

2015 SENATE JUDICIARY

SB 2098

2015 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2098
1/14/2015
21937

- Subcommittee
 Conference Committee

Committee Clerk Signature 

Minutes:

1

Sen. Armstrong: We will open the hearing on SB 2098.

Penny Miller, Clerk of ND Supreme Court: Support (see attached #1). I did contact the State's Attorneys Association. They didn't voice any objection to me.

Sen. Armstrong: I assume that the State attorney's office would like this bill.

Penny Miller: I would think so.

Sen. Casper: This is appeals for both sides, the prosecutor and the defendant or just the prosecutors.

Penny Miller: Just the prosecutor's statement. All notices of appeal are filed with the clerk of the Supreme Court, both civil and criminal.

Sen. C. Nelson: What do you do for the edification of the committee?

Penny Miller: I have been with the court since February 1988. I have been the clerk since July 1, 1992. I deal mostly with three areas: Clerk of the Supreme Court, works with the appellate program for the court; Secretary/Treasurer of the State Board of Law Examiners, which does the licensing and testing of attorneys; and the Secretary of the Disciplinary Board, which handles the complaints against attorneys.

Sen. Armstrong: Thank you. Further testimony in support. Testimony in opposition. Neutral testimony. What are the committee's wishes in regard to SB 2098?

Sen. C. Nelson: I move a Do Pass.

Sen. Casper: Second the motion.

6 YES 0 NO 0 ABSENT

DO PASS

CARRIER: Sen. Casper

Date: 1/14/2015
Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTE
BILL/RESOLUTION NO. 2098

Senate _____ **JUDICIARY** _____ Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Sen. Nelson Seconded By Sen. Casper

Senators	Yes	No	Senators	Yes	No
Chairman Hogue	✓		Sen. Grabinger	✓	
Sen. Armstrong	✓		Sen. C. Nelson	✓	
Sen. Casper	✓				
Sen. Luick	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Casper

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

REPORT OF STANDING COMMITTEE

SB 2098: Judiciary Committee (Sen. Hogue, Chairman) recommends DO PASS
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2098 was placed on the
Eleventh order on the calendar.

2015 HOUSE JUDICIARY

SB 2098

2015 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

SB 2098
3/10/2015
24611

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to appeals by the state.

Minutes:

Testimony #1

Chairman K. Koppelman: Opened the hearing on this bill.

Penny Miller, Clerk of the Supreme Court: (See testimony #1) (:26-2:05)

Rep. Brabandt: Are all cases that go to the Supreme Court appealed by a lower court?

Penny Miller: No. We have self-represented litigants; at any one time 14 to 20% of our appeals at least one party is self-represented, but this only covers prosecutors.

Chairman K. Koppelman: The question was whether any cases come directly to the court?

Penny Miller: Most appeals come by appeal through the district court. The right of appeal is by constitution.

Chairman K. Koppelman: What is happening right now? Since this still exists in statute are people filing the paperwork in both places?

Penny Miller: Yes they are right now. It is rare that the state appeals anyway so my office can keep an eye on those.

Opposition: None

Neutral: None

Hearing closed.

Do Pass Motion Made by Rep. Kretschmar; Seconded by Rep. Lois Delmore:

House Judiciary Committee
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Discussion: None

Roll Call Vote: 10 Yes 0 No 3 Absent Carrier: Rep. K. Wallman:

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL NO. SB 2098**

House JUDICIARY Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Other Actions: Reconsider _____

Motion Made By Rep. Kretschmar Seconded By Rep. Lois Delmore

Representative	Yes	No	Representative	Yes	No
Chairman K. Koppelman	X		Rep. Pamela Anderson	X	
Vice Chairman Karls	X		Rep. Delmore	X	
Rep. Brabandt	X		Rep. K. Wallman	X	
Rep. Hawken	x				
Rep. Mary Johnson	---				
Rep. Klemin	X				
Rep. Kretschmar	X				
Rep. D. Larson	---				
Rep. Maragos	---				
Rep. Paur	X				

Total (Yes) 10 No 0

Absent 3

Floor Assignment: Rep. K. Wallman:

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

REPORT OF STANDING COMMITTEE

SB 2098: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **DO PASS** (10 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). SB 2098 was placed on the Fourteenth order on the calendar.

2015 TESTIMONY

SB 2098

Senate Bill 2098
Senate Judiciary Committee
Testimony of Penny Miller, Clerk, North Dakota Supreme Court
January 14, 2015

Mr. Chairman, members of the committee, I am Penny Miller, Clerk of the North Dakota Supreme Court.

In light of recent amendments the Court adopted to the North Dakota Rules of Appellate Procedure which became effective October 1, 2014, I have been asked to explain the proposed amendment.

The specific amendment which triggered this proposal is the Supreme Court now requires notices of appeal to be filed with the Clerk of the Supreme Court, rather than the Clerk of the District Court. The proposed amendment will require the prosecutor's statement to be filed with the notice of appeal. The designation of where that filing takes place is covered in the appellate rules..

The prosecutor's statement is mandatory and jurisdictional. In other words, if the prosecutor's statement is not timely filed, the appeal will be dismissed. Therefore, the proposed amendment to Section 29-28-07 will prevent an unwitting trap for prosecutors or, at the very least, clarify rather than confuse.

Thank you for your time and consideration.

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Senate Bill 2098
House Judiciary Committee
Testimony of Penny Miller, Clerk, North Dakota Supreme Court
March 10, 2015

Mr. Chairman, members of the committee, I am Penny Miller, Clerk of the North Dakota Supreme Court.

On October 1, 2014, the Supreme Court amended the North Dakota Rules of Appellate Procedure, which triggers the proposed amendment of Section 29-28-07 before you.

The Court now requires the notice of appeal to be filed in my office at the Supreme Court rather than one of the offices of the Clerks of the District Court. The proposed statutory amendment simply requires the prosecutor's statement to be filed with the notice of appeal in my office and no longer with the Clerk of the District Court.

This amendment in Section 29-28-07 is requested to save the prosecutor's from having to file appeal documents in two places. The state is very limited in what it can appeal in criminal cases, and the prosecutor's statement is mandatory and jurisdictional. Therefore, if the prosecutor's statement is not timely filed, the appeal will be dismissed. Therefore, I ask your favorable consideration of this Senate Bill 2098.

Thank you for your time and consideration.