

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1398

2001 HOUSE JUDICIARY

HB 1398

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1398

House Judiciary Committee

Conference Committee

Hearing Date 01-30-01

Tape Number	Side A	Side B	Meter #
TAPE II		x	2040 to 3218
Committee Clerk Signature <i>Joan Diers</i>			

Minutes: Chairman DeKrey opened the hearing on HB 1398. Relating to correctional facility files and records.

Rep Kroeber: District 48, from Jamestown. This bill helps to bring our county correctional facilities more in line in regards to facility files. I have one short amendment that was requested by the Human Services, would like you to consider them part of the bill.

Mareje Fischer: Administrator of the Stutsman County Correctional Center of Jamestown. None of our records were closed records due to the fact because there is no statute governing them.

Chairman DeKrey: We have a bill before us that deal with opening up records, is that any way going to be impacted by this bill.

Mareje Fischer: No, it will not.

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

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House Judiciary Committee

Bill/Resolution Number HB 1398

Hearing Date 01-30-01

Chairman DeKrey: Are there any question, if not thankyou for appearing, anyone else in support of this bill.

Jack McDonald : appearing on behalf of the North Dakota Newspaper Association and athe North Dakota Broadcaster Association. (see attached testimony) will support this bill will the amendments.

Corinne Hofmann: testifying on behalf of the Protection and Advocacy Project (a state agency) (see attached testimony)

Kent Sorenson: General Counsel for the Department of Corrections and Rehabilitations.Our concern with the amendments is state and federal law. There may be a conflict.

Chairman DeKrey: If there is a problem, we will work it out in committee. No further testimony. we will close the hearing on HB 1398.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1398a

House Judiciary Committee

Conference Committee

Hearing Date 02-12-01

Tape Number	Side A	Side B	Meter #
TAPE II	x		168 to 711
Committee Clerk Signature <i>Jean Diersi</i>			

Minutes: Chairman DeKrey called the committee to order on HB 1398.

DISCUSSION was held on the three sets of amendments.

Chairman DeKrey: what are the wishes of the committee? Rep Delmore moved the Kroeber amendments and the other amendment. Chairman DeKrey said we will hold off on this bill until we can get the amendments figured out.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1398b

House Judiciary Committee

Conference Committee

Hearing Date 02-12-01

Tape Number	Side A	Side B	Meter #
TAPE II		x	2485 to 2975
Committee Clerk Signature <i>Jan Diers</i>			

Minutes: Chairman DeKrey, lets take a look at HB 1398. We are wondering about these amendment that P and A put this bill and why the Attorney General's Office does not want those ameadments on the bill. There are three bill that deal with correction facilities file and records. If the amendments are added to the list, this would be in conflict with federal laws.

DISCUSSION

Chairman DeKrey: This bill will have to be looked at, I'll ask Rep Klemm to go over these again.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. Hb 1398c

House Judiciary Committee

Conference Committee

Hearing Date 02-14-01

Tape Number	Side A	Side B	Meter #
TAPE II	x		338 to 874
Committee Clerk Signature <i>Joan Diers</i>			

Minutes: Chairman DeKrey called the committee to order and we will take up HB 1398.

Vice Chr Kretschmar move the amendments fro Department of Human Services. Seconded by Rep Delmore. Voice vote on the amendments, motion carries.

DISCUSSION

COMMITTEE ACTION

Chairman DeKrey: What are the wishes of the committee? Rep Brekke move a DO PASS as amend. Vice Chr Kretschmar seconded the amendments. The clerk will call the roll on a DO PASS as amend. The motion passes with 12 YES, 2 NO and 1 ABSENT. Carrier Rep Onstad.

Renumber

Proposed Amendments to House Bill No. 1398

Page 1, line 13, after "confidentiality," insert: "except for the confidentiality requirements of federal drug and alcohol treatment and rehabilitation laws,"

Renumber accordingly

VR
2/15/01

HOUSE AMENDMENTS TO HB 1398 HOUSE JUDICIARY 02-15-01
Page 1, line 13, after the first comma insert 'except for the confidentiality requirements of federal drug and alcohol treatment and rehabilitation laws,'

HOUSE AMENDMENTS TO HB 1398 HOUSE JUDICIARY 02-15-01

Page 2, line 1, replace "A" with:

- "a. A person, agency, or institution governed by statutory confidentiality requirements and receiving information or records under this section shall maintain the confidentiality requirements.
- b. Except as provided in subdivision a of this subsection, a"

Renumber accordingly

Date: 02-14-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB-1398

House JUDICIARY Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as amend

Motion Made By Rep Brekke Seconded By Wm E Kretschmar

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 Onstad

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

REPORT OF STANDING COMMITTEE

HB 1398: 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 1398 was placed on the Sixth order on the calendar.

Page 1, line 13, after the first comma insert "except for the confidentiality requirements of federal drug and alcohol treatment and rehabilitation laws,"

Page 2, line 1, replace "A" with:

- "a. A person, agency, or institution governed by statutory confidentiality requirements and receiving information or records under this section shall maintain the confidentiality requirements.
- b. Except as provided in subdivision a of this subsection, a"

Renumber accordingly

2001 SENATE JUDICIARY

HB 1398

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1398

Senate Judiciary Committee

Conference Committee

Hearing Date March 6th, 2001

Tape Number	Side A	Side B	Meter #
1	x		19.1-44.9
2	x		15-32.5
Committee Clerk Signature			

Minutes: **Senator Traynor**, opened the hearing on HB 1398.

Rep. Kroeber, district 48, (testimony attached).

Marcie Fisheer, nothing in law that permits privacy of records. We need something in the law to prevent this.

Senator Trenbeath, what has been the problem?

Marcie Fisheer, no problem to date.

Senator Nelson, your stating in sections 4 and 5, which files should be open or closed.

Marcie Fisheer, yes.

Senator Nelson, health and personal records are also closed?

Marcie Fischer, yes.

Ken Sorenson, General Council for the Department of Corrections, (testimony attached). The attorney general's opinion facilitated this bill. We are creating 3 categories of confidentiality.

Most institutional matters are exempt.

Corinne Hofmann, testifying on behalf of the Protection and Advocacy Project, (testimony attached).

Senator Traynor, did you propose these amendments to the House Committee? What happened? Why?

Corinne Hofmann, I think that is the kind of confusion I'm talking about. What we're trying to do is resolve this confusion and it has been resolved in the House.

Senator Trenbeath, couldn't your client grant you authorization to those records?

Corinne Hofmann, no.

Senator Trenbeath, I don't see this bill as inhibiting an inmate to disclose is information.

Corinne Hofmann, I don't see it that way.

Senator Traynor, do you have clients that can't give out information?

Corinne Hofmann, Some that are psychotic. Our concern is that the language of the bill puts barriers on our ability to access information on clients.

Senator Traynor, does the bill as written jeopardized your funding?

Corinne Hofmann, no.

Senator Nelson, this parallels with what happens in pens. How do you operate them?

Corinne Hofmann, with difficulty.

Senator Trenbeath, does the Attorney General have an opinion on this? I would like to know it.

Ken Sorensn, regarding the amendments, I'm neutral. That would need to be addressed by the agencies.

Senator Trenbeath, with the proposed amendments, it would clarify federal preemption.

Wouldn't it avoid a lot of hassle in the future if we adopted them?

Senator Traynor, closed the hearing on HB 1398.

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Senate Judiciary Committee
Bill/Resolution Number 1398
Hearing Date March 7th, 2001

Discussion followed.

SENATOR LYSON MOTIONED TO MOVE SORENSON AMENDMENTS, SECONDED BY SENATOR TRENBEATH. VOTE INDICATED 7 YEAS, 0 NAYS AND 0 ABSENT AND NOT VOTING. SENATOR TRENBEATH MOTIONED TO AMEND THE BILL, SECONDED BY SENATOR NELSON. VOTE INDICATE 7 YEAS, 0 NAYS AND 0 ABSENT AND NOT VOTING. SENATOR WATNE MOTIONED TO DO PASS AS TWICE AMENDED, SECONDED BY SENATOR TRENBEATH. VOTE INDICATED 7 YEAS, 0 NAYS AND 0 ABSENT AND NOT VOTING. SENATOR TRENBEATH VOLUNTEERED TO CARRY THE BILL.

Date: 3/7/01
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1398

Senate Judiciary Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Move Sorensen Amendment

Motion Made By Lyson Seconded By Trenbeath

Senators	Yes	No	Senators	Yes	No
Traynor, J. Chairman	X		Bercier, D.	X	
Watne, D. Vice Chairman	X		Nelson, C.	X	
Dever, D.	X				
Lyson, S.	X				
Trenbeath, T.	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

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

