

MICROFILM DIVIDER

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



ROLL NUMBER

DESCRIPTION

1089

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Yalosta Rickford
Operator's Signature

10/2/03
Date

2003 HOUSE JUDICIARY

HB 1089

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Stalissa Rickford
Operator's Signature

10/2/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1089

House Judiciary Committee

Conference Committee

Hearing Date 1-21-03

Tape Number	Side A	Side B	Meter #
1	xx		0-31

Committee Clerk Signature *Al Penrose*

Minutes: 10 members present, 3 members present (Rep. Bernstein, Rep. Grande, Rep. Delmore)

Chairman DeKrey: We will open the hearing on HB 1089.

Ken Sorenson, Asst. AG: (see amendment attached). We needed to address a number of concerns that came up from the time the bill was being filed, until the committee hearing. One of the concerns was that there was a potential conflict between the bill as drafted and Rule 32 of the ND Rules of Criminal Procedure. Rule 32 requires that in order for a probation officer to take a probationer in custody, the officer has to have probable cause to do that. The first amendment basically incorporates Rule 32 into the text of the bill. The second concern about the scope of HB 1089, who is going to be responsible for the operation of the assessment center. The second amendment provides that, it will be operating under the direction of, contract with, the Dept of Corrections. The other concern was the involvement of the courts, probation is a court situation, it is up to the court's under our sentencing statutes to commit a person to the supervision and management of the DOCR. So the third part of the amendment, provides for that.

Yolanda Rickford
Operator's Signature

10/2/03
Date

Page 2
House Judiciary Committee
Bill/Resolution Number HB 1089
Hearing Date 1-21-03

Rep. Kretschmar: In the original bill in line 10, it says reasonable cause. Is there a distinction between reasonable cause and probable cause.

Mr. Sorenson: The terms are used interchangeably.

Chairman DeKrey: Thank you.

Warren Emmer, Director, Dept. of Corrections & Rehabilitation, Field Services Division:

(see attached testimony)

Chairman DeKrey: Is there a fiscal note on this bill.

Mr. Emmer: There will actually be a negative cost. We will be saving money. It will cost less not more.

Chairman DeKrey: This will need to be rereferred to Appropriations.

Mr. Emmer: Our budget director has this budget in Appropriations and he is aware of HB 1089.

Chairman DeKrey: I attended two Meth. conferences. The people need treatment.

Rep. Klemin: The original language on probation officer taking a person into custody, then taking that person to an assessment center, requires reasonable cause. This amendment has no such requirement that I can see. Doesn't there have to be some sort of factual basis for the belief that the person is in need of this kind of treatment, and if so, should that be set out in the statute somewhere.

Mr. Emmer: Rule 32 of the Rules of Criminal Procedure, it requires that we have probable cause to effect an arrest. Then it also requires court action. Probable cause that's going to affect the arrest, is going to be almost invariably, a treatment issue. Actually I would say with the amendment is going to require more court intervention that originally laid out.

Page 3
House Judiciary Committee
Bill/Resolution Number HB 1089
Hearing Date 1-21-03

Rep. Klemm: I am looking at Rule 32, of the ND Rules of Criminal Procedure, it has to do with sentencing and judgment? Taking into custody on probable cause to believe the probationer had violated a condition of his probation.

Mr. Emmer: One of the conditions of probation, required on all probation cases, that the defendant not commit a crime. So if are using drugs, they are in violation. We then petition the court for revocation of probation, or we'll take the person into custody and then petition the court for revocation, or we'll take the person into custody and initiate some kind of intermediate measure.

Rep. Klemm: Ok for drugs, for committing a crime, but using alcohol is not a crime, and this also applies to alcohol. My concern is that I actually some of this other language that you've just eliminated, with reasonable cause to believe the defendant is a chemically dependent person, under the amendment, there is no grounds required at all.

Mr. Emmer: We actually do talk about the alleged violation, for an evaluation to determine whether the defendant is a chemically dependent person or is in need of drug and alcohol treatment and rehabilitation or is in need of other treatment.

Rep. Klemm: My point is that the alleged violation may be something other than drugs or alcohol, so I think you need to have some of this other language.

Mr. Emmer: I will ask Ken Sorenson to take another look at this, and we might offer you an additional amendment, and if you could help us with that, with some sense of how you might want to have it structured. Keep in mind, if a person is failing to report, or if a person is using alcohol and have gone for treatment on another occasion for meth., these are all major triggers

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Yalosta Rickford
Operator's Signature

10/2/03
Date

Page 4
House Judiciary Committee
Bill/Resolution Number HB 1089
Hearing Date 1-21-03

that suggest that the person is in need of further treatment. We need to recognize that it can't just be a drug related violation that will trigger a referral into a treatment center.

Rep. Kretschmar: Where are these assessment centers? Are they in hospitals?

Mr. Emmer: We anticipate that we will be contracting for treatment services with the State Hospital. There is a vacant building, along with a nurses building. This will be a part of our Tompkins Rehabilitation and Correction Center. We have been operating two treatment programs, independent of each other for the past several years. One is the Tompkins Rehab and Correct. Unit and the other is Corrections and Rehab (DUI program, CRRP). Now they will be co-located in the nurses building. They are both clinical programs, they are going to be set apart from the assessment program, and clinical staff will assess the individual to see if they are appropriate for those programs or for appropriate programming in the community.

Rep. Kretschmar: It will just be the one in Jamestown, no place else in the state.

Mr. Emmer: Initially that is what we are planning for, but Williston has expressed some interest in a program like this.

Rep. Maragos: Does Williston have a facility that would be available to set up a program.

Mr. Emmer: We have been looking at some. They have treatment resources available to us and they are in the epicenter of the meth. problem in ND. They can gear up differently than in the past and become a pilot program.

Rep. Kingsbury: There is the development center in the Grafton area.

Mr. Emmer: We have crafted a program at the State Hospital and the DUI program. We have been using a very intense program. Both of those programs are a minimum of 100 days, this assessment center, which is a pretreatment program, is going to be 60 days.

Page 5
House Judiciary Committee
Bill/Resolution Number HB 1089
Hearing Date 1-21-03

Rep. Maragos: I was looking at the very last amendment, is that particular section, the 60 days a person can be in jail. Have the counties expressed any problems that would put undue pressure, financial pressure on them.

Mr. Emmer: Our amendment, I believe has taken that language out, for the reasons you stated. Association of Counties doesn't want to give us carte blanche. I assured them that we would make it absolutely clear to the committee that we would amend the language out. They think that it could generate more people in county beds. In my opinion, is actually going to have a positive impact on the counties, because these people would have been going to the county jails.

Rep. Kretschmar: What are the statistics on recidivism?

Mr. Emmer: One-third are found in violation of probation at some point. I don't think we have identified strictly the drug offender. If I had to guess what is driving the revocation process, it is more often than not, it is a drug related issue that has brought them back to court.

Chairman DeKrey: Thank you.

Ken Sorenson spoke, but couldn't be heard on the tape.

Rep. Klemm: In the next amendment, the court has to make a two part finding, violated terms of probation and is a chemically dependent person. You have to have the two parts from the first amendment.

Mr. Sorenson: I will have that changed. (Further testimony could not be picked up by mic.)

Rick Hoekstra, Program Manager, Dept of Corrections & Rehab. Field Services Div.: (see testimony) Support.

Chairman DeKrey: Thank you. Any testimony in support? Any testimony in opposition? We will close the hearing on HB 1089. Rep. Klemm, will you get together with Mr. Sorenson.

