

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1206

2007 HOUSE JUDICIARY

HB 1206

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1206

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 1/16/07

Recorder Job Number: 1151, 1152, 1154

Committee Clerk Signature

D. Penrose

Minutes:

Chairman DeKrey: We will open the hearing on HB 1206.

Rep. Dan Ruby: I am a sponsor of this bill. This bill came as an idea to me from a judge up in the Minot area. The legislators were hosted at a meeting by the judges in the area where several issues were discussed. At one of the meetings, it was brought to our attention that there is an area that needs to be looked at, and that area is pre-sentence drug evaluations. Basically what this bill does is simply gives judges a little discretion to, in the case where they may not need to do the drug evaluation at the local level. As it was explained to me, and I don't know the process on a first hand basis, there are times, under certain convictions that it is a foregone conclusion that the person is going to be going to the State Penitentiary and normally under the way the rule is now, they must do a pre-sentence drug evaluation on that person before they would hand down the sentence. In some cases, they believe this would be a redundancy, because once they are a member of the North Dakota State Pen system, they go through another drug evaluation, which is much more comprehensive than what they get prior to sentencing. Those tests are designed to identify their needs for treatment at the state pen. In some cases, this pre-sentence evaluation slows down the process and is completely unnecessary for their purposes of sentencing. As I called the different parties that would be

involved with this, the Department of Corrections, the AG's office, our State's attorney in the Minot area, just looking for any red flags, if there was anybody that would be opposed to this, and everybody that I talked to said that they didn't see any red flags. It's just a little more discretion. They understand that, in any case, if either side thinks it is necessary to do a drug evaluation, that the judge would order it at that time before he sentenced the defendant.

Chairman DeKrey: Thank you.

Rep. Dan Ruby: As you can see the language takes out must and puts in the word "may". Some of the language in the last sentence was cleaned up. Tim Dawson, when he was reading that, thought that some of that was confusing and didn't seem to be the proper language and that was changed.

Rep. Delmore: First, was misdemeanor in here before, was it felony or misdemeanor and secondly, since the court may order, is it not something the court could already do.

Rep. Dan Ruby: Normally under the guidelines in this section, the cases in the felony, let's say transporting drugs for some kind of drug violation that included violence, those would be the things that would immediately be a certain level of felony which would require them to go to the State Pen. There are some mandatory penalties. I think under this, because it says "may", and of course, the word misdemeanor was in there already. That's not new language. Under those, they would have the discretion to say, we can forego that. But the way they understood it, in answer to your second question, no, they must have this. Although the confusing language talked about, it may be submitted before or after imposing punishment. Why would you do it and have the evaluation if you're not going to see it until after you have handed down the sentence. There was some confusion there.

Chairman DeKrey: Thank you. Further testimony of support of HB 1206. Testimony in opposition. We will close the hearing.

(Reopened later in the same session)

Chairman DeKrey: What are the committee's wishes in regard to HB 1206.

Rep. Delmore: I move a Do Pass.

Rep. Kingsbury: Second.

Rep. Meyer: Just a question, what does this do, that isn't being done already. Just that the court may order this, and now he doesn't have to.

Chairman DeKrey: When I talked to the judge that this came from, I didn't really quiz him real well, but I kind of got the impression that they felt that some of this being mandatory was unnecessary because they weren't there for drug related offenses, but still required to mandatory test them. So they thought this would clear things up for the court and give the judge some discretion. Everybody seemed to think it was a good idea.

12 YES 0 NO 2 ABSENT

DO PASS

CARRIER: Rep. Wolf

Date: 1-16-07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1206

House JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Delmore Seconded By Rep. Kingsbury

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

Total (Yes) 12 No 0

Absent 2

Floor Assignment Rep. Wolf

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

REPORT OF STANDING COMMITTEE (410)
January 16, 2007 10:35 a.m.

Module No: HR-10-0613
Carrier: Wolf
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1206: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS
(12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1206 was placed on the
Eleventh order on the calendar.

2007 SENATE JUDICIARY

HB 1206

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1206

Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: February 12, 2007

Recorder Job Number: 3062

Committee Clerk Signature *Maria L. Salby*

Minutes: Relating to drug addiction evaluations.

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

Testimony In Support of the Bill:

Rep. Dan Ruby, Dist. #38, Introduced and reviewed the bill. (meter :030) Changing a "must" to a "may" and why. Spoke of duplicate testing and the judges ability to use there discretion. The second part of the bill is clean up of language that is confusing or contradictory. I have spoken to all parties involved and no one has any issues with the bill.

Testimony in Opposition of the Bill:

None

Testimony Neutral to the Bill:

None

Senator David Nething, Chairman closed the hearing.

Sen. Nelson made the motion and **Sen. Marcellais** seconded them motion. All members were in favor and the motion passes.

Carrier: **Sen. Marcellais**.

Senator David Nething, Chairman closed the hearing.

REPORT OF STANDING COMMITTEE (410)
February 12, 2007 1:04 p.m.

Module No: SR-29-2897
Carrier: Marcellais
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1206: Judiciary Committee (Sen. Nething, Chairman) recommends DO PASS
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1206 was placed on the
Fourteenth order on the calendar.