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2007 SENATE JUDICIARY

SB 2262

# 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2262

## Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: January 24, 2007

Recorder Job Number: 1803 & 1836 vote

Committee Clerk Signature *Maria L Solley*

**Minutes:** Relating to the renunciation of criminal intent.

**Senator David Nething**, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following testimony:

### Testimony In Support of Bill:

**Sen. Nick Hacker**, Dist #42 Introduced Bill and gave a review stating how this bill is about "students" plotting to cause harm at a school and the concern for the student "rating" on another and it would give immunity. Sen. Hacker referred to a case in the East Coast where one of the students involved told on the other about the plot and he was also prosecuted.

**Sen. Fiebiger** questioned page 2, 4b the "middle school" language-discussed using the "common" usage of the code already in law. **Sen. Nelson** questioned if one lived in MN and one in ND how would this law work. Response is the state is the location the crime happens not where the student lives.

### Testimony in Opposition of the Bill:

None

### Testimony Neutral to the Bill:

None

**Senator David Nething**, Chairman closed the hearing.

**Job Number: 1836**

**Senator David Nething**, Chairman reopened the hearing.

Discussion of the "middle school" language.

**Sen. Olafson** made the motion to Do Pass Amendment to change language and **Sen. Fiebiger** seconded the motion. All members were in favor and the motion passes.

**Sen. Lyson** made the motion to Do Pass and **Sen. Olafson** seconded the motion. All members were in favor and the motion passes.

Carrier: **Sen. Olafson**

**Senator David Nething**, Chairman closed the hearing.

Date: 1-24-07

Roll Call Vote # 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2262

Senate \_\_\_\_\_ Judiciary \_\_\_\_\_ Committee \_\_\_\_\_

Check here for Conference Committee

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

Action Taken Do Pass Amend Changing The "middle School"

Motion Made By Sen. Olafson Seconded By Sen. Fiebiger <sup>Language</sup>

Senators	Yes	No	Senators	Yes	No
Sen. Nething	✓		Sen. Fiebiger	✓	
Sen. Lyson	✓		Sen. Marcellais	✓	
Sen. Olafson	✓		Sen. Nelson	✓	

Total Yes 6 No 0

Absent 0

Floor Assignment \_\_\_\_\_

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

Date: 1-24-07

Roll Call Vote # 2

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2262

Senate \_\_\_\_\_ Judiciary \_\_\_\_\_ Committee \_\_\_\_\_

Check here for Conference Committee

Legislative Council Amendment Number 78317.0101

Action Taken Do Pass As Amended

Motion Made By Sen. Lyson Seconded By Sen Olafson

Senators	Yes	No	Senators	Yes	No
Sen. Nething	✓		Sen. Fiebiger	✓	
Sen. Lyson	✓		Sen. Marcellais	✓	
Sen. Olafson	✓		Sen. Nelson	✓	

Total Yes 6 No 0

Absent 0

Floor Assignment Sen. Olafson

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

**REPORT OF STANDING COMMITTEE**

**SB 2262: Judiciary Committee (Sen. Nethling, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2262 was placed on the Sixth order on the calendar.

Page 2, line 9, replace "renuniated" with "renounced"

Page 2, line 10, after the first "school" insert ", middle school,"

Page 2, line 13, after "school" insert ", middle school,"

Renumber accordingly

2007 HOUSE JUDICIARY

SB 2262



## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2262

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 2/28/07

Recorder Job Number: 4053

Committee Clerk Signature

*Penrose*

Minutes:

**Chairman DeKrey:** We will open the hearing on SB 2262.

**John Syverson:** This bill came about through the Fargo Public School system as a result of a series of meetings that were held about a year ago in Fargo, under the banner of State's Schools Initiative. State's Schools Initiative is a work in progress, that was generated by the Dept. of Education, the Secret Service and recently, the Dept. of Justice as well. One of the issues that came out during that meeting was the issue of a young person on the East Coast and the presenters of the information were not anymore specific than that. But the individual was knowledgeable about a plan to attack a school. This young individual went to the authorities and the attack plan was broken up, but in the process of sorting it out after the break up of the plan, a reporter was indicted as a co-conspirator. In this bill, the intent is to prevent that from happening. Kids have a tremendous communication network, over 70% of the kids from 7-17 have email addresses, almost 30% of kids in this country have their own websites and in a situation such as this becomes apparent, that information is scattered amongst the kids in this country almost instantaneously. There is a story about the lie that went around the world in two days, and the truth may never make it. But in this case, kids know and spread the word. The same can be countered with this bill. In that, when the kids

understand that if they know about a plan to attack a school, and they report it to the proper authorities, they're going to be protected, kids are going to know this as well. Over 70% of the attacks that have taken place so far, have been common knowledge of that proposed attack among a few other kids. There was one example cited, where the perpetrator had informed his friends, now be up in the Mezzanine of the lobby in the school on whatever day it was. Now, that mezzanine generally had no one on it prior to school starting. That morning, there were 14 kids up on the mezzanine in anticipation of the attack. That's why the Fargo Public School asked for this bill to be put together and presented to the legislature. It is felt that it will allow kids to know that they are protected if they report a potential attack. There was discussion and questions asked about the persons to whom these reports should be made when the bill was being proposed. The school system of Fargo, the police system and the Fargo Public School attorney felt that the wording of the bill, as it is now, was fine. So they felt that there was no need to make any amendments to the bill as it stands and presented to you. The only thing that I would suggest is that an emergency clause should be attached. There would be no objection to that. The emergency clause would make this effective obviously before the end of the school year. Sometimes in the spring, is when there is a little higher level of perpetration of these types of crimes.

**Rep. Boehning:** The only concern that I have, on page 2, talking about immunity for minors, there are a lot of juniors and seniors that are 18 and 19 years old. Should this wording be changed, how would law enforcement look at that versus being a minor. I think it happens throughout high schools that there are older students that are still enrolled.

**John Syverson:** In Fargo, most of our students graduate while they are still minors. That is a good point, though. Once a person has achieved the status of adulthood, there may be other protections for that adult.

**Rep. Charging:** What about private school or a home school student, the communication network is really broad.

**John Syverson:** If a person is home schooled and has knowledge of a potential attack and reports it, they would receive the same protections, the same as if that individual was a member of the public school district. There was an email from Lowell Wolff (attached).

**Rep. Klemin:** Thank you. Further testimony in support. Testimony in opposition. We will close the hearing.

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2262

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 2/28/07

Recorder Job Number: 4126

Committee Clerk Signature

*R. Penrose*

Minutes:

**Chairman DeKrey:** We will take a look at SB 2262. What are the committee wishes.

**Rep. Boehning:** Explained amendment. I move the amendment.

**Rep. Griffin:** Second.

**Chairman DeKrey:** We take a voice vote. Motion carried.

**Rep. Kretschmar:** I move that we add an emergency clause.

**Rep. Delmore:** Second.

**Chairman DeKrey:** We take a voice vote. Motion carried. We now have the bill before us as amended. What are the committee's wishes.

**Rep. Heller:** I move a Do Pass as amended.

**Rep. Delmore:** Second.

14 YES 0 NO 0 ABSENT

DO PASS AS AMENDED

CARRIER: Rep. Boehning

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2262

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 3/12/07

Recorder Job Number: 4837

Committee Clerk Signature

*R. Penrose*

Minutes:

**Chairman DeKrey:** During the floor debate on SB 2262, Rep. Skarphol called me and asked me if, when we were giving these people immunity from prosecution, the way he read the bill, it would have given them immunity after the fact. I read the bill and I didn't see it that way, so when we had Legislative Council take a second look at it, and they agreed with Rep. Skarphol that it could be read in such a way as to give them immunity after the fact. The House reconsidered the bill and rereferred it to Judiciary. I don't think we have to reconsider it, as long it was assigned back to our committee, and we can just adopt the amendment and send it back to the floor.

**Rep. Delmore:** I move the amendment 78317-0203 prepared on March 9, 2007.

**Rep. Griffin:** Second.

**Chairman DeKrey:** Voice vote. Motion carried. We now have SB 2262 before us as amended. What are the committee's wishes.

**Rep. Delmore:** I move a Do Pass as amended.

**Rep. Griffin:** Second.

11 YES 0 NO 3 ABSENT

DO PASS AS AMENDED

CARRIER: Rep. Boehning

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2262

Page 2, line 8, replace "A minor" with "An individual"

Page 2, line 9, replace "minor" with "individual" and replace "minor's" with "individual's"

Page 2, line 10, replace "minor" with "individual"

Renumber accordingly

Date: 2/28/07  
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2262

House JUDICIARY Committee

Check here for Conference Committee

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

Action Taken Do Pass as Amended

Motion Made By Rep. Heller Seconded By Rep. Delmore

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Rep. Delmore	✓	
Rep. Klemin	✓		Rep. Griffin	✓	
Rep. Boehning	✓		Rep. Meyer	✓	
Rep. Charging	✓		Rep. Onstad	✓	
Rep. Dahl	✓		Rep. Wolf	✓	
Rep. Heller	✓				
Rep. Kingsbury	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Boehning

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

**REPORT OF STANDING COMMITTEE**

SB 2262, as engrossed: Judiciary Committee (Rep. DeKrey, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2262 was placed on the Sixth order on the calendar.

Page 1, line 2, after "intent" insert "; and to declare an emergency"

Page 2, line 8, replace "A minor" with "An individual"

Page 2, line 9, replace "minor" with "individual" and replace "minor's" with "individual's"

Page 2, line 10, replace "minor" with "individual"

Page 2, after line 19, insert:

**"SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly



Date: 3/12/07  
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2262

House JUDICIARY Committee

Check here for Conference Committee

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

Action Taken Do Pass as Amended

Motion Made By Rep. Delmore Seconded By Rep. Griffin

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Rep. Delmore	✓	
Rep. Klemin	✓		Rep. Griffin	✓	
Rep. Boehning	✓		Rep. Meyer		
Rep. Charging	✓		Rep. Onstad	✓	
Rep. Dahl	✓		Rep. Wolf	✓	
Rep. Heller	✓				
Rep. Kingsbury					
Rep. Koppelman					
Rep. Kretschmar	✓				

Total (Yes) 11 No 0

Absent 3

Floor Assignment Rep. Boehning

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

**REPORT OF STANDING COMMITTEE**

**SB 2262, as engrossed and amended: Judiciary Committee (Rep. DeKrey, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). Engrossed SB 2262, as amended, was placed on the Sixth order on the calendar.

In addition to the amendments adopted by the House as printed on page 849 of the House Journal, Engrossed Senate Bill No. 2262 is further amended as follows:

Page 2, line 19, after "state" insert "before any harm to others or damage to property occurs"

2007 SENATE JUDICIARY

CONFERENCE COMMITTEE

SB 2262

# 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2262**

## Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: April 2, 2007

Recorder Job Number: 5680

Committee Clerk Signature

*Maria L. Lally*

**Minutes:** Relating to the renunciation of criminal intent.

**Senator Nething**, Chairman of the conference committee called the members to order. All

Senators and Representatives were present. The hearing opened with the following work:

**Senator Nething** requested **Rep. Boehning** to review the amendments for the committee and he did. He stated that there is a segment of children in High school that are over 18, and could be considered an adult. We put in the language of "individual, as long as they are in attendance at elementary of High School. The qualifying language would be "enrollment".

The problem is that we co-mingle too many groups into school.

All members understood the emergency clause.

**Rep. Onstad** referred to Rep. DeKrey's amendment; it must be reported before the action occurs. There is no immunity after the fact.

**Sen. Nething** stated that if you are going to report and have not, you have to be in the act of reporting.

**Rep. Boehning** spoke of scenarios of how the immunity would work (meter 4:45).

**Sen. Olafson** referred to Sec. 3 a & b discusses the immunity after the fact.

**Rep. Kretschmar** stated that language is a defense after the crime.

Sub Sec. 4, gives you the immunity. Legislative Council stated that the other language was not clear and the amendment would make it clearer.

**Rep. Onstad** commented that generally a 24 year old is usually not a student. They discussed what "enrollment" signifies (meter 9:17). Sen. Nething would be more comfortable with language stating 21 years or younger, this is older than "minor". Once you reach adult hood you have access that younger people do not and I do not think they should receive this immunity. The committee discussed "alternative schools" and how they could have older immigrants for example.

Page 2, line 8 could add 21 years was discussed-all were in favor of this

**Sen. Nething** spoke to the time table of "before of any harm of others (meter 14:59) or damage in the term of assault and spoke of a scenario.

**Sen. Olafson** stated the action has to be prior to the annunciation. They discussed (meter 15:50) the time the incident occurs vs. when something is reported and the use of language to define the time line and the reporting time. They discussed the preparation of an amendment and having the A.G.'s office review it for correctness. Spoke of placing it in line 19 and the proof of the course of action taken. Discussion of immunity verses affirmative defense (meter 21:00). **Rep. Boehning** questioned if we have to specify school property? This is referring to another part of the law. What we are discussing is another section and do not think we should tie it down to school property. The chairman adjourned the meeting to prepare an amendment on the first part that we are in agreement to. We have a better understanding and are very close to concluding this.

**Senator Nething**, Chairman closed the hearing.

# 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2262

Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: April 4, 2007

Recorder Job Number: 5737

Committee Clerk Signature

**Minutes:** Relating to the renunciation of criminal intent.

**Senator Nething**, Chairman of the conference committee called the members to order. All Senators and Representatives were present. The hearing opened with the following work:

**Senator Nething** reviewed the discussion from the previous conference committee; page 2, line 8 and an amendment making an individual under age 21 would be immune from prosecution if, along with the immunity provision verses the affirmative defense provision.

They touch based on the time line this could occur, and should it be (meter 2:00) on school property (this is not part of the amendment) **Sen. Olafson** stated that on page 1, line 11 and what it refers to, the limitations are to renunciation to school properties. They spoke of the act could occur at a house, in an alley... They discussed this in detail.

**Sen. Nething** stated that our focus is Section 4, and referred to the amendments referral of this. **Sen. Nelson** stated that this does not count for a time and place and what we are doing is allowing the action to happen at any location and who can do the renunciations. **Rep.**

**Boehning** stated that this should be limited to the time of school only.

**Rep. Boehning** stated that the House recedes from the house amendment to further adopt the new amendment – Att. #1 and **Rep. Kretschmar** seconded the motion. All members were in favor and the motion passes.

**Senator Nething**, Chairman closed the hearing.

Date: 4-4-07  
Roll Call Vote #

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2161

Senate \_\_\_\_\_ Committee

Check here for Conference Committee

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

Action Taken House Recede from its Amend. + Accept Amend

Motion Made By Sen. Olafson Seconded By Sen. Marcellais

Senators	Yes	No	Representative	Yes	No
Sen. Lyson	✓		Rep. Carlisle	✓	
Sen. Olafson	✓		Rep. Carlson	✓	
Sen. Marcellais	✓		Sen. Williams	✓	

Total (Yes) 6 No 0

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

**REPORT OF CONFERENCE COMMITTEE**

**SB 2262, as engrossed:** Your conference committee (Sens. Nething, Olafson, Nelson and Reps. Boehning, Kretschmar, Onstad) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 849-986, adopt amendments as follows, and place SB 2262 on the Seventh order:

That the House recede from its amendments as printed on page 867 of the Senate Journal and pages 849 and 986 of the House Journal and that Engrossed Senate Bill No. 2262 be amended as follows:

Page 1, line 2, after "intent" insert "; and to declare an emergency"

Page 2, line 8, replace "A minor" with "An individual under the age of twenty-one"

Page 2, line 9, replace "minor" with "individual" and replace "minor's" with "individual's"

Page 2, line 10, replace "minor" with "individual"

Page 2, line 19, after "state" insert "before any harm to others or damage to property occurs"

Page 2, after line 19, insert:

**"SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

Engrossed SB 2262 was placed on the Seventh order of business on the calendar.



2007 TESTIMONY

SB 2262

Chairman DeKrey and members of the Judiciary Committee:

My name is Lowell Wolff. I serve as an assistant to the superintendent for communications and planning for Fargo Public Schools. One of my responsibilities is emergency response plans and crisis management for our school district. I provide this testimony in support of SB 2262 to provide immunity from prosecution for students coming forward with information about possible threats against schools.

Fargo Public Schools and the Fargo Police Department co-hosted a Safe School Initiative February 28 - March 1 of 2006. Attendees of the event included school administrators and law enforcement agencies from 26 counties in North Dakota and 9 counties in Minnesota. A Threat Assessment Team of the Secret Service from Washington, D.C. presented research done on 37 events of targeted school violence between 1974 and 2000. Their research produced 10 key findings. The second key finding is that, "Prior to most incidents, other people know about the attacker's idea and/or plan to attack." The challenge is getting the "other people" to come forward. That is where I believe passage of this bill would be a significant help to schools and law enforcement.

Most of us have had the humbling experience of raising a teenage child and all of us have been a teenager. At that age, few things are as important as peer approval. Giving up information on a friend is not easy for them. This legislation is an important tool to help school administrators and law enforcement break the "code of silence" that is so strong at this age. For that reason, I urge your support of Senate Bill 2262.

Thank you for your attention and service to our State.

Sincerely,

Lowell Wolff