was placed on the  
Eleventh order on the calendar.

2001 HOUSE HUMAN SERVICES

SCR 4033

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SCR 4033 A

House Human Services Committee

Conference Committee

Hearing Date March 21, 2001

Tape Number	Side A	Side B	Meter #
1	x		2245 to 2538
1	x		2556 to 2735
1	x		3932 to 4406
Committee Cleri. Signature <i>Corinne Easton</i>			

Minutes:

Chairman Price: I will open the hearing on SCR 4033.

Sen. Traynor - District 15: On SCR 4033...this resulted from a bill that the Judiciary Committee had in the Senate regarding the grounds for divorce. We found out, in the discussion, one of the grounds for divorce used to be mental illness. The committee decided this was a problem we should probably look at. So you will notice all of the sponsors are members of the committee. So it was committee action to ask for this study of commitment procedures for individuals of mental illness. What happened here was an individual from Wahpeton was taken to a hospital in Fargo and confined there for 3 days and taken to another hospital in Grand Forks and confined there for 2 days, and she never had a hearing or an opportunity for one. It was very distressful to her. It wasn't a result of divorce grounds, but the stress of being locked up in the hospital without an opportunity for a hearing. The committee as a whole just felt this needs to be looked at. This can't be going on in the state without some legislative oversight. So I am asking your support.



Page 2  
House Human Services Committee  
Bill/Resolution Number SCR 4033  
Hearing Date March 21, 2001

Chairman Price: Any questions? Anyone else to testify in favor of 4033?

David Peske - ND Medical Association: I just wanted to tell you that the ND Psychiatric Society which I also represent is in favor of the bill that Sen. Traynor referenced. We were aware of the circumstances he described about the woman being involuntarily detained for almost seven days. We are in support of this study resolution.

Vice Chair Devlin: Sen. Traynor was talking about 3 days and 2 days, it was 7 days involved.

Can you tell us how it was broke down?

Peske: I am not real familiar with the details, what I think I heard them testify is she was held for 6 days, 20 some hours and there is a 7 day limit before the court has to make a determination whether or she should be admitted. She was right up against that deadline, and never being able to have that hearing.

Chairman Price: Anyone else in favor of 4033. Any opposition? We will close the hearing on SCR 4033.

Chairman Price: We will reopen the hearing on SCR 4033.

Karen Romig Larson - Director of the Division of Mental Health and Substance Abuse Services in the ND Department of Human Services: I am here to testify in favor of SCR 4033. (See written testimony).

Chairman Price: Anyone else on SCR 4033?

#### **COMMITTEE WORK:**

Chairman Price: What are your wishes on SCR 4033?

Rep. Niemeier: I would move a DO PASS and place on consent calendar.

Rep. Weiler: Second.

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House Human Services Committee  
Bill/Resolution Number SCR 4033  
Hearing Date March 21, 2001

**DO PASSS AND PLACE ON CONSENT CALENDAR**

**14 YES 0 NO 0 ABSENT**

**CARRIED BY REP. NIEMEIER**

Date: 3-21-01  
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SCR 4033

House Human Services Committee

Subcommittee on \_\_\_\_\_

or

Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Move DO PASS and place on Consent Calendar

Motion Made By Rep. Niemeier Seconded By Rep. Weiler

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price - Chairman	✓		Audrey Cleary	✓	
William Devlin - V. Chairman	✓		Ralph Metcalf	✓	
Mark Dosch	✓		Carol Niemeier	✓	
Pat Galvin	✓		Sally Sandvig	✓	
Frank Klein	✓				
Chet Pollert	✓				
Todd Porter	✓				
Wayne Tieman	✓				
Dave Weiler	✓				
Robin Weisz	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Niemeier

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

**REPORT OF STANDING COMMITTEE (410)**  
March 21, 2001 1:25 p.m.

**Module No: HR-49-6295**  
**Carrier: Niemeier**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SCR 4033: Human Services Committee (Rep. Price, Chairman) recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4033 was placed on the Tenth order on the calendar.**

2001 TESTIMONY

SCR 4033

**TESTIMONY**  
**SCR 4033**  
**SENATE HUMAN SERVICES COMMITTEE**  
**SENATOR JUDY LEE, CHAIRMAN**  
**FEBRUARY 19, 2001**

Senator Lee and members of the committee, my name is Karen Romig Larson, Director of the Division of Mental Health and Substance Abuse Services in the ND Department of Human Services. I appear before you this morning to testify in favor of SCR 4033.

I am in full support of a formal study of NDCC Chapter 25-03.1. In the past several years, changes in clinical practices and in service delivery systems have called for new and different responses in caring for persons with mental illness and substance abuse. North Dakota, with a history of progressive changes in its approach to the systems of care for these persons, has also sought to examine its mental health commitment law as part of the process. There have also been recent studies of commitment laws in other states, which could certainly be of benefit to North Dakota as it conducts its study.

There are several components to the current law; and there are many agencies, organizations, individuals, and systems interested in being involved in its study. I would urge that any study of this law be complete and comprehensive, seeking input from those who are most invested in its application and impact.

Thank you for the opportunity to speak to you today. I will attempt to answer any questions you may have.

# New N. D. Law Stresses Humane Treatment For The Mentally Ill

This is the second of four articles on the state's mental health program and the State Hospital at Jamestown.

By GIFFORD HERRON

SUNDAY EDITOR, THE FARGO FORUM  
JAMESTOWN, N. D. — Humane treatment of mentally ill patients, their personal rights and financial responsibilities are given stress in a new mental health commitment and treatment act approved by the 1967 Legislature.



Saxvik

Dr. R. O. Saxvik, superintendent of the State Hospital at Jamestown, looks upon the new law as one of the most significant enacted by the 1967 Legislature.

The law was drafted by the Legislative Research Committee, which was directed by the 1966 Legislature to study mental health of North Dakota and compare them with similar laws in other states.

The study was made by Leland E. Bowman and Guy Larson of Burleigh, who switched from the 1955 House to the 1967 Senate. Rep. Adam Gelehr of Esrom, and C. W. Schrock of Eddy-Foster, and Oliver Solberg of Williams, who did not return to the 1967 Senate. Much of the study was carried on in Kansas and Nebraska, which have made great strides in recent years on mental health programs.

Under the new law, a person cannot be considered incompetent simply because he or she is admitted to a mental hospital, says Dr. Saxvik.

The incompetency of a mentally ill person must be established in court under provisions of the new law.

Language of the present law regarding incompetency is very vague, says Dr. Saxvik, and it can be given various interpretations.

The law stresses, too, that a mentally ill person does not lose privileges of society because of admittance to the State Hospital for treatment.

The law sets forth that except when the hospital superintendent determines that it is necessary for the patient to impede patient shall

To communicate by sealed mail or otherwise with persons, including official agencies, inside or outside the hospital.

To receive visitors.

To exercise all civil rights, including the right to dispose of property, execute instruments, make purchases, enter contractual relationships and vote, unless he has been adjudged incompetent by normal procedure provided by law for the determination of incompetency and has not been restored to legal capacity. Voluntary or involuntary hospitalization under the provisions of this chapter shall not be an adjudication of incompetency.

The law states that every patient shall be entitled to humane care and treatment in accordance with the highest standards accepted in medical practice.

It also provides that any person caring for a mentally ill person who treats that person with undue severity, harassment, cruelty or who shall abuse such person shall be guilty of a misdemeanor and shall be further liable in a civil action for damages.

Mechanical restraints shall not be applied to a patient unless it is determined by the superintendent or by the medical staff to be required for medical needs of the patient. Each use of a mechanical restraint shall become a part of the patient's clinical record under signature of the superintendent or a member of the medical staff.

Transportation of mentally ill patients must be made with suitable medical or nursing attendants and when practicable shall not be transported by police officers or in police vehicles. Whenever practicable, the law provides that the patient be accompanied by one or more friends or relatives.

Whenever possible, the law makes provisions that the patient before going to the hospital, may remain in quarters of other than a confinement nature, such as his home or under reasonable conditions as the county mental health board may fix.

The words "insane" and "insanity" have been eliminated from the new law except where it applies to the "criminality insane."

The county insanity boards have been renamed "mental health boards" and their makeup unchanged as in the past. The board will be made up of the county clerk, who shall be chairman, a

The board now has the right to call in other people of the community, such as friends and relatives, as circumstances warrant before committing a patient, Dr. Saxvik says.

This, he added, the law relates to when more local or community responsibility.

If possible, the patient or the relatives are required to pay for the care received at the State Hospital.

However, if there is inability to pay by either the patient or the relatives, the county in which the patient resides pays \$45 a month. This charge covers only 4.5 per cent of the actual per patient cost. The balance is made up by the operating appropriation from the state general fund.

Under the new law, Dr. Saxvik says, the county is obligated to seek full return for hospital costs of \$97 a month, from the patient or the relatives. The county mental health board will make a determination of the ability to pay.

It has been the practice, though not the law, for the county, in event of a patient's death, to wait for the probate of the estate before entering a claim for hospitalization.

Now, Dr. Saxvik says, the county must step in upon the patient's admission and not only attempt to collect the county's share for the patient but must attempt to secure the state's share as well.

Under the present law, the state's attorney was given the right to start an action to recover hospital costs from a patient or the relatives.

However, under the new law, Dr. Saxvik says, the responsibility for attempting to collect is placed on the county auditor. It is the first time such responsibility has been placed on a county official, he says.

The determination of ability to pay is a new responsibility placed on the county mental health board for all types of patients. For the last two years, the boards have been charged with determining the ability to pay in cases of voluntary patients at the hospital.

Dr. Saxvik believes that over a period of time, the new financial arrangement should increase State Hospital collections and reduce the amounts to come from the counties and the state from tax monies.

The Legislative Research Committee, in its report to the Legislature, said present laws were archaic and outdated.

"The commitment statutes are criminal in nature and proceedings thereunder are hardly conducive to the recovery of mentally ill persons," the report states.

"It became the committee's intention to recommend modernization of these statutes in line with action taken by many other states and in accordance with modern thinking upon the care and treatment of the mentally ill.

"In addition many of the statutes existing today were found to be administratively burdensome, the language often conflicting and ambiguous and much of it served no useful purpose."

Inadvertently omitted from the

Sunday article on progress at the State Hospital was the fact that \$225,000 from federal Hill-Burton money went into the new receiving and treatment center.

Dr. Saxvik says the Legislature appropriated \$225,000 for the new building and the State Health Planning Committee authorized the use of \$225,000 from Hill-Burton funds. Later an additional \$40,000 from Hill-Burton funds were authorized for equipment at the center.

*July  
Thought you  
might have missed  
this.  
Saxvik*

**TESTIMONY**  
**SCR 4033**  
**HOUSE HUMAN SERVICES COMMITTEE**  
**REPRESENTATIVE CLARA SUE PRICE, CHAIRPERSON**  
**MARCH 21, 2001**

**Chairperson Price and members of the committee, my name is Karen Romig Larson, Director of the Division of Mental Health and Substance Abuse Services in the ND Department of Human Services. I appear before you this morning to testify in favor of SCR 4033.**

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