

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1044

2001 HOUSE JUDICIARY

HB 1044

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1044

House Judiciary Committee

Conference Committee

Hearing Date 01-16-01

Tape Number	Side A	Side B	Meter #
Tape 1	x		4629 to 6267
Tape 1		x	01 to 2618
Committee Clerk Signature <i>Joan Deers</i>			

Minutes: Chr DeKrey opened the hearing on HB 1044 and the clerk will read the title.

Rep Mahoney: Introduced the bill- from District 33 of Center North Dakota. He is a States Attorney and Chairman of the Criminal Justice Committee this last Interim. This bill came out of a study of Interstate transfer of prisoners. The title of this bill is as follows: relating to open records and parole records of the department of corrections and rehabilitation and to declare an emergency. Under current law all records are confidential, we requested an Attorney Generals opinion. Because of that we developed HB 1044. This bill deals with what records are exempt and what records are confidential, and which are open records. He then goes on to explain the difference in all of the records.

Rep Klemm: On line 13 - upon application to the district court, who are talking about doing that or applying?

Rep Mahoney: It would be a third party.

Rep Klemm: If the Department has no opposition, why go to court to do that?

Page 2
House Judiciary Committee
Bill/Resolution Number HB 1044
Hearing Date 01-16-01

Rep Mahoney: If you are talking about confidential records, or other records, it is the difference between the records. The confidential records cannot be released without a court order.

Rep Klemm: The Department could stipulate with the applicant up front, so that they would still get the court order.

Rep Mahoney: I would suspect that would be the case.

Chr DeKrey: This would only apply to adult case? ?

Rep Mahoney: Yes.

Chr DeKrey: Are there any further questions?

Vonette Richter: Legislative Council (see attached testimony)

TAPE I SIDE B

Vonette Richter testimony continues.

Chr DeKrey: Kyle Bell, he was under protective management so would this bill even have helped or would this give the ability for a third party to go to court to determine if the Department of Corrections was correct to have him under protective management.

Vonette Richter: That question was raised, and the answer was no.

Rep Mahoney: It would put the burden on the Department of Corrections to show why the information would not be given.

Rep Klemm: On line 20 pay 1 the word NOT (court records not under seal). Are you sure the word not should be in there?

Vonette Richter: You might want to ask the committee, this is the language they used to draft the bill. They may have a reason.

Chr DeKrey: Thank you for appearing before the committee. Is there anyone else wishing to testify?

Ken Sorenson: Assistant Attorney General (see attached testimony).

Rep Mahoney: First of all, the protective management, what criteria you have for that and number 2 - who determines that and number 3 how many people do you presently have in the system.

Ken Sorenson: I will defer those questions to Tim Schuetzle.

Tim Schuetzle: Director of Prisons for at the State of North Dakota. First of all to define, it would really depends on the situation. We have 15 to 20 in protective management. Kyle Bell is on a long term protective management.

Rep Mahoney: Protective management label, who determines this.

Tim Schuetzle: We do have a label, some people are considered PC and other are separatees, but they would fall under the same kind of issue.

Rep Mahoney: Who makes the call?

Tim Schuetzle: I do, and I have a committee that meets for separatees.

Rep Delmore: Are most sex offenders part of protective management?

Tim Schuetzle: Not necessarily.

Chr DeKrey: Are there any more questions, thank you. Is there anyone else wishing to testify on HB 1044?

Krista Andrews: Attorney with the North Dakota Department of Human services' Legal Advisory Unit. (see testimony attached)

Rep Mahoney: You are referring to sub section 3 , that you can get hold of the alcohol treatment records etc.

Krista Andrews: That is correct.

Rep Mahoney: When you look at that under current law, records may be inspected or disclosed by all these people. It was my understanding in the Interim, that it did include those records.

Krista Andrews: You are correct I think that is the clarification that they are asking for.

Chr DeKrey: If there are no other questions, thank you for appearing before the committee. Is there anyone else wishing to testify before the committee on HB 1044? We are going to have the sub committee look into the amendments for this bill. Chairman of the committee Rep Kretschmar and Rep Kingsbury and Rep Mahoney.

Jack McDonald: Appearing on behalf of the North Dakota Newspaper Association and the North Dakota Broadcasters Association (see testimony attached)

Chr DeKrey: Anyone else wishing to testify on HB 1044?

David Boeck: substituting for Corinne Hofmann (see testimony attached).

Chr DeKrey: Are there any questions? Is there any one else wishing to testify on HB 1044?

Thank you for appearing before this committee. We will close the hearing on HB 1044.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1044a

House Judiciary Committee

Conference Committee

Hearing Date 02-07-01

Tape Number	Side A	Side B	Meter #
TAPE II	x		1027 to 2509

Committee Clerk Signature *Joan Davis*

Minutes: Chairman DeKrey wanted to take up HB 1044.

Vice Chr Kretschmar: explains the amendments to the bill.

DISCUSSION was held on the amendments. Ken Sorenson, general council of the Attorney General Office is asked to explain the amendments.

Chairman DeKrey: are there any more questions for Mr Sorenson? If not thank you for explaining the amendments.

COMMITTEE ACTION

Vice Chr Kretschmar moved the amendments, Rep Kingsbury seconds. A voice vote was taken.

The amendments are passed.

The sub committee has no other amendments for the bill.

The committee is in recess until 3:00 pm today.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1044b

House Judiciary Committee

Conference Committee

Hearing Date 02-12-01

Type Number	Side A	Side B	Meter #
TAPE I		X	4690 to 5211
Committee Clerk Signature <i>Joan Davis</i>			

Minutes: Chairman DeKrey called the committee to order on HB 1044.

Vice Chr Kretschmar gave some additional information on the amendments

The amendments had been moved and passed.

DISCUSSION

COMMITTEE ACTION

Chairman DeKrey: what are the wishes of the committee. Vice Chr Kretschmar moved a DO PASS as amended, seconded by rep Delmore. The clerk will call the roll on a DO PASS as amended on HB 1044. The motion passes with 12 YES, 2 NO and 1 ABSENT. Carrier is Rep Mahoney.

VR
2/12/01
1082

HOUSE AMENDMENTS TO HB 1044 HOUSE JUDICIARY 02-13-01

Page 1, line 11, remove "not public records subject to section 44-04-18 and section 5"

Page 1, line 12, remove "of article XI of the Constitution of North Dakota and are"

Page 1, line 13, after the first "court" insert ", with service of the application on the department of corrections and rehabilitation and opportunity for the department to submit a written response" and replace "shall" with "may"

Page 1, line 16, after the underscored period insert "If the court issues an order allowing inspection, the court shall allow the department of corrections and rehabilitation to remove all identifying information that may create a risk of harm to property or to any person."

Page 1, line 20, replace "court records not under seal" with "legal files"

Page 1, line 23, after the second underscored comma insert "and"

HOUSE AMENDMENTS TO HB 1044 HOUSE JUDICIARY 02-13-01

Page 2, line 1, replace ", and federal witness protection placements where the identity" with an underscored period

Page 2, remove line 2

Page 2, line 6, remove "are not public records"

Page 2, remove line 7

Page 2, line 8, remove "Dakota" and overstrike "must be kept" and insert immediately thereafter "are"

Page 2, line 16, after "confidentiality" insert ", except for the confidentiality requirements of federal drug and alcohol treatment and rehabilitation laws"

Page 2, line 18, after "inspect" insert "case history."

HOUSE AMENDMENTS TO HB 1044 HOUSE JUDICIARY 02-13-01

Page 3, line 6, remove "l. The" and overstrike "state's attorney and" and insert immediately thereafter:

"l. The"

Page 3, line 12, remove "k. Municipal" and overstrike ", county, state, or federal law enforcement agencies" and insert immediately thereafter:

"k. A criminal justice agency as defined in section 44-04-18.7"

Page 3, line 14, replace "For purposes of this section, records" with "Records" and after the third underscored comma insert "legal files except records under court seal."

Page 3, line 16, replace "not case history, medical" with "open records."

Page 3, remove line 17

Page 3, line 30, remove "8." and overstrike "The employment status of a person in the custody of or under the supervision and"

Page 3, overstrike line 31

HOUSE AMENDMENTS TO HB 1044 HOUSE JUDICIARY 01-13-01

Page 4, line 1, overstrike "to an agency or official charged with the enforcement of child support."

Page 4, line 6, after the overstruck period insert:

- "8. Any person, organization, or agency receiving exempt or confidential records under this section shall maintain the closed or confidential nature of the records and may not redisclose the records.
9. The department of corrections and rehabilitation shall maintain the confidentiality of witness protection program records and legal files under seal.

Page 4, line 12, remove "on"

Page 4, line 13, remove "behalf of the parole board" and overstrike "are confidential and" and insert immediately thereafter "on behalf of the parole board"

Page 4, line 15, remove "subject to section 44-04-18 and section 5 of article XI of the"

Page 4, line 16, remove "Constitution of North Dakota"

Renumber accordingly

Date: 02-12-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB-1044

House JUDICIARY Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as amended

Motion Made By Vice-Chr Kretschmar Seconded By Rep Delmore

Representatives	Yes	No	Representatives	Yes	No
CHR - Duane DeKrey	✓				
VICE CHR -- Wm E Kretschmar	✓				
Rep Curtis E Brekke	✓				
Rep Lois Delmore	✓				
Rep Rachael Disrud					
Rep Bruce Eckre		✓			
Rep April Fairfield	✓				
Rep Bette Grande		✓			
Rep G. Jane Gunter	✓				
Rep Joyce Kingsbury	✓				
Rep Lawrence R. Klemin	✓				
Rep John Mahoney	✓				
Rep Andrew G Maragos	✓				
Rep Kenton Onstad	✓				
Rep Dwight Wrangham	✓				

Total (Yes) 12 No 2

Absent 1

Floor Assignment Rep Mahoney

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

REPORT OF STANDING COMMITTEE

HB 1044: Judiciary Committee (Rep. DeKrey, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (12 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HB 1044 was placed on the Sixth order on the calendar.

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