

MICROFILM DIVIDER

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



ROLL NUMBER

DESCRIPTION

1220

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.

Danna Hall
Operator's Signature

10/2/03
Date

20 3 HOUSE JUDICIARY

HB 1220

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.

Dennis J. Hall
Operator's Signature

10/2/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1220

House Judiciary Committee

Conference Committee

Hearing Date 1-22-03

Tape Number	Side A	Side B	Meter #
4	xx		8.6-40

Committee Clerk Signature *Al Penrose*

Minutes: 11 member present, 2 members absent (Rep. Bernstein, Rep. Maragos)

Chairman DeKrey: We will open the hearing on HB 1220. We will take testimony in support of HB 1220.

Chief Chris Magnus, Fargo Police Dept.: Support. We think this is a particularly important issue. This bill would increase the penalties for fleeing or alluding a police officer in a motor vehicle from being a Class A misdemeanor, the current penalty for that is up to one year, or \$2,000 fine up to a Class C felony, which is a penalty of up to 5 years or \$5,000 or both. When individuals run from the police in a motor vehicle, an incredibly dangerous set of circumstances take place. Changing the penalty to a Class C felony is really about prevention. People who flee from the police do not typically think they are going to get into an accident. They don't plan ahead for this. They don't think that their actions are going to affect anyone else. They view running from the police as a game, a sport. They've seen the behavior on TV and in the movies. We need to increase the penalty, it won't solve the problem, but it can be a powerful deterrent.

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.

Dorena Ballerath
Operator's Signature

1/21/03
Date

Page 2
House Judiciary Committee
Bill/Resolution Number HB 1220
Hearing Date 1-22-03

It raises the stakes. The states that have increased the penalty for fleeing from a police officer in a motor vehicle from a misdemeanor to a felony, have seen reductions in the number of suspects that engage the police in pursuits. Prosecutors and courts will still have the discretion in the manner in which first time offenders are charged and sentenced. I would suggest that deferred sentences for this crime could still be issued by prosecutors and judges, which ultimately result in the charge being reduced or dismissed entirely, as long as certain conditions are met. This does not take away discretion in the criminal justice system to deal with first time offenders in a more lenient way.

Chairman DeKrey: What is your department's plan of action on chases. It seems to me that nationwide, there is more of a movement to not to chase, than to actually chase.

Chief Magnus: You're right. What we're seeing in our department and in many of the more professional departments have pursuit policies that are very strict about when you can engage in a chase, when you have to terminate a chase, what type of violations you can chase someone for. A number of departments around the country that have actually prohibited chases.

Chairman DeKrey: I read where they charged an officer who engaged in a chase.

Chief Magnus: What we're trying to do here is reach a balance, because we know there are certain pursuits that really are necessary and appropriate if we're going to be able to apprehend the criminals. We need to make the decision a little tougher for the individual who's deciding on whether or not to run. We need to get the word out about the stiffer penalties, and believe me, the word does get out.

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.


Operator's Signature

1/22/03
Date

Page 3
House Judiciary Committee
Bill/Resolution Number HB 1220
Hearing Date 1-22-03

Rep. Klemin: It says in the existing law, that if you don't stop when given visual or audible signal to bring the vehicle to a stop. What if lights are just flashing. What constitutes a visual or audible signal.

Chief Magnus: Just flashing lights will not constitute a visual or audible signal. They would have to use the full complement of emergency equipment that the officer had, overhead lights and siren. It has to be clear that it is police vehicle.

Rep. Delmore: Why do people try to run from the police, and under what circumstances do they deem it appropriate to go after that person.

Chief Magnus: There are a number of circumstances where we decide not to chase someone simply because of any number of factors being met, could be time of day, neighborhood, type of offense. Usually the officer makes a good call on their own as to when to stop a chase.

Rep. Wrangham: Felony is a serious thing; when they think about fleeing from an officer or not, that they are thinking about whether they are committing a misdemeanor or a felony. I have some reservations that this will actually prevent them from doing it in the first place. Also, there have been cases where people have been afraid to stop when seeing lights behind them, especially if they are in a remote area. They would be fleeing the police in that case. As for the signal, I see under Paragraph 2 (b), it says "if not given from a vehicle", so I am assuming the signal could be given from someone standing on the corner, the signal is given by hand, as long as the officer is in uniform and displays the officer's badge, that could be considered fleeing an officer. I guess I have problems with that.

Chief Magnus: I can understand your concerns. I agree that felonies should be reserved for serious crimes, and I think that if we look at the kind of risk that this sort of criminal behavior

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.

Dorinda H. [Signature]
Operator's Signature

10/2/03
Date

Page 4
House Judiciary Committee
Bill/Resolution Number HB 1220
Hearing Date 1-22-03

places the general public under, I think it clearly falls into being very significant, dangerous type of criminal behavior. If you look at the amount of damage done, or people injured or killed, this makes this some of the most serious behavior that a person can do. The word does get out what the penalties are. I understand your concern about the rogue cop, or someone trying to make a stop with an unmarked vehicle. We encourage people that if they aren't confident that they actually have a police officer behind them, they should call 911 and get that clarified with the dispatcher before they pull over. A prosecutor would have to actually issue this charge against an individual, even if the officer made such an arrest.

Rep. Onstad: What is the penalty for Class C felony?

Chief Magnus: Class C felony is up to 5 years or \$5,000 fine or both.

Chairman DeKrey: Thank you. Anyone else wishing to testify in favor of HB 1220.

Chad Hagen, President of ND Fraternal Order of Police: Support of HB 1220 (see attached article). North Dakota's law enforcement agencies have policies in place that govern police pursuits. We don't pursue everyone. Let's join 38 other states in enacting a bill that makes fleeing from a law enforcement officer a felony.

Rep. Klemin: We actually have two different kinds of situations in this existing law, as Rep. Wrangham points out, which might have a police officer on foot who hollers stop, and if the person doesn't stop and takes off, then that's a violation of this section of the law, which would mean a felony for a first offense; but I think that could be distinguished from somebody who is fleeing from a vehicle in hot pursuit. It seems that there are two completely different situations. I was wondering if you would have a problem if we retained the class A misdemeanor for the

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.


Operator's Signature

10/2/03
Date

Page 5
House Judiciary Committee
Bill/Resolution Number HB 1220
Hearing Date 1-22-03

kind of situation where it wasn't a vehicle pursuit and have the class C felony for the vehicle pursuit.

Mr. Hagen: When this offense is charged out by a state's attorney, they do have the option obviously to re-interview the person, look at the police report and see what all happened in this police pursuit and ultimately, it is going to be up to them whether they decide to prosecute somebody for the fleeing statute. I would not be in favor of taking away a tool that we already have in this bill. As far as the officer standing on the side of the road trying to get someone to stop, I think that if the officer can say "Yes that person knew I was a law enforcement officer, definitely fled from me", I think that is something that the state's attorney can look at when the officer does their report, and maybe give them a little more discretion on how they want to charge out the statute. I don't want to take away from what we currently have.

Rep. Klemin: I think that if the state's attorney is going to charge somebody and use discretion and not charge him with a Class C felony, then he is going to have to use some other statute, because this doesn't give him an alternative.

Mr. Hagen: I don't know how to answer the question, as far as how to change. We look at it, when an officer is in uniform, displaying the tools of the office, whether they be in a car or standing out in the street directing somebody to stop, if we start making different laws as far as how the public perceives the officer. In the end, it's going to be up to the officers discretion in how they view the circumstances, whether they would even have somebody arrested for this bill in the first place.

Rep. Wrangham: You keep wanting latitude in what you do, in charging them; and I think under Class A misdemeanor, you have more latitude. Don't you have other tools to charge a

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.

Deanna Bell
Operator's Signature

1/22/03
Date

Page 6
House Judiciary Committee
Bill/Resolution Number HB 1220
Hearing Date 1-22-03

person who fled such as endangerment and reckless driving and things like that, that the state's attorney could charge them with to actually get them up to a Class C felony now.

Mr. Hagen: That is correct. We're trying to establish by implementing a bill like this with the felony, is the risk reduction of us even having to do the pursuits in the first place. According to the article, in the states where the statute is a felony, has had a deterrent effect on people.

Rep. Boehning: In Section 2(a), it talks about appropriately marked police vehicle. What do you do with the unmarked vehicle. How does this apply to that.

Mr. Hagen: I guess we can get into definitions a lot on this one. Different locales may define appropriately marked vehicles differently.

Chief Magnus: I think that if the concern of the legislature is that we may be getting into chases where vehicles are not appropriately marked, or that the public would have a reasonable expectation that they should pull over. I certainly would not see too many objections coming from the law enforcement community to strengthen this by putting in some greater specifications about what does "markings" have to include. Most of these cases occur with fully marked police vehicles, using their lights and siren. If that needs to be spelled out more clearly in this bill, I think we can support that. Most departments right now, do not even permit chases with unmarked vehicles.

Chairman DeKrey: I think what the committee's concern and what we're getting at, is that in the last ten years or so, we've pretty much been on a binge where we're making everything mandatory, and what we've done is absolutely filled up our prisons and what we're wondering now is if we can afford them. So here comes your bill that raises it to a felony, how much more

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.

Deanna Baller
Operator's Signature

1/21/03
Date

