

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

3008

2001 HOUSE JUDICIARY

HCR 3008

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2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR 3008

House Judiciary Committee

Conference Committee

Hearing Date 01-23-01

Tape Number	Side A	Side B	Meter #
Tape I	x		793 to 3581
Committee Clerk Signature <i>Joan Diers</i>			

Minutes: Chr DeKrey opened the hearing on HCR 3008 and asked the clerk to read the title. A concurrent resolution to create and enact a new section to article 1 of the Constitution of North Dakota relating to the right of privacy. All present with the exception for Rep Onstad.

Rep Klemm: District 47, part of Burleigh County. This amendment would provide that the right of individual privacy is essential and may not be infringed without the showing of a compelling state interest.(see attached testimony)

Rep Delmore: I don't think that any of us here would argue with the premise that you have, but how does this really protect my right to privacy in this computer age?

Rep Klemm: IT would affect how we deal with some of the information that the state now has now on us and how people handle the information is available. There may not be anything that we can do with information that is collected outside the state, but every session we see new laws being proposed to take care some loop hole that keeps being found, that allows personal and

private information to make available that ask for it. I think this would provide an umbrella over that type of dissemination of information.

Rep Delmore: You are saying that thru the interpretation of the court, because it is part of the constitution, it would be a protective devise.

Rep Klemin: That is correct.

Rep Kretschmar: what would you describe as a compelling state interest.

Rep Klemin: For an example, a sexual predator that is living in the neighborhood. Information given to the school administrators so that they would know that they would have an individual that has charged with some type of crime, that person is in there school, so that they could take care of the safety in their school. Quite a few states have shown interest.

Chr DeKrey: Do you see anything on the books right as far as state statutes goes, that this bill would be in conflict with?

Rep Klemin: I don't know that I have been able to find anything yet, there is probably something.

Chr DeKrey: If we do have something in law which would be in conflict with this, which would take precedent?

Rep Klemin:the constitutional provision would take precedent.

Chr DeKrey: But it would have to be taken to court?

Rep Klemin: Not necessarily.

Chr DeKrey: Does anyone have questions for Rep Klemin, if not thank you for appearing. We will now that testimony in opposition of HCR 3008.

Rep Klemin: It has been brought to my attention that this may effect the abortion laws. I want to say that this was not my intent and there may have to be some amendments needed to correct this issue.

Jack Mc Donald: North Dakota Newspaper Association and the North Dakota Broadcasters Association. (see attached testimony). Spoke in opposition.

Rep Fairfield: Would this have the effect of a blanket privacy provisions, would we have to go back and piece meal to determine and see what are a compelling reason for the state.

Jack McDonald: I don't know, it probably will.

: Chr DeKrey If there are no further questions, thank you for appearing in front of this committee.

Greg Tschider: North Dakota Credit Union League, the Montana law is similar, but Montana added some language, article 2, section 9 of the Montana law (he proceeds to quote the Montana law) What Montana was concerned with was, how private are public records? I represent credit unions, when someone comes in to obtain a loan, we need credit information. Are we entitled to the information about someones credit? The problem that we have, we feel that the bill is too broad. We suppose the concept that everyone has the right to privacy, what does that mean and who is going to decide. What standards are going to be used to develop a compelling state interest. We oppose this bill because it is too soon but we need further study?

Rep Klemin: You stated that the credit union needs to know credit information. Every time that I have gone in to borrow money, I have had to sign a consent to the lender to look into my financial background. Would this change because we have a privacy act.

Greg Tschider: That would be in conflict with federal law. If you need to know someone's credit report, all you need to have is a legitimate business interest.

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House Judiciary Committee
Bill/Resolution Number HCR 3008
Hearing Date 01-23-01

Rep Klemin: If I am borrowing some money from a credit union, are you saying that you cannot ask for the consent for getting a credit history.

Greg Tschider: That is up to the financial institution. I would hope that the financial institution would be asking before they seek credit history.

Chr DeKrey: Anyone else wishing to testify in opposition of HCR 3008?

Stacie Pflieger: Executive Director of the North Dakota Right to Life Association, (see attached testimony).

Christopher Dodson: Executive Director and General Counsel for the North Dakota catholic Conference, (see attached testimony).

Chr DeKrey: Are there any questions, seeing none, thank you for appearing in front of the committee. We will close the hearing on HCR 3008.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR 3008a

House Judiciary Committee

Conference Committee

Hearing Date 02-07-01

Tape Number	Side A	Side B	Meter #
TAPE I		x	1489 to 3206
Committee Clerk Signature <i>Jean Duro</i>			

Minutes: Chairman DeKrey called the committee to order on HCR 3008.

Rep Klemin explained the amendments.

COMMITTEE ACTION

Vice Chr Kretschmar moved the amendments. Rep Grande seconded.

DISCUSSION

Voice vote on the amendments. Amendments passed.

Chairman DeKrey what are the wishes of the committee. Rep Delmore move a DO NOT PASS as amend, seconded by Rep Fairfie'd. The motion passes wwith 8 YES, 5 NO, 2 ABSENT.

Carrier Rep Brekke.

VR
2/7/01

HOUSE AMENDMENTS TO HCR 3008 HOUSE JUDICIARY 02-08-01

Page 1, line 5, after the period insert "The amendment also would provide that the right of privacy would not prohibit or invalidate statutory provisions restricting or regulating abortion and assisted suicide."

Page 1, line 9, replace "general" with "primary"

Page 1, line 15, after the period insert "This section may not be construed to invalidate any legislation regulating or restricting abortion or assisted suicide."

Renumber accordingly

Date: 02-07-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HCR 3068

House JUDICIARY Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass as amend

Motion Made By Rep Delmore Seconded By Rep Fairfield

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. Kiemin		✓			
Rep John Mahoney					
Rep Andrew G Maragos					
Rep Kenton Onstad	✓				
Rep Dwight Wrangham	✓				

Total (Yes) 8 No 5

Absent 2

Floor Assignment Rep Brekke

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

REPORT OF STANDING COMMITTEE (410)
February 8, 2001 9:54 a.m.

Module No: HR-23-2694
Carrier: Fairfield
Insert LC: 13038.0101 Title: .0200

REPORT OF STANDING COMMITTEE

HCR 3008: Judiciary Committee (Rep. DeKrey, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO NOT PASS (8 YEAS, 5 NAYS, 2 ABSENT AND NOT VOTING). HCR 3008 was placed on the Sixth order on the calendar.

Page 1, line 5, after the period insert "The amendment also would provide that the right of privacy would not prohibit or invalidate statutory provisions restricting or regulating abortion and assisted suicide."

Page 1, line 9, replace "general" with "primary"

Page 1, line 15, after the period insert "This section may not be construed to invalidate any legislation regulating or restricting abortion or assisted suicide."

Renumber accordingly

2001 TESTIMONY

HCR 3008

**TESTIMONY OF LAWRENCE R. KLEMIN
HOUSE CONCURRENT RESOLUTION NO. 3008
HOUSE JUDICIARY COMMITTEE
JANUARY 23, 2001**

Mr. Chairman and Members of the House Judiciary Committee.

I am Lawrence R. Klemin, Representative from District 47 in Bismarck. I am here today to enlist your support for a constitutional amendment for a right of individual privacy. HCR3008 provides for a vote by the people of the State of North Dakota at the next general election in 2002 to determine whether or not a guarantee of the right of individual privacy should be included in our State Constitution.

The right of individual privacy seems so fundamental that one can hardly believe it's not among the rights guaranteed to us in either the State or the Federal Constitution. If our founding fathers had been aware of computers, the Internet, and the rapid dissemination of information and data, I have no doubt that a right of individual privacy would have been included. The dawn of the Information Age was far into the future at the beginning of our history and probably could not have even been imagined.

The right of individual privacy is a popular perception that does not exist in our Constitution or in our statutory laws. More accurately, it is a popular *misconception*. We have a patchwork quilt of laws providing for confidentiality, enacted in response to privacy concerns that continue to arise. It is time to clearly set forth a general principle to firmly establish the existence of a right of individual privacy - a right that should be the rule, not the exception.

About 40 years ago, while still in high school, I remember reading a book written in 1949 by Eric Blair - a pessimistic satire about the threat of political tyranny in the future. Eric Blair is better known by his pseudonym of George Orwell. The book was entitled "1984". The main character in the book, Winston Smith, was a "thought criminal" who eventually was rehabilitated to see the error of his ways. He came to love and revere "Big Brother". In Winston's society, there was a television in each home that also had the capability of looking into the home so "Big Brother" could watch its occupants.

In our society, that television is the computer monitor, figuratively and literally. There is no privacy. Every detail of our lives is gradually being computerized - vital statistics - driving records - income and financial records - medical records - insurance records - our likes and dislikes - buying patterns - where we go - what we like to do. The list goes on. There is no end. Big Brother is being fostered by the Information Age.

The "finger in the dike" approach to passing confidentiality laws after the fact should be replaced by this constitutional amendment - that the right of individual privacy is essential to the well-being of a free society and may not be infringed without the showing of a compelling state interest.

