

2013 HOUSE JUDICIARY

HB 1115

2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HB 1115
January 14, 2013
Job 17170

Conference Committee

Kristie Helgler

Explanation or reason for introduction of bill/resolution:

Parole

Minutes:

Testimony 1

Chairman Koppelman: Right now the application of the inmate triggers the parole process and all the language and statues are couched in those terms. It puts the inmate in control of the process and if the inmate does not want to get parole simply does not have to apply for it. This bill would change that, to make everyone under the jurisdiction of the Department of Corrections subject to parole by the parole board. This is important because it will stop the inmate from refusing parole because of deportation or prison time in another jurisdiction.

Duane Houdek, Chairman of the ND Parole Board: HB 1115 proposes to remove the legal requirement that an inmate must apply for parole and updates some of the language in chapter 12-59.

Rep Delmore: Would this change be consistent with how other states handle parole? Will this make it easier for notification sent out to individuals who are interested in the process; will they continue to wait for a date?

Duane Houdek: In regard to the notification this change applies only to that given Judges and State Attorneys. We still notify family and/or victims that maybe interested in the parole.

Rep Steiner: About how many people do you think this would effect in your system, numbers or dollars in a year?

Duane Houdek: In one person alone, the State would save a lot of money. For example if we sent an inmate to another state that has a warrant for this individual, that person is no longer provided by our State, sometimes it's years that they avoid by just staying in our facility.

Rep Paur: If a person does not wish to be paroled would that encourage them to misbehave or pursue rehabilitation to make them less available to be paroled?

Duane Houdek: I know it wouldn't, whether they were misbehaving or not parole would happen.

Pat Bond, Clerk to the Parole Board: It is all over the board throughout the US, there are actually several different ways the States do their parole. We do support HB 1115 for all the reasons Duane gave. Per day it's about \$87 per person, it would save quite a bit?

Rep Delmore: Is every inmate given a specific time where they can ask for parole?

Pat Bond: There are several factors that we figure parole out with, but we do it with everybody that is parole eligible.

Rep Delmore: When are they aware of when that date is?

Pat Bond: For those that have 3 yrs or less to serve they know within about 30 days of their arrival as to when they would have that opportunity for what we call thumbs up or thumbs down decision. And those that have more than 3 yrs to serve from the day they came in, they go before the Board and get reviewed because there is more time to play with, and then they would know within about 90 days of their arrival.

Rep Brabandt: What does it cost to incarcerate an inmate for a year at the State Pen?

Pat Bond: Fiscal team could give you that; I don't have an exact number, around \$87 a day.

Rep Klemin: Rules adapted by the Parole Board, refer to Section 3 , are those rules required to be done in accordance with the Administrative Agency Practices Act?

Pat Bond: No they are not, when talking rules its policy and procedure, the Dept of Corrections and Parole Board are exempt from the Administrative Rule Law.

Rep Klemin: Then under Section 3 since there is a change of focus are you going to have new rules.

Pat Bond: We would have to revise our policy to reflect the change in the law.

Chairman Koppelman: Term of Rules and Regulation, is there a difference between the two in your practice

Pat Bond: For the purpose of the Board the rules are referred to in statute are just policies.

Chairman Koppelman: Closes

2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HB 1115
January 15, 2013
Job 17252

Conference Committee

Kristie Helmer

Explanation or reason for introduction of bill/resolution:

"Click here to type reason for introduction of bill/resolution"

Minutes:

Parole

Chairman Koppelman: Reopens. Do we have a motion on HB 1115?

Rep Maragos: Motions.

Rep Delmore: Seconds.

Chairman Koppelman: Clerk will do roll call votes on Do Pass on HB 1115.

12 yes

0 no

1 Absent

Carried by: Rep Karls

Date: 1-15-13
 Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES #~~116~~115
 BILL/RESOLUTION NO.**

House Judiciary Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Maragos Seconded By Rep. Delmore

Representatives	Yes	No	Representatives	Yes	No
Chairman Kim Koppelman	/		Rep. Lois Delmore	/	
Vice Chairman Lawrence Klemin	/		Rep. Ben Hanson	/	
Rep. Randy Boehning	/		Rep. Kathy Hogan		
Rep. Roger Brabandt	/				
Rep. Karen Karls	/				
Rep. William Kretschmar	/				
Rep. Diane Larson	/				
Rep. Andrew Maragos	/				
Rep. Gary Paur	/				
Rep. Vicky Steiner					
Rep. Nathan Toman	/				

Total (Yes) 12 No 0

Absent 2

Floor Assignment Rep. Karls

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

REPORT OF STANDING COMMITTEE

HB 1115: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends DO PASS
(12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1115 was placed on the
Eleventh order on the calendar.

2013 SENATE JUDICIARY

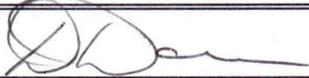
HB 1115

2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

HB1115
2/25/2013
Job #19446

Conference Committee

Committee Clerk Signature 

Minutes:

Attached testimony

Relating to parole

Senator David Hogue - Chairman

Dwight Houdek - ND Parole Board - See written testimony - (1)

Senator Hogue asks him about the open records statement in the bill. Mr. Houdek said there is no intent to change anything in regards to open records. Senator Hogue asks Mr. Houdek to explain emergency parole. Mr. Houdek explains that this bill only removes the word applicant and will change nothing with regards to emergency parole. He explains typically someone with a terminal condition will be grantee emergency parole. He adds that when someone has prisoner status they are not eligible for Social Security Disability, Medicaid and many other State and Federal programs that might otherwise apply to pay for significant medical events. If they are paroled and off inmate status then they become eligible.

Opposition - none

Neutral - none

Close the hearing on HB1115

2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

HB1115
3/11/2013
Job # 19687

Conference Committee

Committee Clerk Signature	
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Minutes:

Vote

Senator David Hogue - Chairman

Committee work

Senator Grabinger moves a do pass
Senator Armstrong seconded

Discussion

Senator Sitte wonders if eliminating the application for parole will that eliminate the ability to apply for parole and not allow them to apply. Senator Armstrong states that everyone goes on parole unless their sentence does not allow it and that this bill does not change that. Senator Nelson asks how they get on emergency parole. Senator Armstrong says that emergency parole is granted by the Parole Board and they know what the emergency is, usually medically related. If they parole them out they become eligible under federal law for Medicaid. Senator Armstrong explains the parole tract. Committee continues to discuss if this will remove the application process which turns out to be as simple as checking a box.

Vote - 7 yes, 0 no
Motion passes

Senator Berry will carry

REPORT OF STANDING COMMITTEE

HB 1115: Judiciary Committee (Sen. Hogue, Chairman) recommends DO PASS
(7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1115 was placed on the
Fourteenth order on the calendar.

2013 TESTIMONY

HB 1115

Testimony

HOUSE JUDICIARY COMMITTEE
REPRESENTATIVE KIM KOPPELMAN, CHAIRMAN
JANUARY 14, 2013

DUANE HOUDEK, CHAIRMAN, NORTH DAKOTA PAROLE BOARD
PRESENTING TESTIMONY RE: HB 1115

Mr. Chairman and members of the House Judiciary Committee, my name is Duane Houdek. I am the chairman of the North Dakota Parole Board and am here to testify in support of House Bill 1115.

House Bill 1115 proposes to remove the legal requirement that an inmate must apply for parole and updates some of the language in chapter 12-59.

Most significantly, the bill would eliminate the legal requirement that an inmate make an application for parole by removing references to application or applicant in this chapter. The result of this current legal requirement is that the inmate controls the parole process. Instead, as referenced in the Section 6 Amendment in this bill, inmates who are sentenced to the legal and physical custody of the DOCR would automatically be subject to the jurisdiction of the parole board, except when parole for the inmate is prohibited by statute.

The reasons for proposing this change are twofold. First, it will prevent inmates from refusing parole in order to avoid prison in other jurisdictions or deportation. The problem this bill seeks to correct is that some inmates want to avoid parole in cases where they have concurrent or consecutive sentences to serve in other state or federal prisons or want to stave off deportation. The reasons for avoiding being sent to serve sentences in other prisons are many but include;

- They want to maximize the use of medical services that the DOCR is required to provide by law or other services and programs.
- They would rather remain here because they have friends or family in prison.

- They wish to avoid or stave off consequences to their illegal activity in other jurisdictions.

As the law is currently written, the application process can allow inmates to further financially burden the people of North Dakota through the use and abuse of our resources and services.

Secondly, it will eliminate an administrative process required by law that an application be in writing, addressed to the DOCR and signed by the applicant or some person in the applicant's behalf. Currently, inmates check a box on a form stating they wish to be reviewed for parole or they do not wish to be reviewed for parole, sign it and the DOCR files it. This is really an unnecessary administrative process.

The last section of the bill, Section 7, updates the language to streamline the notification requirements to the district court and the state's attorney's. It removes language relating to date of entry to prison and the crime or crimes stated in the criminal judgment. By providing the name of the person and the docket number of the criminal judgment, the district court and the state's attorney's will have the information necessary to pull their file and decide whether they wish to provide some input to the parole board.

In closing, removing the application process and updating the law as proposed will save the state some time, money and resources and place control of the parole process where it should be—with the department and the parole board—and not with an inmate who may want to avoid parole for his or her own purposes.

1115 (1)
2/25/13

SENATE JUDICIARY COMMITTEE
SENATOR DAVID HOGUE, CHAIRMAN
FEBRUARY 25, 2013

DUANE HOUDEK, CHAIRMAN, NORTH DAKOTA PAROLE BOARD
PRESENTING TESTIMONY RE: HB 1115

Mr. Chairman and members of the House Judiciary Committee, my name is Duane Houdek and I am the chairman of the North Dakota Parole Board and am here to testify in support of House Bill 1115.

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I am also proposing an amendment to the bill as there was an oversight that should be corrected. I'll refer you to line 12 of page number 3. The proposed change would be to strike the words "application for" and insert the word "review" following parole.

12-59-10. Notice of ~~application for~~ parole review.

In closing, removing the application process and updating the law as proposed will save the state some time, money and resources and place control of the parole process where it should be—with the department and the parole board—and not with the inmate who may want to avoid parole for his or her own purposes.