

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1482

2007 HOUSE HUMAN SERVICES

HB 1482

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1482

House Human Services Committee

Check here for Conference Committee

Hearing Date: January 24, 2007

Recorder Job Number: 1755

Committee Clerk Signature

Judy Dehock

Minutes:

Chairman Price: Opening the hearing on HB 1482.

Representative Gary Kreidt, District 33: I am here as a co-sponsor. I have one set of amendments attached, and with them my concerns have been met.

Representative Kim Koppelman, District 13 West Fargo: The bill basically deals with notification. We have made great strides in ND about notifying the public, and other entities that should know about issues that are very important, in terms of public safety, and tracking people that we need to keep and eye on. This bill deals with folks that are released from correctional institutions into health care. The bill as it is currently written is for the institution than to in turn notify residence and employees. Long term care came last night with other amendments they would like added. Department of corrections has also asked for an amendment. When I originally introduced the bill, I toyed with the idea of what other states do - all felons.

Shelly Peterson, President of the ND Long Term Care Association: See attached testimony.

Chairman Price: Anyone else in favor of HB 1482? Anyone in opposition of HB1482?

Tim Schutzel, Director of Prisons Division for the state of ND: I am neutral to HB 1482. I don't quite understand the need for the bill. Some of the examples that have been given to you is people who would not be covered under the bill the way it is written now. We have probably had a hand full of people who have asked to go to a nursing home. This is something that does not happen very often. We had one that was terminally ill. We did not have the resources to take care of him. We have given nursing homes what they have requested of us. The issue may be the way it is worded, it doesn't address a bigger part of the population going into these nursing homes, and that might be people who are x – offenders who are no longer at the prison or they may be on parole. That is not what this bill is addressing. The Department of corrections would not have this information. I would like you to address the 15 day prior notification before we could place someone. I have concerns with that.

Representative Porter: In the case of it is determined you can not take care of the inmate and they need a long term care setting and they are on the Medicaid age, does the department than pay the bill to the nursing home at the rates that are established through Medicaid?

Mr. Schutze: I don't know. Normally in most cases we would seek to do is, if the person is terminally ill or if the Dr. is telling us he is in need of long term care, until he dies. We could go to the parole board and see if we can get a fast track parole. I don't know than who would pay that bill. We try to work with someone to take care of that person and we try to set up the Medicaid ahead of time so the facility would get paid.

Chairman Price: Any further opposition? If not, we will close HB 1482

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1482

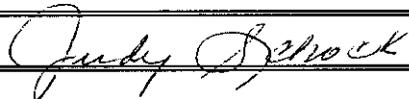
House Human Services Committee

Check here for Conference Committee

Hearing Date: January 29, 2007

Recorder Job Number: 2084

Committee Clerk Signature



Minutes:

Chairman Price: Take out HB 1482.

Representative Weisz: I am wondering why we need this bill. Informing the residence seems to be the only issue. Is there a problem with trying to fix here that doesn't seem to exist? There was on case in long term care. The only problem I saw long term care had was they couldn't separate or isolate them and that was their reason for not wanting to except them.

Chairman Price: The do need information on who is going to pay. I think if they had the 15 day notice it would be a little easier to find out.

Representative Potter: Why couldn't they take these people to the Jamestown hospital?

Representative Porter moves the amendment, second by **Representative Kaldor**. The verbal vote was all yeas. **Representative Kaldor** moves a do pass as amended,

Representative Hatlestad seconds the motion. The vote was 11 yeas 0 nays and 1 absent.

Representative Hofstad to carry the bill to the floor.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1482

Page 2, line 2, after "That" insert ", subject to subsection 3," and replace "must" with "may"

Page 2, line 3, after "to" insert "residents and" and replace "no later than ten days before the" with "by the administrator of the facility."

d. The offender's health status and type of health care the offender requires.

e. Any available risk assessment information regarding the offender's likelihood of reoffending."

Page 2, remove line 4

Page 2, line 5, replace "a. No later than ten days before the offender's admission to the facility, the" with "The"

Page 2, line 6, replace "shall" with "may"

Page 2, line 7, after "guardians" insert "and the employees of the facility"

Page 2, remove lines 9 through 11

Renumber accordingly

Date: 1/29
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House HUMAN SERVICES HB HB 1482 Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken more Amendments

Motion Made By Rep Potter Seconded By Rep Kaldor

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price - Chairman			Kari L Conrad		
Vonnie Pietsch - Vice Chairman			Lee Kaldor		
Chuck Damschen			Louise Potter		
Patrick R. Hatlestad			Jasper Schneider		
Curt Hofstad					
Todd Porter					
Gerry Uglem					
Robin Weisz					

Total (Yes) 11 "Click here to type Yes Vote" No "Click here to type No Vote"

Absent 1

Floor Assignment _____

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

Date: 129
 Roll Call Vote #: 2

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House HUMAN SERVICES HB 1487 Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken No pass as amended

Motion Made By Rep Kaldor Seconded By Rep Hattestad

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price - Chairman	✓		Kari L Conrad		
Vonnie Pietsch - Vice Chairman	✓		Lee Kaldor	✓	
Chuck Damschen	✓		Louise Potter	✓	
Patrick R. Hattestad	✓		Jasper Schneider	✓	
Curt Hofstad	✓				
Todd Porter	✓				
Gerry Uglem	✓				
Robin Weisz	✓				

Total (Yes) 11 "Click here to type Yes Vote" No 0 "Click here to type No Vote"

Absent 1

Floor Assignment Rep. Hofstad

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

REPORT OF STANDING COMMITTEE

HB 1482: Human Services Committee (Rep. Price, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1482 was placed on the Sixth order on the calendar.

Page 2, line 1, remove "and"

Page 2, line 2, after "That" insert ", subject to subsection 3," and replace "must" with "may"

Page 2, line 3, after "to" insert "residents and" and replace "no later than ten days before the" with "by the administrator of the facility;

- d. The offender's health status and type of health care the offender requires;
- e. Any available risk assessment information regarding the offender's likelihood of reoffending; and
- f. The name of the party responsible for the payment for the services provided by the health care facility to the offender."

Page 2, remove line 4

Page 2, line 5, replace "a. No later than ten days before the offender's admission to the facility, the" with "The"

Page 2, line 6, replace "shall" with "may"

Page 2, line 7, after "guardians" insert "and the employees of the facility"

Page 2, remove lines 9 through 11

Renumber accordingly

2007 SENATE HUMAN SERVICES

HB 1482

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1482

Senate Human Services Committee

Check here for Conference Committee

Hearing Date: 3-07-07

Recorder Job Number: 4555

Committee Clerk Signature

Mary K. Monson

Minutes:

Chairman Senator J. Lee opened the hearing on HB 1482 relating to health care for chronically or terminally ill offenders.

Representative Kim Koppelman (District #13) introduced HB 1482. It is a simple bill. It calls for notice when a criminal offender is being released from a correctional facility to a nursing home, hospital, health care facility. That happens occasionally because of terminal or acute illness.

When that does occur it is important that facility is informed with good notice. There is a good working relationship but all parties think it doesn't hurt to put it in law to make sure it is there.

He explained that the original bill called for notification not only for the health care facilities but also for the staff and the residents of that facility. When it was heard in the House, the Long Term Care Association presented a concern that they wanted some flexibility to judge whether it was wise to notify. They didn't want to unnecessarily alarm either staff or patients needlessly. The House made that provision optional.

Another change he proposed was on page 1 section 1 subsection 2 – the fifteen day notice (meter 3:00).

Senator Dever – Is it safe to assume that suitability is addressed elsewhere?

Rep. Koppelman – He understands there has not been a problem with regard to the way the Dept. of Corrections works and interfaces with the health care and long term care facilities in ND. This would make sure that they are aware of whom they are accepting and there is nothing that mandates acceptance.

Tim Schuetzle (Director of The Prisons Division and Warden at the State Penitentiary) testified in favor of HB 1482 with the amendments suggested by Rep. Koppelman. The Dept. of Corrections is concerned with the current language of fifteen days prior notification in all cases. They are not set up to handle long term care patients or terminally ill patients at the state penitentiary. They have five infirmary beds and they are almost always full. It's a real concern to have to wait fifteen days once they find a facility that will accept the inmate.

They definitely want to give notice. They agree with every part of this bill that nursing home administrators need to know who these people are, their past criminal history, what kind of risk they pose to the community. Then they would have the option to relay that to their staff. He pointed out that they have a good relationship with the Long Term Care Association. There is usually only one a year or one every two years where this comes into play. It is not a common occurrence.

Once the inmate is paroled or leaves the Dept. of Corrections, the Dept. no longer has any obligations to pay for the medical care. That has been a problem with some nursing homes to make sure he is lined up and has some type of payment so they get reimbursed.

(Meter 10:20) Discussion – incarcerated persons are not eligible for Medicaid. In order to leave the secure facility they need to be released. They would have to be paroled to go to a long term care facility for terminal illnesses.

Senator J. Lee asked if they were planning to make provisions for long term care when they get their new infirmary.

Mr. Schuetzle said they are planning for ten beds to be for long term care and will try to meet the needs of the inmates of the prison at the state penitentiary. There might still be instances where they would look at some type of parole for terminally ill people so they can die in a more peaceful situation.

Senator Warner pointed out that the fifteen days are also a burden on nursing homes. Then he addressed the issue of sex offenders and asked if they were allowed to transfer them out if they have a mandatory sentence.

Mr. Schuetzle agreed that they are going to see older sex offenders. That's why they are planning for the beds when they get the infirmary. That would probably be four years from now. (Meter 13:40)

Some discussion followed on whether there would be some prisoners, who for psychiatric reasons, could not be transferred and if they would fit into the geropsychiatric nursing home in Valley City. There was also some information given about the medical staff at the prison facilities.

Senator Dever asked if it was safe to assume that security is really not a concern with this process.

Mr. Schuetzle replied that was certainly their belief. They don't parole somebody who is still able to get up and walk around or assault or sexually offend. The people they would be looking at would be pretty much bedridden and terminally ill.

Senator Heckaman asked where the transfer is initiated. Can a family member initiate it?

Mr. Schuetzle said that right now it is only from their end. There are requests from family members to the parole board to parole their loved one for various reasons. Those are handled by the parole board. In all cases to date this is initiated by the penitentiary.

Senator J. Lee asked if deleting the phrase "at least fifteen days" would solve the problem.

Mr. Schuetzle answered that he supports the requirement to notify and that they should inform their staff and have that option. He also supported getting rid of the timeframe to a point where it is acceptable to both parties.

Rep. Koppelman had no objection and said the only reason the fifteen was there in the first place was to attempt to give the long term care facilities some notice for planning.

Senator J. Lee assumed there would be a good working relationship among the parties. The long term care will be consulted.

Senator Warner brought up that there might also be some financial implications. The parole would have to take place before the application for Medicaid.

Senator Dever – This is talking about the inmate going directly from the prison to the nursing home.

(Meter 23:20) Discussion followed about the inmate going to the hospital. They also talked about when there is a need to parole.

There was no opposing testimony.

There was no neutral testimony.

Senator J. Lee recognized Shelly Peterson for information from the long term care association and to answer questions from the committee.

Shelly Peterson (ND Long Term Care Association) reported that they had some concerns with this bill in the House. There are only a handful of admissions from the prisons and they usually go pretty smoothly. Most have extreme health conditions and are very good candidates for long term care in the facility. The only difficulty they have is with sex offenders. They are reluctant to place them in nursing facilities because of experience with some of the sex offenders and being unable to place greater restrictions on those individuals. She gave an example (meter 26:50).

They don't like the optional notification requirements to residents and staff and she went on to explain why. She also explained the assessment process used when they are looking at placement (meter 28:30).

They like the notification that is given to the facilities on the health status, the risk of offense, and how to pay for them. Generally if the prisoner is under the age of 65, Medicaid won't pay unless they've gone through a disability determination through social security and that takes time.

Senator J. Lee asked about the notification and if they saw it as clarifying whether or not they are permitted to give notice.

Ms. Peterson replied that what occurs now when they take a convicted felon is that the staff members that need to know are informed (meter 31:25).

Discussion followed on the need to inform or not and who should be informed.

Senator J. Lee asked her to elaborate on the cost issue.

Ms. Peterson responded by saying that a person who is in the prison system is generally not Medicaid eligible. However, a person in prison generally doesn't have income and resources once they are transferred out of that system. When they come to long term care the payment source has been an issue in some placements because there isn't a payment source.

Medicaid won't pay for someone under the age of 65 that goes into a nursing facility unless they are disabled. The issue is more the time to get them eligible that may cause delays (meter 37:30).

Senator J. Lee asked about deleting the phrase about "at least fifteen days" as far as the notification.

Ms. Peterson said they would support that deletion.

Senator Heckaman asked about options for sex offenders as they age.

Ms. Peterson said the reason there is great reluctance is because of the CMS requirement that they can't place restrictions on. They have told the Dept of Human Services that they feel, if they have sex offenders that are aging and need 24 hour care, they will have to do it within their own system. The state hospital seemed to be an appropriate place (meter 40:33).

Senator J. Lee asked about the geropsychiatric unit.

Ms. Peterson said they can't place any greater restrictions on sex offenders either. Generally, in that setting, they are caring for people in their sixties that have multiple issue and problems. Sex offender has not been generally one of them.

Senator Dever – If problems develop with these residents under supervision of a probation officer can they be sent back?

Ms. Peterson said they haven't had the instance, other than sex offenders, where they've had the need to send them back. It hasn't been an issue.

Senator Dever asked about medical conditions, specifically Hepatitis C.

Ms. Peterson said they would want to know about that. Generally they will get very detailed information regarding the medical condition. They need to have a current physical and current chest x-rays. (Meter 44:35) She also talked about the comprehensive assessment before admittance.

Senator J. Lee asked if they can refuse someone admission if they can't find an appropriate placement.

Ms. Peterson said they can refuse. And the last legislative session gave facilities the authority to not accept an admission if they can't determine a viable funding source.

Senator J. Lee closed the public hearing.

Senator Warner moved to remove subsection 3 on page 2 and on page 1, line 20 "at least fifteen days".

Senator Pomeroy seconded the motion.

There was a short discussion on the health care status.

Roll call vote 6-0-0. Amendment accepted.

Discussion followed. The information in this bill to be provided from corrections to the facilities is necessary information and probably is happening anyway. The health status provision is good because as there are more complex prisoners with other health issues, the issue of infection control could be a big one. There have only been a handful of facilities that have had to work with the correction system on this.

Senator Warner moved a Do Pass on HB 1482 as amended.

The motion was seconded by Senator Dever.

Roll call vote 6-0-0. Motion carried. The carrier is Senator Dever.

Date: 3-7-07

Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HB 1485

Senate HUMAN SERVICES Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Amendment

Motion Made By Sen. Warner Seconded By Sen. Pomeroy

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman	✓		Senator Joan Heckaman	✓	
Senator Robert Erbele, V. Chair	✓		Senator Jim Pomeroy	✓	
Senator Dick Dever	✓		Senator John M. Warner	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

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

Date: 3-7-07

Roll Call Vote #: 2

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HB 1482

Senate HUMAN SERVICES Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass / amended

Motion Made By Sen. Warner Seconded By Sen. Dever

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman	✓		Senator Joan Heckaman	✓	
Senator Robert Erbele, V. Chair	✓		Senator Jim Pomeroy	✓	
Senator Dick Dever	✓		Senator John M. Warner	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Dever

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

REPORT OF STANDING COMMITTEE

HB 1482, as engrossed: Human Services Committee (Sen. J. Lee, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1482
was placed on the Sixth order on the calendar.

Page 1, line 20, remove "at least fifteen days before the offender's admission as"

Page 1, line 21, remove "a resident of a health care facility" and after "provide" insert "prior"

Page 2, remove lines 10 through 12

Renumber accordingly

2007 TESTIMONY

HB 1482

Testimony on HB 1482
House Human Services Committee
January 24, 2007

Chairman Price and members of the House Human Services Committee, thank you for the opportunity to testify on HB 1482. My name is Shelly Peterson, I'm President of the North Dakota Long Term Care Association. With amendments to HB 1482 we could possibly support it. Let me share with you our concerns and issues.

HB 1482 requires assisted living, basic care, and nursing facilities to notify all staff, residents, legal guardians and potential residents making an inquiry for admission, that a convicted offender is living or is being admitted to the long term care facility in which they reside, work or are considering.

We don't agree with the widespread notice requirement for a variety of reasons. I will address those reasons after I first address the issue of offenders needing care.

With all admissions, a facility must assess a number of factors, those specific to this issue include:

- Can they meet the complex medical needs of the individual?
- Can they assure the safety and security of all residents with this admission?
- Are staff willing and able to provide care?

Federal regulations require that facilities have policies and procedures and systems of care to prevent mistreatment, neglect and abuse. Residents who are abusive to other residents must be monitored, assessed, and must have a care plan in place that addresses the abusive behavior, and those who are abused must be protected from further injury or mental anguish.

If a nursing facility is considering the admission of an offender, they would be required to conduct a comprehensive assessment to assure all residents would be safe. If that assessment indicates a risk to others, the admission would be denied.

I like the requirement that the Department of Corrections provide information regarding the offense of the offender. Additional information we need, to evaluate placement is

detailed information regarding the health status and functioning of the offender. Information on why nursing care is required. We also need payment information. If we accept the offender, how is the bill going to be paid. We recommend that these vital pieces of information be added to the list of required information. A risk assessment regarding the chance or ability to re-offend would also be helpful information.

Our Association has been working with the Department of Corrections on difficult to place offenders who are in need of 24-hour skilled nursing care. The Department of Corrections will e-mail us information regarding the health needs and status of the offender and a past history of offenses. The information is e-mail to all long term care facilities and they contact the Department of Corrections if they are interested in considering placement. Generally the individuals needing placement are either dying or severely incapacitated and are incapable of caring for themselves or harming others.

This process seems to work well except for placement of sex offenders. We have very few facilities willing to take sex offenders and it was our desire that the State Hospital care for aging sex offenders. The reason we are reluctant to care for these individuals is because CMS/State Health Department does not allow us to place special restrictions on the activities of sex offenders living in a nursing facility. An example is an individual who was charged with a sex offense and while waiting for his hearing experienced a catastrophic health event. He was admitted to the nursing facility without the facility aware of the allegation and felony charge. A notice to appear in court was sent to the individual now living in the nursing facility. The Administrator went to court with the resident and only then became aware of the offense.

During this time, no issues arose with the resident within the nursing facility. The court ordered him to the nursing facility. When the nursing facility became aware of the offense, issues of risk to others was evaluated and care planned. The facility agreed to the court order and the offender returned to the nursing facility. To assure total protection the offender was required to remain in his room when children were present for special events. He was not allowed to participate in these events. This seclusion was agreed to by the probation officer. This entire situation was reviewed with the Ombudsman. Questions arose regarding the seclusion of the resident to his room. The facility was told that you couldn't seclude any residents. They couldn't seclude, but they did have to assure all other residents and visiting children were safe. Given facilities can not put practical steps in place for sex offenders under their care, very few will have access to nursing facility care.

Going back to the notice requirements to all staff, all residents and their guardians, and potential residents and their guardians, we believe that notification process goes too far. Only staff who need to know should be made aware of the issues surrounding the offender/resident.

We are not sure informing residents and guardians would serve a useful purpose. Prior to admission we must evaluate the placement to assure all residents are protected and their well-being safeguarded. If in our assessment we believe we can safely care for an individual and protect those around him, why would we alert residents to a threat that we believe does not exist? Residents who may not be cognitively intact, who may not understand what it is we are telling them may be needlessly frightened by the information. We also have residents with degrees of paranoia or easily frightened, some frightened by a fear that's real to them but doesn't exist. Informing all residents and legal guardians may create additional problems. If a nursing facility believes the admission is safe, we don't believe the notification would be beneficial.

Informing everyone who calls making an inquiry for admission does not seem practical.

In summary we support the Department of Corrections providing the facility with key information regarding a potential admission and further notification requirements are problematic. This concludes my testimony and I would be happy to try and answer any questions you may have.

Shelly Peterson, President
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