

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1075

2007 HOUSE JUDICIARY

HB 1075

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1075

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 1/9/07

Recorder Job Number: 771

Committee Clerk Signature

Naum Penrose

Minutes:

Chairman DeKrey: We will open the hearing on HB 1075.

Leann Bertsch, Director, ND DOCR: (see attached testimony).

Rep. Dahl: Has this happened yet, or is this more of a preventative measure?

Leann Bertsch: No it has occurred, and so we would like to take steps so that it doesn't continue to happen.

Rep. Griffin: What does the State currently do when this occurs.

Leann Bertsch: As far as when it's not in the judgment?

Rep. Griffin: Yes, when it's not in the judgment.

Leann Bertsch: Basically, the DOCR can hold off accepting an inmate until the appropriate paperwork is in place. That creates a number of problems for law enforcement who are transporting that inmate from another part of the state out to the Bismarck Penitentiary. It is then a scramble to try and contact the local official to get all that information squared away from the judgment. The problem that occurred, we took a short sentence offender that ended up in the system and the time that should have been in the criminal judgment to be calculated and given to us, and the potential for that, and which occurred, is that at the time all credit is

calculated, that person ended up sitting in our system longer than what the remainder of his sentence to us was. That is what we are trying to correct by stating the obvious in this bill.

Chairman DeKrey: Thank you for appearing. Any further testimony in support of HB 1075. Any testimony in opposition to HB 1075. We will close the hearing.

(Reopened later in the same session).

Chairman DeKrey: We will take a look at HB 1075.

Rep. Kretschmar: I move a Do Pass motion.

Rep. Delmore: Second.

Chairman DeKrey: The clerk will call the roll on a Do Pass motion on HB 1075.

14 Yes 0 No 0 Absent

DO PASS

CARRIER: Rep. Wolf

Date: 1-9-07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1075

House JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Kretschmar Seconded By Rep. Delmore

Representatives	Yes	No	Representatives	Yes	No
Ch. DeKrey	✓		Rep. Delmore	✓	
Rep. Klemin	✓		Rep. Griffin	✓	
Rep. Boehning	✓		Rep. Meyer	✓	
Rep. Charging	✓		Rep. Onstad	✓	
Rep. Dahl	✓		Rep. Wolf	✓	
Rep. Heller	✓				
Rep. Kingsbury	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Wolf

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

REPORT OF STANDING COMMITTEE (410)
January 9, 2007 12:01 p.m.

Module No: HR-05-0344
Carrier: Wolf
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
HB 1075: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS
(14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1075 was placed on the
Eleventh order on the calendar.

2007 SENATE JUDICIARY

HB 1075

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1075

Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: February 27, 2007

Recorder Job Number: 3993

Committee Clerk Signature *Maria Solby*

Minutes: Relating to Relating to sentencing and credit for time spent in custody.

Senator David Nething, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following hearing:

Testimony in Favor of the Bill:

Leann K. Bertsch, Dir. of Corrections and Rehabilitation – Introduced the bill and gave her testimony – Att. #1 Criminal Judgment (meter 1:59) definition and process.

Sen. Nething stated if they are charged, but before the trial spent 6 months in jail, this is the time frame the bill is referring to. They discussed different scenario; time spent, bonding out, spending more time and a combination of facilities. The judgment signed by the court, remains in court, but a copy follows law enforcement upon the arrival at a facility.

Sen. Fiebiger questioned the time before an appeal, would this be problematic. This pertains to the times prior to an appeal, if they have not posted bail. The appeal is “post” sentencing at that time information is easy to obtain. The problem is if they have a multiple sentence, what time goes with what offence. Usually the offender knows exactly how much time they have spent.

Sen. Olafson stated why isn't this currently being done. (meter 8:42) **Leann** responded that at times a person is moved to quickly to another facility, due to being to 'problematic' and the paperwork may not follow as quickly.

Sen. Nelson asked if they used a standard form? Yes but the form does vary.

Testimony Against the bill:

None

Testimony Neutral to the bill:

None

Senator David Nething, Chairman closed the hearing.

Sen. Lyson made the motion to Do Pass HB 1075 and **Sen. Olafson** seconded the motion.

All members were in favor and the motion passes.

Carrier: **Sen. Nething**

Senator David Nething, Chairman closed the hearing.

REPORT OF STANDING COMMITTEE (410)
February 27, 2007 12:37 p.m.

Module No: SR-37-3996
Carrier: Nething
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1075: Judiciary Committee (Sen. Nething, Chairman) recommends DO PASS
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1075 was placed on the
Fourteenth order on the calendar.

2007 TESTIMONY

HB 1075

HOUSE JUDICIARY COMMITTEE
Representative Duane DeKrey, Chairman
January 9, 2007

North Dakota Department of Corrections and Rehabilitation
Leann K. Bertsch, Director
Presenting Testimony Concerning: HOUSE BILL 1075

Chairman DeKrey and Members of the Committee, for the record, I am Leann Bertsch, Director of the Department of Corrections and Rehabilitation.

Subsection 2 of section 12.1-32-02 requires a defendant to receive credit against any sentence to a term of imprisonment for all time spent in custody as a result of the criminal charge for which the sentence was imposed or as a result of the conduct on which such charge was based.

House Bill 1075 seeks to amend subsection 2 to require that the total amount of credit the defendant is entitled to for time spent in custody is stated in the criminal judgment. Although the majority of criminal judgments committing defendants to the care, custody and control of the Department of Corrections and Rehabilitation (DOCR) include the amount of credit for time spent in custody, there are some judgments that do not.

It is important to have this information upon receipt of the defendant into the custody of the DOCR to accurately calculate the defendant's release date. Without this information, the State runs the risk that a defendant is held longer than legally authorized, thereby posing a potential liability to the State.

AH #1
2-27-07

SENATE JUDICIARY COMMITTEE
Senator Dave Nething, Chairman
February 27, 2007

North Dakota Department of Corrections and Rehabilitation
Leann K. Bertsch, Director
Presenting Testimony Concerning: HOUSE BILL 1075

Chairman Nething and Members of the Committee, for the record, I am Leann Bertsch, Director of the Department of Corrections and Rehabilitation.

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