

**1999 HOUSE JUDICIARY**

**HB 1424**

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1424

House Judiciary Committee

Conference Committee

Hearing Date : February 3, 1999

Tape Number	Side A	Side B	Meter #
1	X		0
Committee Clerk Signature			

Minutes:

JONATHON BYERS (AG) presented written testimony, a copy of which is attached.

REP. MAHONEY I am pleased to be able to sponsor this bill. Those persons who commit the most egregious crimes have the highest rate of recidivism. It is important that we keep track of these people to help protect the public. I ask your support for this bill.

DICK PECK (NDPOA) The peace officers support this legislation.

COMMITTEE ACTION: February 3, 1999

REP. MAHONEY moved that the bill be amended to except simple assault.. Rep. Delmore seconded and the motion passed on a unanimous voice vote.

REP. MARAGOS moved that the committee recommend that the bill DO PASS AS

AMENDED. Rep. Hawken seconded and the motion passed on a roll call vote with 15 ayes, 0 nays and 0 absent. Rep. Hawken was assigned to carry the bill.

**FISCAL NOTE**

(Return original and 10 copies)

Bill/Resolution No.: HB 1424 Amendment to: \_\_\_\_\_

Requested by Legislative Council Date of Request: 1-20-99

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

**Narrative:**

No fiscal impact is anticipated for the Office of Attorney General, Bureau of Criminal Investigation, as a result of this Bill.

2. **State** fiscal effect in dollar amounts:

1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
General	Special	General	Special	General	Special
Fund	Funds	Fund	Funds	Fund	Funds

Revenues:

Expenditures:

What, if any, is the effect of this measure on the appropriation for your agency or department:

- a. For rest of 1997-99 biennium: \_\_\_\_\_
- b. For the 1999-2001 biennium: \_\_\_\_\_
- c. For the 2001-03 biennium: \_\_\_\_\_

4. **County, City, and School District** fiscal effect in dollar amounts:

1995-97 Biennium			1997-99 Biennium			1999-2001 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

If additional space is needed attach a supplemental sheet.

Signed Jerald C. Kemmet

Typed Name Jerald C. Kemmet

Date Prepared Department Office of Attorney General, BCI

Phone Number 328-5500

Date: 2/3  
 Roll Call Vote #: 1

**1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1424**

House JUDICIARY Committee

Subcommittee on \_\_\_\_\_  
 or  
 Conference Committee

Legislative Council Amendment Number Do Pass as Am

Action Taken \_\_\_\_\_

Motion Made By Maragos Seconded By Hawken

Representatives	Yes	No	Representatives	Yes	No
REP. DEKREY	✓		REP. KELSH	✓	
REP. CLEARY	✓		REP. KLEMIN	✓	
REP. DELMORE	✓		REP. KOPPELMAN	✓	
REP. DISRUD	✓		REP. MAHONEY	✓	
REP. FAIRFIELD	✓		REP. MARAGOS	✓	
REP. GORDER	✓		REP. MEYER	✓	
REP. GUNTER	✓		REP. SVEEN	✓	
REP. HAWKEN	✓				

Total Yes 15 No 0

Absent 0

Floor Assignment Hawken

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

**REPORT OF STANDING COMMITTEE**

**HB 1424: Judiciary Committee (Rep. DeKrey, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1424 was placed on the Sixth order on the calendar.

Page 5, line 2, replace "an offense described" with "a felony contained"

Page 5, line 4, replace "(3)" with "(2)"

Renumber accordingly

**1999 SENATE JUDICIARY**

**HB 1424**

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1424

Senate Judiciary Committee

Conference Committee

Hearing Date March 1, 1999

Tape Number	Side A	Side B	Meter #
1	x		3146 - 5263
3-16-99 1	x		4000 - end
Committee Clerk Signature <i>Jackie Follman</i>			

Minutes:

HB1424 relates to the registration of sexual offenders and offenders against children.

SENATOR STENEHJEM opened the hearing on HB1424 at 10:15 A.M.

All were present except Senator C. Nelson.

REPRESENTATIVE MAHONEY testified in support of HB1424. We made some amendments in the House. This puts us more in compliance with the Federal law.

JONATHAN BYERS, Attorney General's Office, testified in support of HB1424. Testimony attached. If SB2299 is passed, we don't need this bill.

SENATOR LYSON asked about the federal inmates serving time in North Dakota and being allowed out on work release, many are juveniles and the Feds say they cannot make them register.

Page 2  
Senate Judiciary Committee  
Bill/Resolution Number HB1424  
Hearing Date March 1, 1999

JONATHAN BYERS stated that Federal prisoners are on release and there is no mandate they need to register. This is changing with the Feds. The prison is supposed to call the sheriff or police chief of the place where they are going to do their work. As a general practice, their release of federal prisoners or North Dakota prisoners is pretty minimal. We are addressing these concerns. The reason why it is important that what is contained in 1424 passes is that North Dakota receives funds and the penalty they are threatening us with if we do not pass these federal mandates is that we would lose 10% of that money about \$200,000.

SENATOR STENEHJEM CLOSED the hearing on HB1424.

**MARCH 16, 1999 TAPE 1, SIDE A**

Senator Stenehjem stated all of this bill is in SB2299 and more. SB2299 will be heard on the House floor tomorrow.

SENATOR LYSON made a motion for DO NOT PASS, SENATOR WATNE seconded.

Discussion. Motion carried. 6 - 0 - 0

SENATOR NELSON will carry the bill.



Date: 3-16-99  
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB1424

Senate Judiciary Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Not PASS

Motion Made By Senator Lyson Seconded By Senator Watne

Senators	Yes	No	Senators	Yes	No
Senator Wayne Stenehjem	X				
Senator Darlene Watne	X				
Senator Stanley Lyson	X				
Senator John Traynor	X				
Senator Dennis Bercier	X				
Senator Carolynn Nelson	X				

Total (Yes) 5 No 0

Absent 0

Floor Assignment Senator ~~Lyson~~ Nelson

REPORT OF STANDING COMMITTEE (410)  
March 16, 1999 4:24 p.m.

Module No: SR-47-4943  
Carrier: C. Nelson  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

HB 1424, as engrossed: Judiciary Committee (Sen. W. Stenehjem, Chairman)  
recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).  
Engrossed HB 1424 was placed on the Fourteenth order on the calendar.

**1999 TESTIMONY**  
**HB 1424**

**HOUSE BILL 1424  
FEBRUARY 3<sup>RD</sup>, 1999  
HOUSE JUDICIARY COMMITTEE  
PRAIRIE ROOM**

Testimony by Jonathan Byers, Assistant Attorney General

Chairman DeKrey, members of the House Judiciary Committee:

I appear on behalf of the Attorney General and testify in support of House Bill 1424.

Beginning with the Jacob Wetterling [Crimes Against Children and Sexually Violent Offender] Act in 1994, Congress began mandating that states develop systems for registration of sex offenders and offenders against children. North Dakota has always been on the leading of that. The North Dakota State Legislature passed a registration law in 1991, three years before the passage of the Wetterling Act and six years before states were required to comply.

Keeping up with the amendments to the Wetterling Act has not always been as easy. Along with Megan's Law, the Pam Lychner Act, and the Fiscal Year 1998 Appropriations amendments, there have been a series of guidelines published by the Department of Justice which interpret and explain the requirements of the Wetterling Act.

Let me give you an example of the difficulty this creates. By September 1997 all states were required to create a special board to determine which sex offenders should be subject to lifetime registration, rather than the 10 years required for most offenders. So North Dakota created one. Within a few month of having enacted the statute, a new set of guidelines were published, indicating that states that civilly committed sexual predators were not required to also have a sexually violent predator designation for lifetime registration.

A number of additional Wetterling compliance provisions are contained in House Bill 1424. A 1998 CJSA Appropriations Act requires that states register offenders who work in that state but live in another. To comply, HB 1424 contains a number of references to employment and adds a definition for the term "temporarily domiciled" on page 2 of the bill.

The Pam Lychner Act added a number of new requirements for state registration programs, including the requirement that perpetrators of particularly serious offenses and recidivists be subject to lifetime registration. Those new requirements are contained on page 5 of the bill.

Coupled with the guideline that says we don't have to have a special board for sexual predator determination if we have civil commitment, these new categories seem to make the "qualified board" process unnecessary. Provisions of the bill that remove this process are contained on pages 1, 2, and 4.

The last statutory change contemplated by this bill relates to the immunity granted to the entities that are responsible for making risk determinations and notifying the public when an offender is deemed a risk. These entities were only provided immunity for the community notification, and not for the other responsibilities under the registration statute. House Bill 1424 would grant them immunity from civil or criminal liability for making the risk determination as well.

I would be happy to answer any questions.

**HOUSE BILL 1424  
MARCH 1<sup>ST</sup>, 1999  
SENATE JUDICIARY COMMITTEE  
FORT LINCOLN ROOM**

Testimony by Jonathan Byers, Assistant Attorney General

Chairman Stenehjem, members of the Senate Judiciary Committee:

I appear on behalf of the Attorney General and testify in support of House Bill 1424.

Beginning with the Jacob Wetterling [Crimes Against Children and Sexually Violent Offender] Act in 1994, Congress began mandating that states develop systems for registration of sex offenders and offenders against children. North Dakota has always been on the leading of that. The North Dakota State Legislature passed a registration law in 1991, three years before the passage of the Wetterling Act and six years before states were required to comply.

Keeping up with the amendments to the Wetterling Act has not always been as easy. Along with Megan's Law, the Pam Lychner Act, and the Fiscal Year 1998 Appropriations amendments, there have been a series of guidelines published by the Department of Justice which interpret and explain the requirements of the Wetterling Act.

Let me give you an example of the difficulty this creates. By September 1997 all states were required to create a special board to determine which sex offenders should be subject to lifetime registration, rather than the 10 years required for most offenders. So North Dakota created one. Within a few month of having enacted the statute, a new set of guidelines were published, indicating that states that civilly committed sexual predators were not required to also have a sexually violent predator designation for lifetime registration.

A number of additional Wetterling compliance provisions are contained in House Bill 1424. A 1998 CJSA Appropriations Act requires that states register offenders who work in that state but live in another. To comply, HB 1424 contains a number of references to employment and adds a definition for the term "temporarily domiciled" on page 2 of the bill.



The Pam Lychner Act added a number of new requirements for state registration programs, including the requirement that perpetrators of particularly serious offenses and recidivists be subject to lifetime registration. Those new requirements are contained on page 5 of the bill.

Coupled with the guideline that says we don't have to have a special board for sexual predator determination if we have civil commitment, these new categories seem to make the "qualified board" process unnecessary. Provisions of the bill that remove this process are contained on pages 1, 2, and 4.

The last statutory change contemplated by this bill relates to the immunity granted to the entities that are responsible for making risk determinations and notifying the public when an offender is deemed a risk. These entities were only provided immunity for the community notification, and not for the other responsibilities under the registration statute. House Bill 1424 would grant them immunity from civil or criminal liability for making the risk determination as well.

This committee is aware that the amendments contained in this bill have been added to Senate Bill 2299. If that bill passes the House, then House Bill 1424 will not be necessary.

I would be happy to answer any questions.