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March 23, 2021

TO: The Honorable Chair Lawrence Klemin
Members of the House Judiciary Committee
North Dakota House of Representatives

FROM: Ilse Knecht
Director of Policy & Advocacy
Joyful Heart Foundation

RE: Testimony in Support of Senate Bill 2281

The Joyful Heart Foundation's mission is to transform society's response to sexual assault, domestic violence, and child abuse, support survivors' healing, and end this violence forever. Since 2010, Joyful Heart has made the elimination of the rape kit backlog—hundreds of thousands of untested rape kits across the nation—our top priority. We work directly with survivors, stakeholders, and jurisdictions to achieve this goal. Our staff, consultants, and partners have decades of expertise at the forefront of rape kit reform efforts. We have been instrumental in passing state-level rape kit reform legislation in 43 states including Arizona, California, Florida, Georgia, Hawai'i, Kentucky, Massachusetts, Nevada, New Mexico, New York, Texas, and Utah, and we have collaborated with local and state agencies to provide support during the implementation process. With this expertise and legislative track record, we respectfully submit testimony supporting Senate Bill 2281

The Joyful Heart Foundation strongly supports [Senate Bill 2281](#), which would legally enforce the establishment of a statewide rape kit tracking system with a victim portal, as well as call for annual reports on tested and untested rape kits.

Background on Joyful Heart Foundation's Six Pillars of Reform

We measure the progress of states in enacting laws and policies embracing our six legislative pillars of comprehensive rape kit reform. These are criteria our staff of experts—in consultation with survivors, advocates, law enforcement, forensic experts, prosecutors, and policymakers—have determined are critical elements in eliminating the untested rape kit backlog once and for all.

- 1. Annual statewide inventory:** Count all untested rape kits on a recurring basis, enabling stakeholders to understand the scope of the problem and monitor progress.
- 2. Mandatory testing of backlogged kits:** Eliminate the existing backlog by requiring law enforcement agencies to submit all previously untested kits to the lab, and requiring that these kits be tested.

3. Mandatory testing of new kits: Prevent future backlogs by requiring law enforcement agencies to promptly submit all newly collected kits to the lab, and requiring the lab to test these kits within a specific time frame.

4. Tracking system: Ensure that hospitals, law enforcement, and labs are using an electronic, statewide tracking system. Build in a way for survivors to check the status of their kits throughout the process, from collection to analysis.

5. Victims' rights to notice: Grant victims the right to receive information about the status and location of their rape kits.

6. Funding for reform: Appropriate state funding to address these issues

This bill would achieve Joyful Heart's tracking and inventory pillars. S.B.2281 mandates the state crime lab to develop a tracking system that tracks kits from collection through destruction. Law enforcement, hospitals, and labs would be mandated to participate in the system, which must include a portal victims can anonymously access to find out the status and location of their kit. The bill also calls for annual inventory of tested and untested kits.

The Current Situation

Every 73 seconds, someone is sexually assaulted in the United States. **In 2019 alone, 437 rapes were reported to law enforcement in North Dakota.** In the immediate aftermath of a sexual assault, a victim may choose to undergo a medical forensic examination to collect evidence left behind during the assault. A doctor or nurse will conduct the four-to-six hour examination and will preserve this evidence in what is commonly called a "rape kit." Survivors who take the step of undergoing this exhaustive and invasive forensic exam do so because they have been told this evidence could help law enforcement hold their offender accountable.

When tested, the DNA evidence from rape kits can be a powerful tool to solve and prevent crimes. DNA evidence can identify unknown assailants, link crimes together, and exonerate the wrongfully convicted. Too often, however, these rape kits languish untested for years—even decades—in storage facilities.

North Dakota has begun to tackle this problem: In 2015 the [Manhattan District Attorney's Office](#) awarded The North Dakota Attorney General's Office \$341,667 to carry out an inventory and eventual testing of backlogged kits. This partial audit uncovered 500 kits. Currently the state has no procedures in statute that create a uniform policy for processing kits; given this fact, establishing a tracking system is important to achieve accountability and ensure rape kits are accounted for and tested.

Tracking Systems are Crucial for Accountability and Victims' Rights

A rape kit tracking system is a web based system that allows individuals (mainly victims, law enforcement agents, hospital staff, lab staff, and other designated individuals) to follow the path of a rape kit throughout the chain of custody: from the hospital, to local law enforcement agency, throughout the analysis process at the lab, to final disposition.

Currently, North Dakota does not have a statute that calls for the mandatory testing of all kits. This makes the tracking system mandated by S.B.2281 even more important than in most cases. First, it will hold actors such as hospitals, law enforcement, and DNA testing labs accountable, by making sure that they are handling and processing kits in the appropriate manner. Secondly, since there no uniform policies in statute

for handling kits, that tracking system can serve to notify various stakeholders if a kit gets stuck at one point in the process, thereby alerting everyone involved in the rape kit handling process, to the error. Tracking systems are good for the whole criminal justice system and make law enforcement and prosecutors' jobs easier by following crucial evidence from place to place.

Additionally, tracking systems provide for a comprehensive analysis of total rape kits in a state, showing how many are in possession of the hospital, how many law enforcement has, and the amount of rape kits at state labs that are either awaiting testing or have already been tested. Joyful Heart encourages states to include backlogged kits in the tracking system as well. All survivors deserve the same right to know the status of their kits.

Including a victim portal is important to survivors healing and well being. This feature allows survivors to control when they obtain critical information about the status and location of their kits. In half of the states, survivors have access to transparent handling of their rape kits. Sexual assault survivors in North Dakota deserve this information too.

The state is off to a good start. In 2019, the National Institute of Justice (NIJ) awarded a \$442,908 grant to the North Dakota Office of the Attorney General to implement an evidence management program to inventory, track, and report untested kits.

Currently 25 states and Washington D.C. mandate the implementation of a sexual assault kit tracking system by law. Codifying the system and mandating participation into law ensures that all the relevant agencies that handle rape kits comply with the law, helping the state achieve a fully-functioning tracking system. In addition, establishing the system in statute ensures stability when leadership or priorities shift from year to year.

Annual reports help track progress and get a true scope of the backlog

Annual inventories of untested rape kits are important because they will monitor North Dakota's progress toward eliminating the rape kit backlog, and send a message to survivors in the state that they matter. A thorough count of rape kits currently in the possession of medical facilities, law enforcement agencies, and crime laboratories provides a full picture the count of untested kits in the state and guides the legislature in appropriating and targeting resources to eliminate the backlog.

This bill is an important step to bring North Dakota in line with the federal best practice to inventory rape kits annually by law. Once the number of untested kits is known, the state can dedicate resources, analyze untested kits, investigate and prosecute cases, reengage survivors whose kits have languished in evidence rooms in the criminal justice process, and take dangerous offenders off the streets. The bill codifies the inventory into law, ensuring full participation by all the agencies that handle rape kits, uncovering the true extent of the backlog every year.

Currently 28 states and Washington, D.C. require an inventory of untested kits by legislative reform, 16 of which require a recurring one.

The Road Ahead

To achieve comprehensive rape kit reform and to align with national best practices, North Dakota should pass S.B.2281, which would mandate an annual inventory of rape kits and the development of a statewide tracking system for kits. Moving forward, it is important that the state calls for the mandatory testing of backlogged and newly collected kits, give victims the rights to know the status and location of their kit, and provide necessary funding to implement these changes. We encourage the legislature, in consultation with advocates, practitioners, agency leaders, and most importantly, survivors of sexual assault, to push forward with survivor-centered legislative action.

We urge you to enact this important legislation. The Joyful Heart Foundation thanks you for your efforts on this issue. We stand ready to assist you in creating safer communities and offering a path to healing and justice to all sexual assault survivors in North Dakota.

With Gratitude,

Ilse Knecht

A handwritten signature in black ink that reads "Ilse Knecht". The script is fluid and cursive, with the first letters of each word being capitalized and prominent.

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