

**MICROFILM DIVIDER**

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1074

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10/2/03  
Date

CR

2003 HOUSE JUDICIARY

HB 1074

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1074

House Judiciary Committee

Conference Committee

Hearing Date 1-8-03

Tape Number	Side A	Side B	Meter #
1		xx	4-middle
Committee Clerk Signature <i>A. Penrose</i>			

Minutes: 12 members present, 1 absent (Rep. Bernstein)

**Chairman DeKrey:** We will now hear testimony on HB 1074.

**Elaine Little, DOCR:** (see testimony)

**Rep. Eckre:** What do you do with someone who refuses, someone who is mentally ill may not recognize that they are mentally ill, and since you work with them you see it, what do you do if they say no?

**E. Little:** Depending on the situation with the inmate, they do have a right to appeal that placement. We give them, in writing, at least 24 hours ahead, a time and the reason why they should be placed. In the event they disagree with that, they can appeal the placement to the warden and then it comes to me. We also allow this in cases such as forced medication. Our forced medication policy, we allow the inmate to have representation, for example, through Protection and Advocacy, so that the inmate is represented. Since we have had the Special Assistance Unit up and running for the past 6 months, things are going really well. The inmates

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House Judiciary Committee  
Bill/Resolution Number 1074  
Hearing Date 1-8-03

are actually are asking to be transferred to there, instead of the other way around, because it is a much better environment for them, and we're actually having a lot of success with some of the seriously mentally ill in getting them to remain medication compliant and being able to enjoy life much more than they did before.

**Chairman DeKrey:** Thank you, Elaine. Does anyone else wish to testify for HB 1074, anyone appear in opposition?

**Rep. Delmore:** Made a Do Pass motion.

**Rep. Maragos:** Seconded the motion.

**Chairman DeKrey:** Call the roll.

YES: 12      NO: 0      ABSENT: 1      PASSED      CARRIER: Maragos

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**FISCAL NOTE**  
 Requested by Legislative Council  
 01/03/2003

Bill/Resolution No.: HB 1074

1A. State fiscal effect: Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. County, city, and school district fiscal effect: Identify the fiscal effect on the appropriate political subdivision.

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. Narrative: Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

3. State fiscal effect detail: For information shown under state fiscal effect in 1A, please:

A. Revenues: Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

No fiscal effect

B. Expenditures: Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

No fiscal effect

C. Appropriations: Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

No fiscal effect

Name:	Dave Krabbenhoft	Agency:	DOCR
Phone Number:	328-6135	Date Prepared:	01/06/2003

*Yalosta Rickford*  
 Operator's Signature

10/2/03  
 Date

Date: 1-8-03  
Roll Call Vote #: 1

**2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1074**

House Judiciary Committee

Check here for Conference Committee

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

Action Taken Do Pass

Motion Made By <sup>Rep.</sup> Delmore Seconded By Rep. Maragos

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Rep. Delmore	7	
Vice Chairman Maragos	✓		Rep. Eckre	✓	
Rep. Bernstein	AB		Rep. Onstad	✓	
Rep. Boehning	✓				
Rep. Galvin	✓				
Rep. Grande	✓				
Rep. Kingsbury	✓				
Rep. Klemin	✓				
Rep. Kretschmar	✓				
Rep. Wrangham	✓				

Total (Yes) 12 No 0

Absent 1 (Bernstein)

Floor Assignment Rep. Maragos

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

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10/2/03  
Date

**REPORT OF STANDING COMMITTEE (410)**  
January 8, 2003 11:14 a.m.

Module No: HR-02-0354  
Carrier: Maragos  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**  
**HB 1074: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS**  
**(12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1074 was placed on the**  
**Eleventh order on the calendar.**

(2) DESK, (3) COMM

Page No. 1

HR-02-0354

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Date

*10/2/03*

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2003 SENATE JUDICIARY

HB 1074

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10/2/03  
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1074

Senate Judiciary Committee

Conference Committee

Hearing Date 03/10/03

Tape Number	Side A	Side B	Meter #
2	X		20.6 - End

Committee Clerk Signature *Maria L. Solberg*

Minutes: Senator John T. Traynor, Chairman, called the meeting to order. Roll call was taken and all committee members present. Sen. Traynor requested meeting starts with testimony on the bill:

**Testimony Support of HB 1074**

Ken Sorenson, Attorney Generals Office - ND Department of Corrections and Rehabilitation.

Introduced Bill (meter 20.0) Read Testimony - Attachment #1.

Pat Brandon, Deputy Warden State Penitentiary Present to answer questions

Senator Carolyn Nelson requested clarification of sec 54-23.3-04 paragraph 11 (meter 24)

Statute providing authority for the director of the department of corrections to contract for correctional treatment services for inmates and Chapter 12.47 - ND State Penitentiary Statute.

Sen. Dever discussed (meter 25) the transfer from State Penitentiary to State Hospital. Would the only hospital be James River Correctional Center? Yes.

Is the contract for treatment not for the transportation? Correct.

*Yalasta Rickford*  
Operator's Signature

*10/2/03*  
Date

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Senate Judiciary Committee  
Bill/Resolution Number HB 1074  
Hearing Date 03/10/03

Discussion of regulations in place to provide for the transfer.

Pat Brandon - Passed out form (meter 27.4) and discussed process - Attachment #1 "Special Assistance Unit Referral" Discussed how the process can be started by any staff member in the department of corrections can make a referral after the referral is made there is a point by point process that has to be filed in order to get someone transferred to the special assistance Unit, including a committee review. Then to our Warden and the Warden of JRCC. If all agree transfer is necessary it goes through. Once they are stable they are transferred back to Pen Reviewed process (meter 28)

Sen. Dever discussed people who are not convicted but are at the State Hospital for mental evaluation? No.

**Testimony in opposition of HB 1074**

None

**Testimony Neutral to HB 1074**

None

**Motion Made to DO PASS HB 1074 Senator Stanley W. Lyson, Vice Chairman and seconded by Senator Dennis Bercier**

**Roll Call Vote: 6 Yes. 0 No. 0 Absent**

**Motion Passed**

**Floor Assignment: Senator Stanley W. Lyson, Vice Chairman**

**Senator John T. Traynor, Chairman closed the hearing**



**REPORT OF STANDING COMMITTEE (410)**  
March 10, 2003 12:45 p.m.

Module No: SR-42-4330  
Carrier: Lyson  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**  
HB 1074: Judiciary Committee (Sen. Traynor, Chairman) recommends **DO PASS**  
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1074 was placed on the  
Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-42-4330

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2003 TESTIMONY

HB 1074

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10/2/03  
Date



## DEPARTMENT OF CORRECTIONS AND REHABILITATION

3303 East Main, PO Box 1898 • Bismarck, ND 58502-1898  
(701) 328-6390 • FAX (701) 328-6651 • TDD 1-800-368-6888  
Website: [www.discovernd.com/docr](http://www.discovernd.com/docr)

Testimony on HB 1074  
House Judiciary Committee  
Representative Duane DeKrey, Chairman  
January 8, 2003

HB 1074 requests that NDCC statutes 12-47-27, 12-47-28, and 12-47-29 be repealed. These statutes outline procedures to be followed when transferring an inmate of the Penitentiary to the State Hospital, or other treatment facility for mental health care.

With the construction of the James River Correctional Center in 1997, the Forensic Unit at the State Hospital became part of the JRCC. The State Hospital has not accepted prisoners from the Prisons Division for mental health treatment for more than 5 years. Inmates at the prison are provided mental health treatment in the NDSP Infirmary or the new Special Assistance Unit, formerly the Forensic Unit. These units are operated by the DOCR. Inmates are given due process as outlined in our administrative policies for placement into a special management unit. In addition, the Penitentiary has not recommended that any inmate go to a private treatment unit for the past 12 years. We believe that these statutes are no longer necessary as the reason for transferring inmates outside of our system for mental health treatment no longer exists.

In the future, should a need to transfer a prison inmate to a public or private treatment facility for mental health care arise, we have the statutory authority under the North Dakota Century Code Section 54-23.3-04 (11) to contract with a public or private treatment facility and we can provide the due process procedures required for this transfer that are written in our administrative regulations.

Division of Juvenile Services (DJS)/Administration - 701-328-6390  
DJS/North Dakota Youth Correctional Center - 701-667-1400

Prisons Division - 701-328-6100  
Division of Field Services - 701-328-6190

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10/2/03

Att #1



# DEPARTMENT OF CORRECTIONS AND REHABILITATION

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(701) 328-6390 • FAX (701) 328-6651 • TDD 1-800-366-6838  
Website: [www.discovernd.com/docr](http://www.discovernd.com/docr)

Testimony on House Bill 1074  
Senate Judiciary Committee  
Senator Jack Traynor, Chairman  
March 10, 2003

House Bill 1074 provides for the repeal of NDCC sections 12-47-27, 12-47-28, and 12-47-29. These statutes outline procedures to be followed when transferring an inmate of the Penitentiary to the State Hospital or other treatment facility for mental health care.

With the construction of the James River Correctional Center in 1997, the Forensic Unit at the State Hospital became part of the JRCC. The State Hospital has not accepted prisoners from the Prisons Division for mental health treatment for more than 5 years. Inmates at the prison are provided mental health treatment in the NDSP Infirmery or the new Special Assistance Unit, formerly the Forensic Unit. These units are operated by the DOCR. Inmates are given due process as outlined in the DOCR Prisons Division's administrative policies for placement into a special management unit. In addition, the Penitentiary has not recommended that any inmate go to a private treatment unit for the past 12 years. We believe that these statutes are no longer necessary as the reason for transferring inmates outside of our system for mental health treatment no longer exists.

In the future, should a need to transfer a prison inmate to a public or private treatment facility for mental health care arise, the DOCR has the statutory authority under the North Dakota Century Code Section 54-23.3-04 (11) to contract with a public or private treatment facility. The DOCR Prisons Division will provide the due process procedures required for this transfer that are written in our administrative regulations.

Division of Juvenile Services (DJS) Administration • 701-328-6390

Prisons Division • 701-328-6100

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**SPECIAL ASSISTANCE UNIT REFERRAL**  
 Department of Corrections and Rehabilitation/Prisons Division

HH #2

Name of Inmate	Number
Referred By	Date

Inmates may be referred to the Special Assistance Unit by the Prisons Division Director, the Warden, his designee, the Director of Medical Services, Designated Treatment Staff, Unit Managers, or the Captains.

Reason for Special Assistance Unit Placement Referral

Additional Comments

Date of Placement	Time
Completed By	

Route to: Prisons Division Director/Warden/Special Assistance Unit Psychologist/Director of Classification

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