

MICROFILM DIVIDER

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



ROLL NUMBER

DESCRIPTION

1364

2001 HOUSE JUDICIARY

HB 1364

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1364

House Judiciary Committee

Conference Committee

Hearing Date 01-30-01

Tape Number	Side A	Side B	Meter #
TAPE I		x	2199 to 4223
Committee Clerk Signature <i>Joan Diers</i>			

Minutes: Vice Chairman Kretschmar opened the hearing on HB 1364. Relating to mandatory terms of imprisonment.

Rep Frank Wald: District 37, Dickenson. Changes the state law regarding mandatory sentencing first time drug offenders, page 1 line 15. We have tied the hands of judges regarding this offence. He passed out a handout (see attached) and spends some time going over the handout. What we have is not working so it is time to make a change.

Rep Maragos: I support this bill.

Vice Chair Kretschmar: Are there any questions, if not thank you for appearing.

Rep Mearle Boucher: District 9 Rolette. Spoke in support of HB 1364.

Rep Delmore: Spoke in support of the bill.

Rep Boucher: This bill is not "soft on crime" just giving the courts of flexibility.

Rep Onstad: On the line 15 and 16, should that say for first offense?

Rep Boucher: what line are you on.

Page 2
House Judiciary Committee
Bill/Resolution Number HB 1364
Hearing Date 01-30-01

Rep Boucher: It becomes re-numbered.

Vic Chairman Kretschmar: Any other questions, if not thank you for appearing

Ken Sorenson: General Counsel for the Department of Corrections. Submitted written testimony
fro Elaine Little.

Vice Chair Kretschmar: Anyone else wishing to testify on HB 1364. We will close the hearing on
HB 1364. What are the wishes of the committee.

Rep Maragos: moved a DO PASS on HB 1364. Rep Grande and Rep Delmore seconded. Clerk
will call the roll on a DO PASS motion on HB 1364. The Motion passes with 15 yes 0 NO and)
absent. Carrier will be Rep Grande.

FISCAL NOTE

Requested by Legislative Council
02/02/2001

REVISION

Bill/Resolution No.: HB 1364

Amendment to:

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0		\$0		\$0
Appropriations	\$0	\$0		\$0		\$0

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

House Bill No. 1364 deletes first time drug offenders from the mandatory-minimum sentencing for drug offenders who manufacture, deliver, or possess with the intent to manufacture or deliver a controlled substance. Based upon information available to the Department it is difficult to ascertain whether an inmate is a first time drug offender. However, based upon the data available we estimate that approximately 51 offenders sentenced to the DOCR in Year 2000 were first time mandatory-minimum sentenced drug offenders. It is not possible to determine how many of these offenders would have been diverted from prison through adoption of HB No. 1364, however, we believe it is safe to assume that at least some offenders, as first time drug offenders, would not have been sentenced to prison. The data shows that nine first time mandatory-minimum sentenced offenders received a sentence of a year and a day. If these first time offenders were diverted from prison through HB1364 the savings to the State in costs of incarceration averted would be \$270,000 per biennium (9offendersx\$50perdayx300daysx2years). If 50% of the first time mandatory-minimum sentenced offenders were not sentenced to prison the savings in costs of incarceration averted would be \$750,000. The actual savings to the Department of Corrections during the first biennium would be less because it would take a few months until

offenders would be sentenced under the HB1364, and savings for female offenders diverted would be reduced since the Department has open female beds at this time.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*
A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

None

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

See narrative above.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

See narrative above.

Name:	Elaine Lillie	Agency:	Dept. of Corrections
Phone Number:	328-6390	Date Prepared:	02/02/2001

FISCAL NOTE

Requested by Legislative Council
01/22/2001

Bill/Resolution No.: HB 1364

Amendment to:

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0		\$0		\$0
Appropriations	\$0	\$0		\$0		\$0

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

House Bill No. 1364 deletes first time drug offenders from the mandatory-minimum sentencing for drug offenders who manufacture, deliver, or possess with the intent to manufacture or deliver a controlled substance. Based upon information available to the Department it is difficult to ascertain whether an inmate is a first time drug offender. However, based upon the data available we estimate that approximately 51 offenders sentenced to the DOCR in Year 2000 were first time mandatory-minimum sentenced drug offenders. It is not possible to determine how many of these offenders would have been diverted from prison through adoption of HB No. 1364, however, we believe it is safe to assume that at least some offenders, as first time drug offenders, would not have been sentenced to prison. The data shows that nine first time mandatory-minimum sentenced offenders received a sentence of a year and a day. If these first time offenders were diverted from prison through HB1364 the savings to the State in costs of incarceration averted would be \$270,000 per biennium (9offendersx\$50perdayx300daysx2years). If 50% of the first time mandatory-minimum sentenced offenders were not sentenced to prison the savings in costs of incarceration averted would be \$750,000. The actual savings to the Department of Corrections during the first biennium would be less because it would take a few months until offenders would be sentenced under the HB1364, and savings for female offenders diverted would be reduced since the Department has open female beds at this time.

The Department does not have the data necessary to calculate the impact of increasing the mandatory-minimum sentence for offenders who deliver a controlled substance within 1000 feet of a school and for offenders who are at least 21 years of age and sell to persons under 18 years of age. However the additional cost to house just one offender the additional four years provided under this amendment would

be \$61,200 or \$30,600 each biennium. The Department estimates that at least 2 offenders each year are sentenced for selling within 1000 feet of a school and that at least 4 offenders at least 21 years of age would be sentenced for selling to a person under 18 years of age. The additional cost for these two provisions using these assumptions would be \$219,000 (6x365daysx2yearsx\$50perday) per biennium.

The expenditures or appropriation required saved under HB 1364 will be dependent upon which provisions of the bill are adopted or rejected.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

None

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

See narrative above.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

See narrative above.

Name:	Elaine Little	Agency:	Dept. of Corrections
Phone Number:	328-6390	Date Prepared:	01/28/2001

Date: 01-30-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB-1364

House JUDICIARY Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep Maragos Seconded By Rep Grande & 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) 15 No 0

Absent 0

Floor Assignment Rep Grande

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

REPORT OF STANDING COMMITTEE (410)
January 30, 2001 11:10 a.m.

Module No: HR-16-1900
Carrier: Grande
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1364: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS
(15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1364 was placed on the
Eleventh order on the calendar.

2001 SENATE JUDICIARY

HB 1364

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1364

Senate Judiciary Committee

Conference Committee

Hearing Date March 5th, 2001

Tape Number	Side A	Side B	Meter #
I		x	22.6-34.8
Committee Clerk Signature			

Minutes: **Senator Traynor** opened the hearing on HB 1364: A BILL FOR AN ACT TO AMEND AND REENACT SECTIONS 19-03.1-23 AND 19-03.1-23.2 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO MANDATORY TERMS OF IMPRISONMENT.

Rep. Wald, district 37, (testimony attached) prime sponsor of the bill.

Senator Traynor, has mandatory sentence on first offense reduced the use of drugs?

Rep. Wald, I don't know. Kids make mistakes. I've made them. I don't know what impact this would have.

Ellaine Little, Director of the Department of Corrections and Rehabilitation, supports the bill.

(testimony attached)

Senator Trenbeath, when this law was put into effect were you in favor of this bill?

Ellaine Little, no I was probably the only one who was opposed to mandatory sentencing at that time.

Page 2
Senate Judiciary Committee
Bill/Resolution Number 1364
Hearing Date march 5, 2001

Senator Watne, you stated that this will make it easier for the judges to impose sentences.

Ellaine Little, I would disagree with you. Judges tend to sentence stringently, one or two might be lenient **Traynor** closed the hearing on HB 1364.

Discussion followed.

SENATOR LYSON MOTIONED TO DO PASS, SECONDED BY SENATOR BERCIER.

VOTE INDICATED 6 YEAS, 0 NAYS AND 1 ABSENT AND NOT VOTING. SENATOR

LYSON VOLUNTEERED TO CARRY THE BILL.

