

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

40004

2007 SENATE JUDICIARY

SCR 4004

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SCR 4004

Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: January 15, 2007

Recorder Job Number: 1131

Committee Clerk Signature *Maria L Solberg*

Minutes: A study of respective responsibilities of Co & State Judicial system personnel – Uniform Juvenile Court act.

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

Testimony In Support of Bill:

Sen. Connie Triplett, Dist 18 Introduced the concurrent resolution (meter 0:01) Read Dist.

Judge Debbie Kleven's testimony – Att. #1

Testimony in Opposition of the Bill:

None

Testimony Neutral to the Bill:

None

Senator David Nething, Chairman closed the hearing.

Senator Nething opened up the meeting for a motion. **Sen. Marcellais** made the motion to Do Pass SCR 4004 and **Sen. Lyson** seconded the motion all members were in favor motion passes.

Carrier: **Sen. Marcellais**

Senator David Nething, Chairman closed the hearing.

REPORT OF STANDING COMMITTEE

SCR 4004: Judiciary Committee (Sen. Nething, Chairman) recommends DO PASS
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4004 was placed on the
Eleventh order on the calendar.

2007 HOUSE JUDICIARY

SCR 4004

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SCR 4004

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 3/13/07

Recorder Job Number: 4946

Committee Clerk Signature

Minutes:

Rep. Klemin: We will open the hearing on SCR 4004; Sen. Connie Triplett, the sponsor was here earlier, but she had to leave. She did submit testimony that was submitted by District Judge Debbie Kleven, in the Senate (see attached testimony). Is there anyone else to testify in support of SCR 4004.

Rep. Meyer: Has there been a lot of problems with this.

Rep. Klemin: I guess I don't know specifically the answer to that. But we do have the written testimony from Judge Kleven, which indicates that there have been some ambiguities in the statute, which seemed to her, at least from this written testimony that it should be looked at.

Rep. Kretschmar: I move a Do Pass.

Rep. Griffin: Second.

12 YES 0 NO 2 ABSENT DO PASS ON CONSENT CALENDAR CARRIER: Rep. Klemin

Date: 3/13/07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 4004

House JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Kretschmar Seconded By Rep. Guffin

Representatives	Yes	No	Representatives	Yes	No
Chairman 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) 12 No 0

Absent 2

Floor Assignment Rep. Klemin

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

REPORT OF STANDING COMMITTEE

SCR 4004: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SCR 4004 was placed on the Tenth order on the calendar.

2007 TESTIMONY

SCR 4004

AH # 1
1-15-07

Senate Judiciary Committee Hearing

January 15, 2007

Submitted by District Judge Debbie Kleven

SCR 4004

Chair Nething and members of the Senate Judiciary Committee:

My name is Debbie Kleven and I am a district judge in the Northeast Central Judicial District chambered in Grand Forks, North Dakota. I also chair the Juvenile Policy Board, a committee of the North Dakota Supreme Court. I am submitting this written testimony in favor of Senate Concurrent Resolution No. 4004. This resolution asks the Legislative Council to study the respective responsibilities of county and state judicial system personnel under the Uniform Juvenile Court Act in light of statutory ambiguities that exist defining those responsibilities.

The Juvenile Policy Board membership was expanded by Chief Justice VandeWalle in September of 2004, for the purpose of reviewing the Uniform Juvenile Court Act. The Board has met quarterly since that time with the majority of our time being spent on reviewing Chapter 27-20 of the North Dakota Century Code. The expanded Juvenile Court Policy Board includes representatives from the Department of Human Services, county social services, the Division of Juvenile Services, an attorney for the defense, two prosecutors, Juvenile Court staff, judges and referees and an Assistant Attorney General. The Board extensively reviewed the Uniform Juvenile Court Act and we have found the Act does not clearly define what agencies are responsible for certain duties that are imposed under the current law. It is my intention to highlight the ambiguities for you.

The Uniform Juvenile Court Act is found in chapter 27-20 of the North Dakota Century Code. A purpose of the act is to "provide a simple judicial procedure through which this chapter is executed and enforced and in which the parties are assured a fair hearing and their constitutional and other legal rights recognized and enforced." The Act, however, does not clearly designate who is responsible for carrying out these judicial procedures.

An example of this ambiguity is found in Chapter 27-20-06 which states that it is the responsibility of the juvenile supervisor to receive and examine complaints and charges of delinquency, unruly conduct, or deprivation of a child for the purpose of considering the commencement of proceedings under this chapter. But, the juvenile supervisor is not to conduct accusatory proceedings against a child who is or may be under the juvenile supervisor's care or supervision. Clearly, under the current law the juvenile supervisors and their staff should not be the persons who are prosecuting the juvenile court cases, irregardless of whether the complaint or petition alleges delinquency, unruly conduct or

deprivation. In North Dakota, the current law does not clearly designate what agency is responsible for prosecuting a juvenile court action.

The only guidance as to who is responsible for prosecuting a juvenile case is found in Section 27-20-24 which states that "the state's attorney upon request of the court shall present the evidence in support of any allegations of the petition not admitted and otherwise conduct the proceedings on behalf of the state." Many of the state's attorneys have interpreted this section to limit their responsibility to that of only appearing in court to present the evidence. All other functions of preparing a case for trial, including the preparation of a complaint or petition, subpoenaing witnesses, service of process, preparation of orders and service of orders has in most instances fallen upon the Juvenile Court staff. While this may be a valid interpretation of the current law, it certainly is not a process that promotes a fair hearing and the protection of the constitutional and other legal rights of the juveniles and other parties to the action. The Juvenile Court staff are employees of the judiciary and as a result, the court's own staff are the persons who are in many instances, prosecuting the individuals who they are either currently supervising on probation or may end up supervising on probation. The Juvenile Court staff, under the direction of the District Court, should not be the agency responsible for prosecuting a juvenile court action as it certainly takes away any appearance of the court remaining neutral in an action.

Section 11-16-01 of the North Dakota Century Code sets forth the duties of the State's Attorney and it makes no reference to prosecuting actions under Chapter 27-20, the Uniform Juvenile Court Act. Likewise, there is no other provision in the North Dakota Century Code that designates responsibility to any other entity for prosecution of juvenile court actions. In order for North Dakota to have a system that provides a judicial procedure through which juvenile actions are enforced and in which the parties are assured a fair hearing and their constitutional and other legal rights recognized and enforced, North Dakota lawmakers need to clearly designate who is responsible for the prosecution of a juvenile court action.

I would like to thank Senators Triplett, Fiebiger, Lyson and Representatives DeKrey, Delmore, and Klemin for their assistance in introducing this resolution. I am available to answer any questions you may have either through my e-mail address at dkleven@ndcourts.gov or by telephone at 701-787-2753.