

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1453

2001 HOUSE JUDICIARY

HB 1453

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1453

House Judiciary Committee

Conference Committee

Hearing Date 01-31-01

Tape Number	Side A	Side B	Meter #
TAPE I	X		01 to 4898
Committee Clerk Signature <i>Joan Dicks</i>			

Minutes: Chairman DeKrey opened the hearing on HB 1453. Relating to execution of public duty and conditions of probation.

Robert Bennett: Assistant Attorney General (see attached testimony).

Rep Grande: What is the involvement with this with juveniles when it comes to buying drugs?

Robert Bennet: If you are talking about general involvement with juveniles or some specific incidents I have not known juveniles to be involved with drug buys. We use 18 year olds because of the liability issues and parental issues.

Rep Grande: Is the parental permission written?

Robert Bennet: The issue of tobacco does require parental consent but as a matter of practice the parents are involved. However there is no statutory requirement.

Rep Grande: Would be be able to add that to this bill.

Robert Bennet: Yes.

Rep Delmore: She had the same question about statute.

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House Judiciary Committee  
Bill/Resolution Number HB 1453  
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Robert Bennet: Some of the same language that is used in tobacco could be used in this area.

Again explains about the age issue.

Rep Maragos: In the example of the UPS driver, if things go wrong and the UPS driver is hurt, who assumes the liability?

Robert Bennet: First we have to have the approval of the company, then it would be covered under workers comp coverage. A private individual is classified as an agent, I don't know if the liability issue has been resolved.

Rep Grande: If a 17 year old is injured, what is the recourse.

Robert Bennet: They would have the same recourse as any other person.

Vice Chair Kretschmar: Is it a common practice to use private citizens in the war on drugs?

Robert Bennet: It is becoming more involved all the time.

Rep Wrangham: Could you give an example where law enforcement would be more effective or more efficient if 1453 would pass than under current law?

Robert Bennet: I have more assurances to the public that they will not get into trouble, provides a basic level of protection.

Rep Delmore: Would it cloud the liability issue, if we add the parental consent?

Robert Bennet: I don't think it will effect anything.

Chairman DeKrey: Any more questions, thank you for appearing.

Rep Disrud: District 21. Introduces the bill, the purpose of the bill is a good faith purpose to assist the law enforcement community.

John Olson: States Attorney Association and the Peace Officers Association, spoke in support of the bill.

Chris Magnes: Chief of Police in Fargo. Spoke in support of HB 1453. Brought members of his staff to speak in behalf of the bill.

Steve Link: Narcotic Supervisor of Fargo Police Department. Right now it is unclear if what we are doing is lawful. It is necessary to use informants for drug cases. He also address the problem of alcohol and how the checks are done. Spoke on the issue of using people who are on probation and using them for drug issues.

Vice Chair Kretschmar: On a scale of one to ten, how would you rate the drug problem in your city?

Steve Link: We do about 60 to 70 search warrants a year.

Vice Chairman Kretschmar: Is the problem increasing or decreasing?

Steve Link: Increasing.

Chairman DeKrey: Any more questions, thank you for appearing.

Keith Turness: Deputy Chief of Police of Fargo. Spoke in support of using people between the age of 18 and 21. Since they have three colleges in their area, we have and increase. They had 1100 to 1200 citations last year alone on alcohol.

Chairman DeKrey: If there are no questions, thank you for appearing.

Audrey Opgrand: Human Resource and Safety Manager for Red River Commodities in Fargo.  
(see attached testimony)

Chairman DeKrey: Are there any questions, seeing now, thank you for appearing. If there is no further testimony, we will close the hearing on HB 1453.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1453 b

House Judiciary Committee

Conference Committee

Hearing Date 2-13-01

Tape Number	Side A	Side B	Meter #
1		xx	1365--2093
Committee Clerk Signature <i>Jean D. ...</i>			

Minutes: Chair DeKrey : Let's take up HB1453. I have an amendment here. Amendment was explained.

Rep. Disrud : I move the amendment.

Rep. Delmore : I second.

**VOICE VOTE: ALL YES. PASSED.**

Chair DeKrey : Do we have another amendment here? I guess Rep. Grande had one the day of the hearing concerning parental notification.

Rep. Grande : I move to amend the amendments.

Rep. Eckre : I second.

**VOICE VOTE: ALL YES. PASSED.**

Rep. Delmore : I move a DO PASS AS AMENDED.

Rep. Maragos : I second

**VOTE: 12 YES and 0 NO with 3 absent. PASSED. Rep. Kretschmar will carry.**

VR  
2/13/01

HOUSE AMENDMENTS TO HB 1453 HOUSE JUDICIARY 02-14-01

Page 1, line 2, remove "subdivision to" and replace "4 of" with "to"

Page 1, line 14, after the period insert "When practicable, permission must be obtained from a parent or guardian of a minor who is under the age of eighteen years and is neither married nor in the military service of the United States before the minor may engage in conduct, other than the providing of information, to assist in a criminal investigation under the direct supervision of a public servant."

Page 1, line 15, remove "subdivision to" and replace "4 of" with "to"

Page 1, line 17, after the comma insert "the court may"

Page 1, line 19, replace "required" with "require" and after the period insert "The court shall hold a hearing in camera before issuing an order under this subsection."

Renumber accordingly

Date: 02-13-01  
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 43-145-3

House JUDICIARY Committee

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

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

Action Taken Do Pass as amend

Motion Made By Rep Delmore Seconded By Rep Maragos

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 0

Absent 3

Floor Assignment Vice Chr Kretschmar

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



**REPORT OF STANDING COMMITTEE**

**HB 1453: Judiciary Committee (Rep. DeKrey, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). HB 1453 was placed on the Sixth order on the calendar.

Page 1, line 2, remove "subdivision to" and replace "4 of" with "to"

Page 1, line 14, after the period insert "When practicable, permission must be obtained from a parent or guardian of a minor who is under the age of eighteen years and is neither married nor in the military service of the United States before the minor may engage in conduct, other than the providing of information, to assist in a criminal investigation under the direct supervision of a public servant."

Page 1, line 15, remove "subdivision to" and replace "4 of" with "to"

Page 1, line 17, after the comma insert "the court may"

Page 1, line 19, replace "required" with "require" and after the period insert "The court shall hold a hearing in camera before issuing an order under this subsection."

Renumber accordingly

2001 SENATE JUDICIARY

HB 1453

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1453

Senate Judiciary Committee

Conference Committee

Hearing Date March 7th, 2001

Tape Number	Side A	Side B	Meter #
1	x	x	45.1-end/0-9.6
Committee Clerk Signature			

Minutes: **Senator Traynor** opened the hearing on HB 1453.

**Bob Bennette**, Assistant Attorney General, (testimony attached) supports the bill.

**Senator Watne**, why must the person not be married?

**Bob Bennette**, a child is under 18, and not married. People not considered emancipated.

**Rep. Disrud**, district 21, supports the bill. Idea came from police chief in Fargo. Complaints with bars serving minors. There is a need to deputized young people under 21 to help crack down on serving minors.

**Ross Renner**, sergeant from the Fargo Police Department, (testimony attached) supports the bill.

**Senator Nelson**, were you part of the party crack down?

**Ross Renner**, yes.

**Senator Nelson**, good for you.

**Senator Traynor**, closed the hearing on HB 1453.

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Senate Judiciary Committee

Bill/Resolution Number 1453

Hearing Date MARCH 7TH, 2001

**SENATOR TRENBEATH MOTIONED TO DO PASS, SECONDED BY SENATOR  
BERCIER. VOTE INDICATED 7 YEAS, 0 NAYS AND 0 ABSENT AND NOT VOTING.  
SENATOR TRENBEATH VOLUNTEERED TO CARRY THE BILL.**



REPORT OF STANDING COMMITTEE (410)  
March 8, 2001 8:54 a.m.

Module No: SR-40-5092  
Carrier: Trenbeath  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

HB 1453, as engrossed: **Judiciary Committee (Sen. Traynor, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1453 was placed on the Fourteenth order on the calendar.

2001 TESTIMONY

HB 1453

TESTIMONY OF ROBERT P. BENNETT  
ASSISTANT ATTORNEY GENERAL

HOUSE BILL NO. 1453

House Bill No. 1453 provides protection to persons who, in good faith, assist law enforcement officers in the investigation of a criminal offense.

Section 1 of this bill creates a new subsection to North Dakota Century Code § 12.1-05-02, Execution of Public Duty.

Under the current law, section 12.1-05-02 provides a justification and defense for actions as a public servant, which includes law enforcement officers, who engages in conduct in the course of official duties when required or authorized by law. In addition, this section permits a private citizen to use force when directed by a public servant to provide assistance in carrying out the public servant's duties. As an example, under section 12.1-05-02, a UPS driver could be directed by a public servant to use force against another person to make an arrest, prevent an escape, or prevent the commission of a crime. Should force be used by the driver at the law enforcement officer's direction, that conduct is justified and, as long as the driver was acting in good faith, the driver would have a defense to a threatened criminal prosecution arising out of the use of force. However, if that same UPS driver, at the request of a law enforcement officer, delivers a package which contains illegal drugs, that driver would not have the benefit of the execution of public duty justification and defense. In other words, that driver may lawfully use force, and possibly injure another person at the direction of a law enforcement officer but may not assist that same officer in an investigation involving a controlled delivery of illegal drugs.



