

Final
Legislative
Report

2011

North Dakota Council on Abused Women's Services/Coalition Against
Sexual Assault in North Dakota (NDCAWS/CASAND)

62nd ND
Legislative
Assembly

Thanks to the NDCAWS/CASAND Legislative Committee:

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Special thanks to Representative J. Nelson for initiating an appropriation for the visitation and exchange centers and to Senators Olafson, Schneider and Dever and Representative Delmore for primary sponsorship of SB 2195, SB 2247, SB 2237, SB 2245, HB 1204 and HB 1230 respectively.

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Introduction

The 62nd North Dakota Legislative Assembly completed its work on April 28, 2011, the 78th day. The state's budget surplus took center stage again this year along with the debate over the federal health care reform law. In the end, 841 bills were filed, 514 bills will become law, and the legislators distributed \$500 million in both individual and corporate tax relief. The Legislature also put nearly a \$1 billion into infrastructure, most of it in western North Dakota, where a rapidly expanding petroleum industry has taken a heavy toll on bridges and roads.

NDCAWS initiated six bills that all passed during the session and includes changes to the stalking law, enhancements to the fair treatment standards, establishing a domestic violence fatality review commission, adding a penalty for discriminating against victims that terminate their residential lease, and adding language that makes victims eligible for unemployment compensation benefits. Additionally, we were able to secure \$425,000 in state general funds for the visitation and exchange centers.

This report describes our efforts and identifies key legislative changes.

Note: *Unless there is an emergency clause, all North Dakota laws go into effect on July 1st if a fiscal appropriation is involved; otherwise the effective date is August 1st.*

Domestic Violence
PASSED

HB 1204- Relating to stalking and previous convictions

- Allows prosecutors to use previous convictions for similar offenses in other courts, including municipal courts, to elevate the penalty for stalking from a class A misdemeanor to a class C felony.

SB 2195- Relating to remedies for termination of a lease due to domestic violence

- Creates a penalty for landlords that do not allow victims of domestic violence to terminate their residential lease or refuses to rent to a victim that has exercised their right to terminate a lease. If a landlord is found guilty, the court may award statutory damages of one thousand dollars. The court also may award actual damages, reasonable attorney's fees, costs, and disbursements.

SB 2237- Relating to prohibited practices in the insurance business

- Prohibits insurance companies from denying coverage based on domestic violence as a preexisting condition.

SB 2245- Relating to eligibility for unemployment compensation benefits

- Enables victims of domestic violence and sexual assault to qualify for unemployment compensation benefits if the reason for separation from the most recent employment or continued employment would jeopardize the safety of the individual or the individual's spouse, parent, or minor child. Victims must submit documentation such as court order, protection order, police report, or written affidavit from an advocate, counselor, or member of the clergy verifying that domestic violence or sexual assault is the reason for leaving employment.

SB 2247- Relating to a domestic violence fatality review commission

- Enables the Attorney General’s office to establish and convene a domestic violence fatality review commission to recommend policies and protocols to prevent the domestic violence and resulting fatalities; and to provide consultation and coordination for agencies involved in the prevention and investigation of domestic violence.

Domestic Violence
FAILED

None

Sexual Assault
PASSED

HB 1230- Relating to fair treatment of victims and witnesses and confidential records

- Amends the Fair Treatment Standards to allow the custodial authority to release the victim's address to a domestic violence/sexual assault organization for the provision of victim services available through the Sex Offender Containment Team (SOCT) model currently available in five communities in North Dakota (Bismarck, Minot, Jamestown, Grand Forks, and Fargo).

HB 1435- Relating to sexual offender and felony crimes against children registration requirements

- Prohibits sex offenders from using a state park as a residence or residential address to comply with registration requirements.

HB 1456- Relating to the statute of limitations on civil actions involving childhood sexual abuse

- Allows victims of child sexual abuse to make a claim for relief resulting from childhood sexual abuse within seven years after the plaintiff knew or reasonably should have known that a potential claim exists resulting from alleged childhood sexual abuse.

HB 1464- Relating to retention of sexual offender case files and records and the definition of sexually predatory conduct

- Broadens the definition of sexually predatory conduct to include the crime of incest. Judges can take into account incest with family members when determining whether someone has engaged in conduct which qualifies them to be committed for treatment as a sexually dangerous individual. The bill also expands the types of records that have to be kept for 50 years- ALL files relating to any offense within chapter 12.1-20 (sexual offenses) and chapter 12.1-27.2 (child pornography) must be retained for 50 years.

SB 2231- Relating to the definition of those required to register as a sexual offender

- Requires offenders that change vehicle or computer online identity, the individual shall inform in writing, within three days after the change, the law enforcement agency with which that individual last registered of the individual's new vehicle or computer online identity.

SB 2233- Relating to a requirement to report sexual conduct by a child discovered on a workplace computer and definition of sexual conduct as it pertains to sexual performances by children

- Amended the definition of “sexual conduct” to add buttocks and breasts under section 12.1-27.1-01 and included a new section that creates a duty to report to the department if a person has knowledge or reasonable cause to suspect a child is being abused based on images discovered on a workplace computer.

Sexual Assault
FAILED

None

Other Bills of Interest

PASSED

HB 1004- Health Department Budget

- Includes a \$425,000 appropriation for visitation centers that meet the current standards.

HB 1156- Relating to the confidentiality of emergency services communication system and to emergency services communication system coordinators

- Upon request, a person may listen to the audio recording or a request for emergency assistance (911), but may not copy or record the audio. A person also may request a written transcript of the audio recording, which must be provided to the person within a reasonable time.

HB 1249- Relating to surreptitious intrusion

- Clarified the language in the statute relating to peeping in a house for the intent to arouse, appeal to, or gratify that individual's lust, passions, or sexual desires,

HB 1297 Relating to an abortion report form and abortion inducing drugs

- Added new sections to the abortion control act related to the abortion report form and abortion inducing drugs.

HB 1371- Relating to the creation, possession, or dissemination of sexually explicit images

- Clarified the language in the statute regarding taking pictures using phones and distributing them without the consent and of the individual (often referred to as sexting) if that individual had a reasonable expectation of privacy.

HB 1438- Relating to an employer's prohibition on firearm possession

- A private or public employer cannot prohibit an employee, customer, or invitee from legally possessing a firearm and keeping it locked in a motor vehicle in the parking lot.

Exceptions include schools, correction facility, the State Hospital, or businesses with hazardous materials.

HB 1465- Relating to prevention of bullying in schools

- Schools must adopt an anti-bullying policy by July 2012. School districts shall involve parents, school district employees, volunteers, students, school district administrators, law enforcement personnel, domestic violence sexual assault organizations as defined by subsection 3 of section 14-07.1-01, and community representatives when developing the policy.

SB 2210- Relating to an affordable housing fund

- Creates a state housing trust fund.

SB 2214- Relating to the abuse or neglect of a child

- Creates additional penalties for individuals convicted of child abuse and neglect to a class B felony if the victim suffers permanent loss or impairment of the function of a bodily member or organ, except if the victim of the offense is under the age of six years in which case the offense is a class A felony.

SB 2367- Relating to a waiting period for divorce and to mandatory marital counseling

- Proposed resolution to study the physical, emotional, and financial effects of divorce on dependent children.

Other Bills of Interest
FAILED

HB 1147- Relating to school district bullying policies

HB 1168- A bill for an Act to provide an appropriation to Minot State University for the Rural Crime and Justice Center Victim Assistance Academy

HB 1250- Relating to school district bullying policies

HB 1276- Relating to eligibility for unemployment compensation benefits; and to declare an emergency

HB 1377- Relating to the income eligibility limit for the children's health insurance program

HB 1450- Relating to the application of sections in Chapter 12.1-17 to certain medical procedures and relating to the definition of a human being (personhood bill)

SB 2051- Relating to enhanced penalties for conviction of discrimination in public places, aggravated assault, and harassment involving a hate crime; and to provide a penalty

SB 2052- Relating to an enhanced penalty for conviction of criminal mischief involving a hate crime; and to provide a penalty.

SB 2152- Relating to an appropriation for the department of emergency services for a grant for administering 211 services.

SB 2167- Relating to crimes that include bullying

SB 2201- Relating to parenting rights and responsibilities

SB 2260- Relating to an income tax credit equal to the portion of a taxpayer's federal earned income tax credit

2011-2012 Interim Study Resolutions

- 1003 Study the ability of the University of North Dakota School of Medicine and Health Sciences to meet the health care needs of the state, including a review of the health care needs of the state, options to address the health care needs of the state, and the feasibility and desirability of expanding the School of Medicine and Health Sciences to meet the health care needs of the state.
- 1004 Study the regional public health network pilot project conducted during the 2009-11 biennium, including services provided, effects of the project on participating local public health units, efficiencies achieved in providing services, cost-savings to state and local governments, and possible improvements to the program.
- 1011 Study the feasibility and desirability of relocating the Highway Patrol training academy or portions of the training academy and review options for relocating the training academy, options for relocating the emergency operations vehicle training course, and options for constructing a Highway Patrol shooting range - Amended by Legislative Management directive to include study of options for financial participation by local users of the facilities.
- 1152 Study the future of health care delivery in the state, including focus on the delivery of health care in rural areas of the state and include input from the School of Medicine and Health Sciences Center for Rural Health, hospitals, and the medical community.
- 1199 Contract with a consultant to study guardianship services for vulnerable adults in the state. The study must include an analysis of the need for guardianship services in the state; the establishment of guardianships; petitioning costs and other costs associated with providing guardianship services; the entities responsible for guardianship costs; and the interaction between the courts, counties, state agencies, and guardianship organizations regarding guardianship services. The consultant shall provide periodic reports and shall provide the final report and recommendations regarding the study to the Legislative Management before June 1, 2012 - Amended by Legislative Management directive to include the efficacy of statutes governing public administrator services and methods for the timely and effective delivery of guardianship and public administrator responsibilities and services.
- 2302 Develop recommendations for the investment of funds in the legacy fund and the budget stabilization fund to present to the State Investment Board.

- 2305 Study the issue of juvenile court jurisdiction and the adult court transfer process and whether any additional juvenile court jurisdictional extensions would serve the best interests of the child and the public in cases in which the child is close to the age of majority.
- 4001 Study the imposition of fees by courts at sentencing and other fees that are imposed upon offenders.
- 4005 Study the impact of the Patient Protection and Affordable Care Act on the Comprehensive Health Association of North Dakota and the statutes governing the Comprehensive Health Association of North Dakota.

* Please note this is not the complete list of interim studies- only those of interest to CAWS. For a complete list go to <http://www.legis.nd.gov/>

How Did They Vote?

After reading the various bills you might be struck by one in particular and be interested in how your legislator voted. Or, perhaps be curious about who cast that one dissenting on a particular bill. You can look to the Legislative Council's website for all that information.

- 1) Go to <http://www.legis.nd.gov/>
- 2) On the right of the screen click bills and resolutions or go to
<http://www.legis.nd.gov/assembly/61-2009/leginfo/bills-res-jour/index.html>
- 3) Again on the right, click "Bill Status Inquiry" or go to
<http://www.legis.nd.gov/assembly/61-2009/leginfo/bill-inquiry/index.html>
- 4) Enter the bill number into the form and click "GO"
- 5) For the listing of all actions, there is a line showing the vote. Often the language will state "Second reading, passed, yeas 047 nays 000." At the far right of that line is a link to the journal for that vote which is indicated by the letters HJ or SJ followed by a few numbers. Clicking on that link will lead you to the voting record for each bill.

Lawmakers need to hear from their constituents throughout the session and in the interim. Use the tools provided by the Legislative Council to increase your knowledge of legislative activity. Let your legislator know your thoughts on the bills. Without individual contacts, NDCAWS/CASAND and other organizations do not have the impact we hope to have.