

1999 SENATE JUDICIARY

SB 2152

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2152

Senate Judiciary Committee

Conference Committee

Hearing Date January 12, 1999

Tape Number	Side A	Side B	Meter+- #
1		x	1855 - 4212
Committee Clerk Signature <i>Jackie Follman</i>			

Minutes:

SB2152 relates to the Uniform Child Custody Jurisdiction and Enforcement Act, and to repeal Chapter 14 -14 of the North Dakota Century Code.

SENATOR STENEHJEM opened the hearing on SB2152 at 11:00 A.M.

All were present except Senator Bercier.

JAY BURINGRUD, Secretary, North Dakota Commission on Uniform State Laws, testified to explain SB2152. Testimony attached. This Commission recommended admission of SB2152.

The primary difference is continuing exclusive jurisdiction. This is not the determination of who gets custody but what happens when custody is determined by a Court in North Dakota and one of the parents leave this state, with or without the child, and an action is brought in another state to enforce that custody determination. What does that other state do? Do they decide themselves or recognize North Dakota's decision on custody determination. That is the purpose of this Act

to enforce the custody determination Orders. This is the Child Custody Jurisdiction and Enforcement Act. The primary change is the continuing exclusive jurisdiction. It clarifies the scope of child custody actions. Basically this updates the 1969 law to recognize Federal Parental Kidnapping Prevention Act.

SENATOR LYSON asked if this would clarify custody battles with tribes.

JAY BURINGRUD stated that there is a provision in this Act to recognize tribal jurisdiction.

It treats a tribe as a state. This Act is only as good among the states that enact it.

SENATOR STENEHJEM asked how many states have adopted this Act.

JAY BURINGRUD stated that there are two, Oklahoma and Alaska. Expect 22 states to adopt this Act.

SENATOR STENEHJEM CLOSED the hearing on SB2152.

SENATOR TRAYNOR made a Motion for DO PASS, SENATOR WATNE seconded.

SENATOR STENEHJEM will carry the bill.

Date: 1-11-99
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2152

Senate Judiciary Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS

Motion Made By Traynor Seconded By Watne
~~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					
Senator Carolynn Nelson	X				

Total (Yes) 5 No _____

Absent - 1 -

Floor Assignment Senator Stenehjem

REPORT OF STANDING COMMITTEE (410)
January 11, 1999 12:02 p.m.

Module No: SR-06-0467
Carrier: W. Stenehjem
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2152: Judiciary Committee (Sen. W. Stenehjem, Chairman) recommends DO PASS
(5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2152 was placed on the
Eleventh order on the calendar.

1999 HOUSE JUDICIARY

SB 2152

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2152

House Judiciary Committee

Conference Committee

Hearing Date : March 1, 1999

Tape Number	Side A	Side B	Meter #
2		X	2.4
Committee Clerk Signature <i>Alan Gindberg</i>			

Minutes:

JAY BURINGRUD (LC) This replaces a 1969 act, which is NDCC 14-14. This does not affect child support, only jurisdiction to grant custody. The emergence jurisdiction is only temporary.

The purpose of the bill is to make state law conform to federal law relative to parental kidnapping.

COMMITTEE WORK March 3, 1999

REP. HAWKEN moved to add the proposed amendment 2101 to the bill, explaining that this will put former Rep. Kretschmar on the Commission on Uniform State Laws. Rep. Maragos 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. Delmore seconded and the motion passed with 15 ayes, 0 nays and 0 absent.

Rep. DeKrey was assigned to carry the bill on the floor.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2152

Page 1, line 2, after the semicolon insert "to amend and reenact section 54-55-05 of the North Dakota Century Code, relating to the commission on uniform state laws;"

Page 21, after line 23, insert:

"SECTION 2. AMENDMENT. Section 54-55-05 of the North Dakota Century Code is amended and reenacted as follows:

54-55-05. No compensation for commissioners. The commissioners shall serve without compensation for services as commissioners. The commissioners who are appointed to the commission and the commissioners who have been elected life members of the national conference, except those who are appointed by virtue of having served five years on the commission but who have not served at least twenty years in the legislative assembly, are entitled to be reimbursed, from moneys appropriated for that purpose, for necessary expenses incurred in performing their duties at the rates provided in sections 44-08-04 and 54-06-09. Warrant-checks for expense reimbursement must be prepared by the office of management and budget upon vouchers submitted by the commissioners."

Renumber accordingly

HOUSE AMENDMENTS TO SENATE BILL NO. 2152 3/4/99 Jud

Page 1, line 2, after the semicolon insert "to amend and reenact section 54-55-05 of the North Dakota Century Code, relating to the commission on uniform state laws;"

Page 1, underscore lines 7 through 24

HOUSE AMENDMENTS TO SENATE BILL NO 2152 3/4/99 Jud

Page 2, underscore lines 1 through 29

HOUSE AMENDMENTS TO SENATE BILL NO. 2152 3/4/99

Page 3, underscore lines 1 through 31

HOUSE AMENDMENTS TO SENATE BILL NO. 2152 3/4/99 Jud

Page 4, underscore lines 1 through 31

HOUSE AMENDMENTS TO SENATE BILL NO. 2152 3/4/99 Jud

Page 5, underscore lines 1 through 31

HOUSE AMENDMENTS TO SENATE BILL NO. 2152 3/4/99 Jud

Page 6, underscore lines 1 through 30

HOUSE AMENDMENTS TO SENATE BILL NO. 2152 3/4/99 Jud

Page 7, underscore lines 1 through 31

HOUSE AMENDMENTS TO SENATE BILL NO. 2152 3/4/99 Jud

Page 8, underscore lines 1 through 31

HOUSE AMENDMENTS TO SENATE BILL NO. 2152 3/4/99 Jud

Page 9, underscore lines 1 through 31

HOUSE AMENDMENTS TO SENATE BILL NO. 2152 3/4/99 Jud

Page 10, underscore lines 1 through 30

HOUSE AMENDMENTS TO SENATE BILL NO. 2152 3/4/99 Jud

Page 11, underscore lines 1 through 30

HOUSE AMENDMENTS TO SENATE BILL NO. 2152 3/4/99 Jud

Page 12, underscore lines 1 through 31

HOUSE AMENDMENTS TO SENATE BILL NO. 2152 3/4/99 Jud

Page 13, underscore lines 1 through 30

HOUSE AMENDMENTS TO SENATE BILL NO. 2152 3/4/99 Jud
Page 14, underscore lines 1 through 29

HOUSE AMENDMENTS TO SENATE BILL NO. 2152 3/4/99 Jud
Page 15, underscore lines 1 through 31

2152
HOUSE AMENDMENTS TO SENATE BILL NO. ~~2154~~ 3/4/99 Jud
Page 16, underscore lines 1 through 31

HOUSE AMENDMENTS TO SENATE BILL NO. 2152 3/4/99 Jud
Page 17, underscore lines 1 through 31

HOUSE AMENDMENTS TO SENATE BILL NO. 2152 3/4/99 Jud
Page 18, underscore lines 1 through 29

HOUSE AMENDMENTS TO SENATE BILL NO. 2152 3/4/99 Jud
Page 19, underscore lines 1 through 31

HOUSE AMENDMENTS TO SENATE BILL NO. 2152 3/4/99 Jud
Page 20, underscore lines 1 through 30

HOUSE AMENDMENTS TO SENATE BILL NO. 2152 3/4/99
Page 21, underscore lines 1 through 23

Page 21, after line 23, insert:

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Renumber accordingly

Date: 3/3
 Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 2152

House JUDICIARY Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do pass as amended

Motion Made By Maragos Seconded By Delmore

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 Maragos 15 No Delmore 2

Absent 0

Floor Assignment Dekey

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

REPORT OF STANDING COMMITTEE

SB 2152: 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). SB 2152 was placed on the Sixth order on the calendar.

Page 1, line 2, after the semicolon insert "to amend and reenact section 54-55-05 of the North Dakota Century Code, relating to the commission on uniform state laws;"

Page 1, underscore lines 7 through 24

Page 2, underscore lines 1 through 29

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Renumber accordingly

1999 TESTIMONY

SB 2152

PRESENTATION TO THE JUDICIARY COMMITTEE

Jay E. Buringrud, Secretary, ND Commission on Uniform State Laws

Monday, January 11, 1999

The North Dakota Commission on Uniform State Laws is established by North Dakota Century Code Section 54-55-01. The commission consists of:

- a practicing lawyer -- David Hogue, Minot
- a full-time faculty member of the UND Law School -- Professor Patricia Brumfield Fry, Grand Forks
- a law-trained judge of a court of record -- District Judge Gail Haggerty, Bismarck
- a member of the House -- Representative William Kretschmar (not reelected)
- a member of the Senate -- Senator Wayne Stenehjem
- a member of the Legislative Council staff -- Jay Buringrud
- life members of the conference -- Judge Eugene Burdick; Frank Jestrab
- residents with 5 years prior service -- Mike Unhjem; Owen Anderson

Commissioners are required to attend the annual meeting of the National Conference of Commissioners on Uniform State Laws. Major duties are to:

- promote uniformity in state laws on those subjects where uniformity may be deemed desirable and practicable; and
- promote uniform judicial application and construction of all uniform state laws.

The Commission requested introduction of 3 bills:

1. Senate Bill No. 2152 - The Uniform Child Custody Jurisdiction and Enforcement Act.

This Act replaces the Uniform Child Custody Jurisdiction Act (originally promulgated in 1969), which North Dakota enacted in 1969 as NDCC Chapter 14-14. The 1969 Act has been adopted in every state. (The 1997 Act has been adopted in Alaska and Oklahoma, expect introductions in 20 states in 1999.) The objectives of the revision are to:

- Eliminate differences between the Uniform Act and the federal Parental Kidnapping Prevention Act (the primary difference is continuing exclusive jurisdiction).
- Clarify the scope of child custody actions to which the Act applies. Section **14-14.1-01(3)** clearly defines child custody proceeding to include virtually all cases that can involve custody of or visitation with a child, e.g., added to the current listing is abuse, guardianship, paternity, termination of parental rights, and protection from domestic violence.
- Article 2 revises the law in light of the federal Act and almost thirty years of inconsistent case law. Starting with Sections **14-14.1-12** - provides clearer standards for which states can exercise original jurisdictions over a child custody determination (basically, it prioritizes the home state as the state with jurisdiction, as provided under the federal Act), **14-14.1-12** also does not refer to the "best interests" of the child as a reason for exercising jurisdiction which

has caused some courts to address the merits of the custody dispute in a jurisdictional determination; **14-14.1-13** clearly enunciates that the decree-granting state retains exclusive continuing jurisdiction to modify a decree, which will reduce issuance of simultaneous proceedings and conflicting custody decrees; **14-14.1-15** clarifies that emergency jurisdiction is to protect the child on a temporary basis

- Article 3 provides a process to enforce interstate child custody and visitation determinations, it brings uniformity to the law of interstate enforcement which is currently producing inconsistent results. All of which is intended to make uniform the law of interstate family proceedings. For example, different states have different methods of enforcing custody and visitation orders validly entered in another state: one state might use a motion to enforce or a motion to grant full faith and credit to initiate an enforcement proceedings, another state might use a writ of habeas corpus or citation for contempt, another state might use a writ of mandamus or a writ of prohibition. Section **14-14.1-25** provides for registration of a child custody determination issued by a court of another state, with or without a request for enforcement; **14-14.1-28** provides for a swift remedy similar to habeas corpus.

CHAPTER 14-14
UNIFORM CHILD CUSTODY JURISDICTION ACT

Section

- 14-14-01. Purposes of chapter - Construction of provisions.
- 14-14-02. Definitions.
- 14-14-03. Jurisdiction.
- 14-14-04. Notice and opportunity to be heard.
- 14-14-05. Notice to persons outside the state - Submission to jurisdiction.
- 14-14-06. Simultaneous proceedings in other states.
- 14-14-07. Inconvenient forum.
- 14-14-08. Jurisdiction declined by reason of conduct.
- 14-14-09. Information under oath to be submitted to the court.
- 14-14-10. Additional parties.
- 14-14-11. Appearance of parties and the child.
- 14-14-12. Binding force and res judicata effect of custody decree.
- 14-14-13. Recognition of out-of-state custody decrees.
- 14-14-14. Modification of custody decree of another state.
- 14-14-15. Filing and enforcement of custody decree of another state.
- 14-14-16. Registry of out-of-state custody decrees and proceedings.
- 14-14-17. Certified copies of custody decrees.
- 14-14-18. Taking testimony in another state.
- 14-14-19. Hearings and studies in another state - Orders to appear.
- 14-14-20. Assistance to courts of other states.
- 14-14-21. Preservation of documents for use in other states.
- 14-14-22. Request for court records of another state.
- 14-14-22.1. Removal of child from state in violation of custody decree - Penalty.
- 14-14-23. International application.
- 14-14-24. Priority.
- 14-14-25. Severability.
- 14-14-26. Short title.