

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

JUDICIARY COMMITTEE

Thursday, January 11, 2018
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator David Hogue, Chairman, called the meeting to order at 9:00 a.m.

Members present: Senators David Hogue, John Grabinger, Janne Myrdal; Representatives Lois Delmore, Karen Karls, Kim Koppelman, Jeffery J. Magrum, Shannon M. Roers Jones, Bernie Satrom, Luke Simons

Members absent: Senator Diane Larson; Representatives Roger Brabandt, Terry B. Jones, Lawrence R. Klemm

Others present: Senators Kelly Armstrong, Dickinson, and Senator Erin Oban, Bismarck, members of the Legislative Management

See [Appendix A](#) for additional persons present.

FIREARMS AND WEAPONS STUDY

At the request of Chairman Hogue, the Legislative Council staff reviewed a bill draft [[19.0040.01000](#)] relating to weapons. The Legislative Council staff said the draft reflects the inconsistencies mentioned at the last meeting and a few additional inconsistencies identified by Chairman Hogue. She said the amendments are not substantive changes to existing law, but amend existing language to make the sections easier to understand.

Chairman Hogue said the committee is charged with studying and addressing any inconsistencies or confusing provisions within North Dakota Century Code Title 62.1 and encouraged the committee members to thoroughly read through the title and locate any provisions that may need to be amended. He said the bill draft is a first attempt and likely will have several additional changes.

Senator Armstrong said Section 62.1-02-10 should be included in the bill draft to reflect the Attorney General's recent opinion regarding loaded firearms in vehicles.

Representative Magrum said his constituents would like to see publicly owned or operated buildings removed from the list of places an individual may not carry a firearm. He said because the buildings are funded by the taxpayers, the taxpayers own the buildings.

Chairman Hogue called on Mr. Troy Seibel, Chief Deputy Attorney General, for information ([Appendix B](#)) regarding the study of provisions relating to firearms and weapons. Mr. Seibel said the Attorney General has joined 32 other states to urge Congress to deal with the bump stock issue following the massacre in Las Vegas, Nevada.

In response to a question from Chairman Hogue, Mr. Seibel said the Attorney General's office has seen a positive response to the Attorney General's opinion that provided an individual may carry a loaded firearm in a vehicle unless otherwise prohibited.

In response to a question from Senator Myrdal, Mr. Seibel said during a traffic stop an officer's computer is capable of alerting the officer of an individual's status as a concealed carry permit holder.

Chairman Hogue called on Mr. Robert Timian, Division Chief/Chief Warden, Game and Fish Department, for information ([Appendix C](#)) relating to Game and Fish Department forfeiture procedures.

In response to a question from Chairman Hogue, Mr. Timian said the seizure of property by the Game and Fish Department is not limited to firearms. Although officers may seize any property used in the commission of a violation, he said, officers generally do not seize anything beyond the hunting or fishing equipment used by the individual.

In response to a question from Representative Koppelman, Mr. Timian said seizure is when officers take an individual's property for evidentiary purposes. He said forfeiture occurs if a court makes a determination, during a hearing, that the individual is prohibited from regaining possession of the property.

Chairman Hogue called on Ms. Katie Fitzsimmons, Director of Student Affairs, North Dakota University System, for information ([Appendix D](#)) relating to the firearms and weapons policy used at the institutions of higher education.

In response to a question from Chairman Hogue, Ms. Fitzsimmons said there is no way to regulate what an individual keeps in the trunk of a vehicle. She said the policy addresses whether the individual may bring a firearm or weapon into a residence.

In response to a question from Senator Myrdal, Ms. Fitzsimmons said the rooms in a campus residence hall generally are unlocked or the building is not secure which is a different scenario than an extension agent living at a post in a remote location.

In response to a question from Representative Koppelman, Mr. Nick Vaughn, Assistant Attorney General, said the State Board of Higher Education is clarifying the policy regarding who provides consent in an instance in which a qualifying individual may possess a firearm under Section 62.1-02-05.

In response to a question from Representative Myrdal, Ms. Fitzsimmons said if approved, the new policy would direct an individual's request to the institution where the individual is seeking to have possession of the firearm or weapon.

ADOPTION STUDY

Chairman Hogue called on Ms. Coleen Globke, Executive Director, All About U Adoptions, for information ([Appendix E](#)) on the interstate adoption process. Ms. Globke said interstate placements between North Dakota and South Dakota are running very smoothly.

In response to a question from Chairman Hogue, Ms. Globke said a simple change could be made to reduce the costs associated with an open adoption by removing Section 14-15.1-05(3). She said subsection 3 requires a statement or affidavit confirming the information be included in the report provided to the parties is true and correct. She said this extra step is unnecessary because the adoption application contains the same statement.

Ms. Globke said Section 14-15.1-04(1) also could also be eliminated because the information contained in the report for an identified adoption is information not required for an unidentified adoption. She said the exchange of information also is a privacy concern because there is a lack of control of the information once the report is given to a birth parent.

In response to a question from Representative Magrum, Ms. Globke said an average identified adoption can cost between \$5,000 and \$17,000. She said the costs vary depending on the number of hours needed to write the reports and provide the required counseling to the parties. She said identified adoptions tend to cost more because of the additional paperwork required.

In response to a question from Senator Oban, Ms. Globke said a child placing agency report is not necessary because the agency goes through the same process to approve the family to adopt. She said a home study, post-placement followup, and the legal process to terminate parental rights are part of the process. She said although the original intent of the child placing agency report was to protect individuals from a baby buying situation, the entire adoption is completed through a licensed agency that has to ensure everything is completed correctly and to ensure the birth parent is not being coerced or threatened.

In response to a question from Representative Magrum, Ms. Globke said the opening of original birth certificates is being debated across the country. In the majority of adoptions completed, she said, it is almost impossible to hide birth records and few birth parents are requesting anonymity. She said although her agency would generally support opening records, doing so should be handled very carefully because the confidentiality standards 50 years ago were very different.

In response to a question from Senator Oban, Ms. Globke said because the legal process to terminate parental rights under Section 14-15-19 can be a lengthy process, birth parents find it difficult to move on emotionally when they have to go to a hearing months after giving up physical custody of a child. Although in consent states the termination of parental rights occurs within a few days, she said, in North Dakota it can take between 2 and 3 months and not all judges view adoption in a positive light.

In response to a question from Representative Roers Jones, Ms. Globke said her agency has not experienced an instance in which a birth parent regrets the decision. She said there is a counseling period and the process is the same regardless of the stage of the pregnancy.

Chairman Hogue called on Ms. Julie Hoffman, Administrator of Adoption Services, Department of Human Services, for a presentation ([Appendix F](#)) relating to the adoption process. Ms. Hoffman said the requirements in Section 14-15.1-05 relating to the medical history of a child, birth parents, and social history information also is required in traditional adoptions. She said the statute was created to provide a way for families to exchange information.

In response to a question from Senator Oban, Ms. Hoffman said all the information collected is not shared with a birth parent or included in the final assessment document.

In response to a question from Chairman Hogue, Ms. Hoffman said although the state does not have an adoption tax credit, there is a federal income tax credit families can access in the year a child is adopted. She said the amount varies depending on the age or needs of a child.

In response to a question from Representative Satrom, Ms. Hoffman said although agencies do everything possible to find a birth father, an agency has to rely on the information provided by the birth mother as to the identity of the father.

STUDY OF LEGAL NOTICE REQUIREMENTS

Chairman Hogue called on Ms. Donnell Preskey Hushka, Government/Public Relations Specialist, North Dakota Association of Counties, for information ([Appendix G](#)) regarding the costs associated with publishing legal notices. Ms. Hushka said the Association identified, for the committee to consider, five statutes that require a county to provide a specific notice requirement. She said the county officials believe the notice required in those five statutes could be provided on each county's website.

In response to a question from Chairman Hogue, Ms. Hushka said all counties could be part of one software system where an individual could compare one county to another or see the big picture. However, she said, a small county that does not have a website may not see the benefit in this option. She said informal agreements to share costs among counties have been used in the past.

Chairman Hogue called on Mr. Blake Crosby, Executive Director, North Dakota League of Cities, for information ([Appendix H](#)) regarding the publishing of legal notices.

In response to a question from Chairman Hogue, Mr. Crosby said the first seven statutes included in his information are the statutes the League of Cities determined could be amended.

REPORT

Chairman Hogue called on Ms. Jean Delaney, Executive Director, Commission on Legal Counsel for Indigents, for presentation of the statutorily required report ([Appendices I](#) and [J](#)) of the Commission on Legal Counsel for Indigents.

In response to a question from Chairman Hogue, Ms. Delaney said although the data is difficult to track, Marsy's Law has had an enormous fiscal impact on the commission.

In response to a question from Representative Satrom, Ms. Delaney said the turnover rate among public defenders is much higher than other state agencies.

COMMENTS BY INTERESTED PERSONS

Ms. Alison Ritter, Public Information Officer, Department of Mineral Resources, said the Department of Mineral Resources uses general fund money to pay for legal notices. She said the department spent \$57,000 during the 2015-17 biennium, \$92,000 during the 2013-15 biennium, and \$362,000 from 2006 to 2013 on various legal notices.

In response to a question from Senator Myrdal, Ms. Ritter said the department is not against amending notice requirements as a compromise between digital notices, and paper notices are a viable option.

COMMITTEE DISCUSSION

In response to a question from Chairman Hogue, Senator Myrdal said she is concerned the committee's discussion about adoption is focused on the parents rather than the welfare of the child. She said she does not see any benefit to having a requirement to share such private information.

Senator Grabinger said the adoption process is very important, yet also very expensive. He said there has to be a way to reduce the up front costs while maintaining the safety of everyone involved.

Chairman Hogue requested the Legislative Council staff prepare a bill draft related to the suggestions made by Ms. Globke for the next meeting.

Senator Myrdal said although she understands the importance of rural newspapers, it should not be the responsibility of the state or taxpayers to fund local newspapers through statutory notice requirements.

Representative Roers Jones said removing some of the statutory requirements does not mean there is a prohibition to publish a legal notice, removing the requirements would allow local governments to determine what needs to be published.

Chairman Hogue said not all notices and publications are equal. He said the notice of an agenda for an upcoming meeting would be published to generate interest whereas the publication of minutes is an attempt to inform the public. He said informing the public through a website where you can research and have access for an indefinite period of time is better than printing a set of minutes in a newspaper that is thrown away.

Representative Simons said during Mr. Seibel's testimony, Mr. Seibel noted the National Rifle Association supported the letter urging Congress to act with regard to bump stocks. He said the National Rifle Association does not support the letter.

No further business appearing, Chairman Hogue adjourned the meeting at 2:40 p.m.

Samantha E. Kramer
Counsel

ATTACH: 10