

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1262

2005 HOUSE JUDICIARY

HB 1262

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1262

House Judiciary Committee

☐ Conference Committee

Hearing Date 1/18/05

Tape Number	Side A	Side B	Meter #
1	xx		0-9
1		xx	51.2-53.7

Committee Clerk Signature



Minutes: 13 members present, 1 member absent (Rep. Kingsbury).

Chairman DeKrey: We will open the hearing on HB 1262.

Representative Delmore: I am the sponsor of this bill (explained the bill). Support.

Chairman DeKrey: Thank you. Further testimony in support of HB 1262.

Bonnie Palecek, ND Council on Abused Women's Services/Coalition Against Sexual Assault in ND: (see written testimony).

Chairman DeKrey: Thank you. Further testimony in support of HB 1262. Testimony in opposition. We will close the hearing.

(Reopened in the same session)

Chairman DeKrey: What are the committee's wishes in regard to HB 1262.

Representative Boehning: I move a Do Pass on HB 1262.

Representative Meyer: Second.

13 YES 0 NO 1 ABSENT

DO PASS

CARRIER: Rep Kretschmar

Date: 4/18/05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1262

HOUSE JUDICIARY COMMITTEE

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Pass

Motion Made By

Rep. Boehning

Seconded By

Rep. Meyer

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	/		Representative Delmore	/	
Representative Maragos	/		Representative Meyer	/	
Representative Bernstein	/		Representative Onstad	/	
Representative Boehning	/		Representative Zaiser	/	
Representative Charging	/				
Representative Galvin	/				
Representative Kingsbury	A				
Representative Klemin	/				
Representative Koppelman	/				
Representative Kretschmar	/				

Total (Yes)

13

No

0

Absent

1

Floor Assignment

Rep. Kretschmar

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

REPORT OF STANDING COMMITTEE (410)
January 18, 2005 10:38 a.m.

Module No: HR-11-0609
Carrier: Kretschmar
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1262: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS
(13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1262 was placed on the
Eleventh order on the calendar.

2005 SENATE JUDICIARY

HB 1262

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1262

Senate Judiciary Committee

☐ Conference Committee

Hearing Date March 15, 2005

Tape Number	Side A	Side B	Meter #
1	X		0.0 - 1500
3	X		2560 - 3000

Committee Clerk Signature *Maria L. Halberg*

Minutes: Relating to simple assault.

Senator John (Jack) T. Traynor, Chairman called the Judiciary committee to order. All

Senators were present. The hearing opened with the following testimony:

Testimony In Support of the Bill:

Rep. Delmore, Dist. #43 Introduced the bill (meter .10) The bill came out of a result of a criminal case in Grand Forkes. This is about repeat of a criminal assault and the enhancement of the crime for it being repeated. This is a simple bill that solves a problem for many people.

Bonnie Palecek, ND Council on Abused Women's Services/Coalition Against Sexual Assault.

(meter 140) Gave Testimony - Att. #1

Sen. Nelson asked of the 445 victims what was the gender of the victims? Ms. Palecek responded that they tracked the same as the National Averages 94-96% were female. This used to be 99% and that has changed.

Senator Syverson said of the 445 victims how many would this bill effect? Bonnie responded that there are over 4,000 victims assaulted 445 are the ones that actually file charges, we do not know how many this bill would actually effect.

The committee discussed the bill on the "dominate" person and how the definition of household would include to "room mate" assaults. 2/3 or 66% of victims are married the other 1/3 would be ex-spouses, room mates, boy/girl friends etc.

Testimony in Opposition of the Bill

Mitchell Sandstrom, Grand Forks citizen (meter 790) We need to be careful because the problem goes both ways. My definition of assault is "intent to do harm". Battery is the actual act. The words 'willful' and "negligence" have several meanings. Sited his personal case where he felt wrongfully accused. What about people with mental disorders? Discussed how the system is biased to men even for help. Conviction of assault needs proof.

Rolland Rymers, Grand Forks citizen (meter) I do not think that any classification should have special immunity/ privileges as stated in the ND constitution. It should not matter what our position in society whether we are a police officer, EMT or our gender. Crime against an individual should be a crime no matter who you are race, color, sex, or age, it is still a crime. Confused on some of the terminology used; "assault" vs. "battery". Discussed the air forces statistics on genders /assaults and the difference then ND's.

A sheriff has about two hours of training a year and they are the ones to make these decisions. More children are killed by there mothers then there fathers.

Senator Hacker asked Mr. Rymers to provide him with the Air force's actual statistics.

Senator John (Jack) T. Traynor, Chairman closed the Hearing

Page 3
Senate Judiciary Committee
Bill/Resolution Number HB 1262
Hearing Date March 15, 2005

Senator John (Jack) T. Traynor, Chairman reopened the Hearing (meter 2500, tape 3, side-A.)

Sen. Trenbeath stated that if the situation recited this morning then the law has not had the effect it had intended to have. Discussed the difference between the effects of aggravated assault verses simple assault.

Sen. Trenbeath made the motion to Do Pass and **Senator Syverson** seconded the motion. All members were in favor and the motion passes.

Carrier: **Senator Hacker**

Senator John (Jack) T. Traynor, Chairman closed the Hearing

Date: 3/14
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1262

Senate Judiciary

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass

Motion Made By Senator Trenbeath Seconded By Senator Syverson

Senators	Yes	No	Senators	Yes	No
Sen. Traynor	✓		Sen. Nelson	✓	
Senator Syverson	✓		Senator Triplett	✓	
Senator Hacker	✓				
Sen. Trenbeath	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Hacker

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

REPORT OF STANDING COMMITTEE (410)
March 16, 2005 1:56 p.m.

Module No: SR-48-5156
Carrier: Hacker
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1262: Judiciary Committee (Sen. Traynor, Chairman) recommends DO PASS
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1262 was placed on the
Fourteenth order on the calendar.

2005 TESTIMONY

HB 1262

Testimony on House Bill 1262
House Judiciary Committee
January 18, 2005

Chair DeKrey and Members of the Committee:

My Name is Bonnie Palecek and I am speaking on behalf of the North Dakota Council on Abused Women's Services/Coalition Against Sexual Assault in ND. I am here in support of HB1262.

In 2001, the legislature struggled with the issue of creating a separate crime of domestic violence. Ultimately, that change was not made. In lieu of that however, the penalty for a repeated simple assault was raised from a Class B to a Class A misdemeanor. The intent was to acknowledge the dynamic that, although indeed most domestic violence assaults are charged out as simple assaults, a repeated pattern of such assaults against a household member has the devastating effects of "battering", and, in fact, increases the lethality risk with each assault.

Anecdotally, it appears that the statute has been working well, although prosecutorial data is not available on actual numbers of cases in which the enhanced penalty was imposed. For your general information, in 2002, 42% of charges in cases in which the abuser was arrested were for simple assault. In 2003, 59% were arrested for simple assault. In all, advocates assisted 445 domestic violence victims who suffered such assaults in 2003.

This is the unanticipated scenario, however. If the first assault was an assault or aggravated assault, the subsequent simple assault has to remain as a B misdemeanor. The case which brought this to light happened in Grand Forks. A husband was convicted of aggravated assault a couple of years ago. He used a rubber mallet to beat his wife over the head. Last fall he assaulted her again with injuries consistent with a simple assault charge. When the advocate inquired of the state's attorney whether the enhancement would apply, she was told no, because the first charge was aggravated assault.

The intent of the statute from our perspective was to address a pattern of assaultive behavior directed at a family or household member. It seems illogical that if the first assault is more serious than a simple assault, our ability to address a pattern of assaultive behavior is lost. An important part of the dynamic of domestic violence is that often less force is needed to maintain power and control after even one incident as egregious as being battered with a mallet.

Therefore, even though we cannot point to dozens of cases in which this has happened, we ask that you consider the change proposed in HB1262. With this change any repeated assault may be charged at least as a Class A misdemeanor. We believe this is consistent with the intent of the statute in the first place.

Thank you,

A handwritten signature in cursive script, appearing to read "Bonnie Palecek".

Bonnie Palecek

Executive Director NDCAWS/CASAND

Att # 1

**NORTH DAKOTA COUNCIL ON ABUSED WOMEN'S SERVICES
COALITION AGAINST SEXUAL ASSAULT IN NORTH DAKOTA**

418 East Rosser #320 • Bismarck, ND 58501 • Phone: (701) 255-6240 • Fax 255-1904 • Toll Free 1-888-255-6240 • ndcaws@ndcaws.org

Testimony on House Bill 1262
Senate Judiciary Committee
March 15, 2005

Chair Traynor and Members of the Committee:

My Name is Bonnie Palecek and I am speaking on behalf of the North Dakota Council on Abused Women's Services/Coalition Against Sexual Assault in ND. I am here in support of HB1262.

In 2001, the legislature struggled with the issue of creating a separate crime of domestic violence. Ultimately, that change was not made. In lieu of that however, the penalty for a repeated simple assault was raised from a Class B to a Class A misdemeanor. The intent was to acknowledge the dynamic that, although indeed most domestic violence assaults are charged out as simple assaults, a repeated pattern of such assaults against a household member has the devastating effects of "battering", and, in fact, increases the lethality risk with each assault.

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Therefore, even though we cannot point to dozens of cases in which this has happened, we ask that you consider the change proposed in HB1262. With this change any repeated assault may be charged at least as a Class A misdemeanor. We believe this is consistent with the intent of the statute in the first place.

Thank you,

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Bonnie Palecek

Executive Director NDCAWS/CASAND