

2009 HOUSE JUDICIARY

HB 1252

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1252

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 1/21/09

Recorder Job Number: 7462

Committee Clerk Signature

D. Penrose

Minutes:

Chairman DeKrey: We will open the hearing on HB 1252.

Rep. Phillip Mueller: Sponsor, support the bill. Explained the purpose of the bill. This allows the woman to use her premarriage or former surname as that party's middle name. I've not received any agency opposition; they've taken a neutral position.

Chairman DeKrey: Thank you. Further testimony in support.

Rep. Kathy Hawken: Sponsor, support. I think names matter. Right after I was married, I called the DOT and changed my name and no problems were noted. Now it appears that we need to change the law to make it legal to retain your maiden name as your middle name. It's important to be called what you want to be.

Rep. Klemin: If a person has a middle name already, do they just drop that off.

Rep. Hawken: I did. I don't know what anyone else has done; I chose not to use the middle name.

Rep. Klemin: I know there are people with two middle names. If they want to keep them, they could, if it fits in the space. There can be a problem there too. There are only so many spaces available on a driver's license.

Chairman DeKrey: Thank you. Further testimony in support.

Darin Meschke, State Registrar, Director of ND Dept of health's Div. of Vital Records:

Support (attachment). Offer an amendment.

Rep. Delmore: So the only way that I can keep my maiden name, if I hadn't done it at that time, is this going to go forward in the future and how will people know that if they want to keep that name, they have to do it at this time.

Darin Meschke: Yes, the first part of your question, the answer would be that this would be going forward. Any new marriage application would then have this new field; to detail what they're dealing with here, and what their name will be after the marriage. Right now the application has only a spot to fill in surname after marriage. There is no spot to fill in middle name after marriage. That's what we would have to add; to build that into our systems to allow for that change. Notification would probably be done through the counties. They are the ones that issue the marriage licenses, so they would have to know, there would have to be some information provided to the general public at the time they are getting a license to alert them to the name change. But the only other way to do that would be to go through a legal court proceeding and do a legal name change.

Rep. Delmore: Which is an option now, is it not.

Darin Meschke: Yes.

Rep. Delmore: Would people that Rep. Hawken talked about have to go through that in order to keep their names now. I don't think this is going to help what these people want. I know that we can grandfather people like Rep. Hawken and the others that are here today.

Darin Meschke: I do not believe that this deals with grandfathering process. Their legal name on their birth certificate is obviously the name they were given at birth. That name changes when they get married. On the marriage application and license, if the county will

offer to do that at that time, then that would be the name in the database. Even though they were out of bounds with state law, legally their name is probably the name that she is using now.

Rep. Delmore: If I didn't do that at that time, and don't have my name that way, then from what you are telling me, I can't do it unless I plan to get married again.

Darin Meschke: We believe it does deal with the problem because at the time of the marriage, that's when the person wanted to change her name. This would obviously simplify that process and that would be an example of a process when getting married now. Going backwards in time, because that problem didn't exist and a court ordered name change would be the only remedy.

Rep. Delmore: I don't think this is a very good solution to the bill at all. It doesn't do what the people are asking it to do. Thirty years ago, they thought they signed the marriage license that way. At that stage of the game, not knowing that would be a prerequisite, it seems kind of silly to me. I don't think we are doing anything for people who want to keep the name that they had when they signed the license.

Darin Meschke: This will address the problem going forward.

Rep. Klemin: How does this handle a situation when somebody has two middle names? They want to keep the original middle name plus the surname. Can they do that under your proposal?

Darin Meschke: No, they could not. It would be a replacement of the middle name.

Rep. Klemin: If somebody has two middle names such as Joseph Robert F. Biden, Jr.; he must have two middle names, he is using a middle initial after the first middle name. You can't have two middle names, is what you're saying.

Darin Meschke: You can, this doesn't address that issue. A legal name change would address that issue. You would go to court and get your name added to that middle name.

Rep. Klemin: Wouldn't it be a pretty simple matter on the marriage license application for somebody to put down two middle names, instead one name.

Darin Meschke: It would, however, I think the intent of the bill is that the woman would drop her middle name and change to her surname as the middle name as a replacement. Our proposed changes aren't dealing with multiple middle names. It's just using a surname to replace your middle name.

Rep. Klemin: It seems to me that it would be a fairly simple matter to revise this slightly to allow a woman to have her middle name, and her surname if she chose.

Darin Meschke: It would be, but it would also open it up for a person to change and use a number of different scenarios for their name. I don't think that was the original intent of the bill.

Chairman DeKrey: Thank you. Further testimony on HB 1252.

Janice Clark Klein: Support (attachment).

Chairman DeKrey: Thank you. Further testimony on HB 1252.

Christopher Dodson: Support. Related a problem with his wife's name, dealing with a professional name and a personal name.

Chairman DeKrey: Thank you. Further testimony.

Carol S. Nelson: Support. My identity is the way that I have used it for the past 40 years and I hope that you can restore that legally.

Chairman DeKrey: Thank you. Further testimony.

Syndi Worrel, North Dakota Dept. of Transportation: Neutral. There are only 30 characters total to be used on your driver's license. There are 10 characters available for the first name and middle name. There are 20 characters for the surname. It would be helpful for the examiners at the front counters to have this bill that says that applicant can choose to use their maiden name as their middle name. That would clarify it for us. Up until this point, we

have been following the letter of the law, which means going to court to change your name legally. As far as being able to use the birth middle name plus the maiden name as the middle name, if this statute would tell us to do that, we would do that as long as it would all fit within that 30 spaces to fit the size of the drivers license. If it doesn't we would have to truncate the name, put in an initial or have an applicant choose if they want to use the middle name or a whatever.

Rep. Delmore: Would it be retroactive right.

Syndi Worrel: If this law were changed, as far as driver's license counter, if somebody brought in their marriage license prior to this, we would actually put that as the middle name based on this statute. That is how we would interpret it at the front counter or implement it.

Rep. Delmore: That still isn't going to help those people in the audience that Rep. Hawken talked about. If on the marriage license, they didn't write it that way, or if they got divorced, or lost a husband.

Syndi Worrel: Currently the marriage certificate says who they are known as. Prior marriage certificates do not designate that. So as long as the marriage license contains the name as they want it to appear on their driver's license, we would use that to change the name for people that had done it previously.

Chairman DeKrey: Thank you. Further testimony. We will close the hearing.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1252

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 1/28/09

Recorder Job Number: 7966

Committee Clerk Signature *Alenose*

Minutes:

Chairman DeKrey: We will take a look at HB 1252. What are the committee's wishes?

Rep. Delmore: The problem with the amendment was that it didn't help any of the people who will still have a problem with their name. I move a Do Pass.

Rep. Wolf: Second.

11 YES 0 NO 2 ABSENT

DO PASS

CARRIER: Rep. Wolf

Date: 4/28/09
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1252

HOUSE JUDICIARY COMMITTEE

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DP DNP DP AS AMEND DNP AS AMEND

Motion Made By Rep. Delmore Seconded By Rep. Wolf

Representatives	Yes	No	Representatives	Yes	No
Ch. DeKrey	✓		Rep. Delmore	✓	
Rep. Klemin	✓		Rep. Griffin	✓	
Rep. Boehning	✓		Rep. Vig	✓	
Rep. Dahl	✓		Rep. Wolf	✓	
Rep. Hatlestad	✓		Rep. Zaiser		
Rep. Kingsbury	✓				
Rep. Koppelman					
Rep. Kretschmar	✓				

Total (Yes) 11 No 0

Absent 2

Floor Carrier: Rep. Wolf

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

REPORT OF STANDING COMMITTEE (410)
January 28, 2009 12:07 p.m.

Module No: HR-17-1071
Carrier: Wolf
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1252: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS
(11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1252 was placed on the
Eleventh order on the calendar.

2009 SENATE JUDICIARY

HB 1252

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB1252

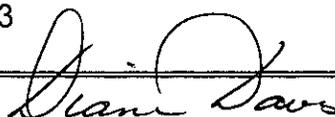
Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: 3/4/09

Recorder Job Number: 10223

Committee Clerk Signature



Minutes: **Senator Nething, Chairman**

Relating to surname options.

Representative Phillip Mueller – District 24 – Introduces the bill – States what this bill does, it allows a spouse to use her or him to use her pre-marriage or former surname as that parties middle name. Somehow the law was changed not to allow this on a ND driver's license.

Representative Hawken – Tells how her name changed the 1970's. She uses her maiden name as her middle name. Said names are special to people.

Darin Meschke – State Registrar and Director of the ND Dept. of Health's Division of Vital Records. See written testimony. He proposes an amendment.

Senator Nelson – Does not see in this bill where it makes it retro-active. States this needs to happen now.

Meschke – States, you're dealing with two different departments. For a married people they will have to get an amended marriage certificate.

Senator Nelson – What if they were married out of state.

Meschke – That would be allowable.

Senator Nething – Asks, are you saying it's allowable in your department?

Meschke – Responds, yes.

Janice Clark Klein – See written testimony.

Christopher Dodson – Relates his wife's name changes and the problems she incurred traveling.

Senator Olafson – Asks when did this practice change.

Dodson – He believes sometime between 1994 and 911.

Terry Traynor – Association of Counties – In support of this with the amendments.

Syndi Worrel – Chief Examiner of Driver License Division – She said this would make things much more clear for them.

Close the hearing on 1252

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB1252

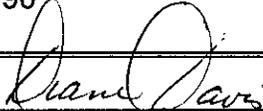
Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: 3/18/09

Recorder Job Number: 11190

Committee Clerk Signature



Minutes: **Senator Nething, Chairman**

Committee work

Senator Nelson said she has a problem with the amendment that the Dept. of Health brought in. It says to keep the surname where it is and go into the middle name options. She disagrees that someone should have to go back and get things fixed on the marriage license. She said people get married all over the place; it would be hard for them to go back and get it fixed. She said they already have a passport a social security card and now the Dept. of Health doesn't like it. The problem seems to more on the east side of the state. Senator Nething says obviously there is a problem out there. They agree that the DOT seems to be the problem. The committee considers the amendment.

Senator Olafson moves the amendment

Senator Lyson seconds

Discussion is if this becomes law it would be retroactive. This will give the DOT some direction as to what to do if this is law. It won't cover every situation. They think this bill will be at least better than it was.

Verbal vote – all yes

Senator Nelson confirms what the amendment is saying.

Senator Olafson moves do pass as amended

Senator Schneider seconds

Vote – 6-0

Senator Nething will carry

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1252

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact section 14-03-20.2 of the North Dakota Century Code, relating to middle name options.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 14-03-20.2 of the North Dakota Century Code is created and enacted as follows:

14-03-20.2. Middle name options. One party or both parties to a marriage may elect to change the middle name by which that individual wishes to be known after the solemnization of the marriage by entering the new middle name in the space provided on the marriage license application. If an individual elects to change that individual's middle name, the middle name entry on the application must consist of the premarriage surname or former surname of that individual."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1252: Judiciary Committee (Sen. Nething, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1252 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact section 14-03-20.2 of the North Dakota Century Code, relating to middle name options.

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Renumber accordingly

2009 HOUSE JUDICIARY

CONFERENCE COMMITTEE

HB 1252

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1252

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 4/15/09

Recorder Job Number: 11886

Committee Clerk Signature



Minutes:

Rep. Dahl: The conference committee on HB 1252 will come to order.

Attendance: All present (Sens. Nething, Olafson, Nelson and Reps. Dahl, Boehning and Wolf).

Rep. Dahl: Can the Senate please explain their amendments.

Sen. Nething: We listened to the Division of Vital Statistics who came in and told us how this should be written. Everything in the old law stays; however, there is a new section. The old law related only concerning options. The amendment we put on deals with middle name options only. In other words, the old law had the middle name blended in with the surname option. That's going to be a correction. The old law is still in place as well. The change that they brought to us is their language, it's the way they presented it to us; to permit, before or after marriage, the individual is able to make the change.

Rep. Dahl: This amendment was proposed in the House by the Dept. of Health and the House failed to adopt it. I read back over the minutes and their main concern was the retroactivity. There was a lot of concern from the folks that brought this bill forward had been married 20+ years and the concern was that they would not necessarily be grandfathered in or

that this law would not apply to them. Was there any discussion about retroactivity during your discussion?

Sen. Nething: No, we didn't discuss retroactivity. The retroactivity would be dealt with, as I understand it, in the last sentence. If the individual elects to change that individual's middle name, the middle name entry on the marriage license application or marriage license must consist of the premarriage surname or former surname of that individual. I assume that there are two ways to do this. The first one is at the time of marriage and the second is after marriage and you complete the application. Maybe that should be clarified. It was our intention to make sure that if anyone wanted to change it, that they could.

Rep. Dahl: So the phrase, "on the application", does that refer to the marriage application.

Sen. Nething: I presumed it was the application you fill out to change your name, your middle name.

Sen. Nelson: We didn't want them to have to go to court. The only place that is going to be a problem is DOT, because everybody else uses the name you put down.

Sen. Nething: The reason I thought it was covered because it said "middle name options". One was when you get married and the other one is after marriage, that's what I assumed we were doing. Maybe we need to clarify what application means.

Rep. Dahl: Any further discussion. I will contact the department who deals with this, and I'll get clarification on what that is. I think we want to make this as comprehensive as possible.

Sen. Nelson: Just for clarification, you want to make this retroactive and find out what kind of application is involved. We don't want to involve any lawyers in this process.

Sen. Nething: You can already take legal action now.

Rep. Boehning: At what point currently, do you need to have an attorney to change your name.

Sen. Nething: You can go by any name you want under the law. But in order to change your name legally, you have to have a court order.

Rep. Boehning: So basically I can go and change the name on the driver's license.

Sen. Nething: No, that is the problem we are trying to address here. Currently you would have to go through legal action to change your name and then change your driver's license. We're trying to have a shortcut here.

Sen. Nelson: All I had to do to change my legal name for Social Security was to provide a copy of the marriage license showing my new name. That and my passport have my maiden name as my middle name. But driver's license is totally different, I can't do it.

Rep. Boehning: I didn't know how Social Security worked.

Sen. Olafson: My wife is a legal permanent resident, and has a different name on her permanent resident card and a different name on her passport, and a different name on her ND driver's license and she still gets through.

Rep. Dahl: We will recess and meet again.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1252

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 4/22/09

Recorder Job Number: 12099

Committee Clerk Signature



Minutes:

Rep. Dahl: We will call the conference committee on HB 1252 to order.

Attendance: All Present (Sens. Nething, Olafson, Fiebiger and Reps. Dahl, Boehning, Wolf).

Rep. Dahl: The last time we met, the committee had questions about language in the bill; retroactivity and how it would impact the driver's license issue which is very much at the heart of this bill. I worked with Legislative Council and Mr. Meschke, from the Department of Health and Mr. Jackson from DOT, and I think we came up with something that addresses all of the concerns. In the amendment before you, 90467.0103, with respect to the application, the committee wasn't certain what that term referred to. We clarified that by saying "marriage application" and then it says "or marriage license" which takes care of the retroactivity issue. Because you can amend your marriage license for about \$5.00 (nominal fee). In addition, Mr. Jackson told me that the way the bill read it still didn't give the DOT the authority to recognize that as evidence and proof of a name change. That is the reason for the subsection 2. I had received an email from Mr. Meschke saying that he felt that this accomplishes what we need it to accomplish and I also spoke with Mr. Jackson felt that this gives sufficient authority to DOT.

Sen. Nething: Move the amendment.

Rep. Boehning: Second.

Rep. Dahl: Discussion.

Sen. Fiebiger: What if I'm married in Virginia or Minnesota and I want to do this. Am I okay to do this because I don't have a marriage license from ND, I don't have an application for ND, I'm out of state. Is this going to work for me? Will it be recognized? If I need an amended application, do I have to go back to the originating state to make the change? I don't know if this will be satisfactory for those who aren't current residents, move into ND and want to do this.

Rep. Dahl: Is there anybody to answer that question.

Glenn Jackson, DOT: To the best of my knowledge a marriage license from another state, if they need a name change it will have to be changed in the originating state and then we will recognize it and issue an updated driver's license.

Rep. Dahl: So you have to amend the marriage license in the originating state and then bring it to the department.

Glenn Jackson: We have to have the source document be correct. It would have to reflect the name on the marriage license.

Sen. Nething: I'm thinking in terms of the example earlier; an individual married in Virginia, could get a copy of their marriage license, if they didn't have it. Then as I understand it, you would take that marriage license to a ND Driver's License bureau and get your license changed.

Glenn Jackson: As I understand it, if someone has a marriage license from another state, if they wish to use that document as a means of changing their identity, they would need to have a marriage license with the name they want on it. If the marriage license needs to be changed

to a different name, the marriage license would have to be changed in the originating state.

Once they receive the corrected marriage license we would be able to change their driver's license.

Rep. Dahl: ND does not have the authority to amend a marriage license in our state from another state.

Glenn Jackson: That's correct. We can use the source document from another state, as long as the name is listed as they want it to be used in ND on their driver's license.

Rep. Dahl: We only have the authority to do that for ND licenses, because this only applies to those. We could not alter a license from another state.

Glenn Jackson: That's correct.

Sen. Fiebiger: Are we talking about altering it. It doesn't say that it has to be amended does it. I suppose we do a Full Faith and Credit and recognize other states, so I don't think that would be an issue if they bring it forward.

Rep. Dahl: This is only to address those licenses and applications that we do have authority over.

Sen. Olafson: I think the only time this would be a problem is if the original marriage license application from Virginia didn't include that middle surname on the marriage license as the middle name, and then later they decide to change it to add the name. That is when they would have to request an amended marriage license from the originating state, take that to DOT, and then ND DOT is authorized to make the change on their driver's license. I would guess that most people, who are going to use their surname as a middle name, will do it right from the beginning and won't decide five years down the road that they want to use a maiden name as their middle name on their driver's license. I think that is going to be a rare case where that will happen. I'm sure it could, but I think that circumstance is going to be rare.

Rep. Dahl: This is just one way to accomplish the change. They can go through the court system, which is more expensive, but is an option.

Sen. Nething: I move that the Senate recede from its amendments and amend with Amendment .0102.

Sen. Olafson: Second.

Rep. Dahl: Further discussion. Roll call vote.

6 YES 0 NO 0 ABSENT MOTION CARRIED

Rep. Dahl: Motion carried. We are adjourned and the committee is dissolved.

**REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)**

Bill Number 1252 (, as (re)engrossed):

Date: 4/15/09

Your Conference Committee HJUD

For the Senate:

For the House:

	YES / NO			YES / NO	
Sen. Nething			Rep. Lake		
Sen. Olafson			Rep. Boehning		
Sen. Nelson			Rep. Wolf		

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) _____ - _____

_____, and place _____ on the Seventh order.

_____, adopt (further) amendments as follows, and place _____ on the Seventh order:

_____, having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) _____ was placed on the Seventh order of business on the calendar.

DATE: _____

CARRIER: _____

LC NO. _____	of amendment
LC NO. _____	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

MOTION MADE BY: _____

SECONDED BY: _____

VOTE COUNT YES NO ABSENT

Revised 4/1/05

No action taken. Meeting recessed.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1252

That the Senate recede from its amendments as printed on page 1118 of the House Journal and page 958 of the Senate Journal and that House Bill No. 1252 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact section 14-03-20.2 of the North Dakota Century Code, relating to middle name options.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 14-03-20.2 of the North Dakota Century Code is created and enacted as follows:

14-03-20.2. Middle name options.

1. One party or both parties to a marriage may elect to change the middle name by which that individual wishes to be known after the solemnization of the marriage by entering the new middle name in the space provided on the marriage license application. If an individual elects to change that individual's middle name, the middle name entry on the marriage application or marriage license must consist of the premarriage surname or former surname of that individual.
2. Compliance with the middle name provisions of this section is sufficient to meet the satisfactory evidence requirements of section 39-06-07.1."

Renumber accordingly

VR
4/21/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1252

That the Senate recede from its amendments as printed on page 1118 of the House Journal and page 958 of the Senate Journal and that House Bill No. 1252 be amended as follows:

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2. Compliance with the middle name provisions of this section is sufficient to meet the satisfactory evidence requirements of section 39-06-07.1."

Renumber accordingly

**REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)**

Bill Number 1252 (, as (re)engrossed):

Date: 4/22/09

Your Conference Committee HJUD

For the Senate:

For the House:

	YES / NO			YES / NO	
Sen. Nething	✓		Rep Dahl	✓	
Sen. Olafson	✓		Rep Brehning	✓	
Sen. Fiebigler	✓		Rep Wolf	✓	

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) 1118 - _____

_____, and place _____ on the Seventh order.

X, adopt (~~further~~) amendments as follows, and place 1252 on the Seventh order:

_____, having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) 1252 was placed on the Seventh order of business on the calendar.

DATE: 4/22/09

CARRIER: Rep Dahl

LC NO. _____	of amendment _____
LC NO. _____	of engrossment _____
Emergency clause added or deleted _____	
Statement of purpose of amendment _____	

MOTION MADE BY: Sen Nething

SECONDED BY: Sen Olafson

OTE COUNT 6 YES 0 NO 0 ABSENT

REPORT OF CONFERENCE COMMITTEE

HB 1252: Your conference committee (Sens. Nething, Olafson, Fiebiger and Reps. Dahl, Boehning, Wolf) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 1118, adopt amendments as follows, and place HB 1252 on the Seventh order:

That the Senate recede from its amendments as printed on page 1118 of the House Journal and page 958 of the Senate Journal and that House Bill No. 1252 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact section 14-03-20.2 of the North Dakota Century Code, relating to middle name options.

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2. Compliance with the middle name provisions of this section is sufficient to meet the satisfactory evidence requirements of section 39-06-07.1."

Renumber accordingly

HB 1252 was placed on the Seventh order of business on the calendar.

2009 TESTIMONY

HB 1252

Testimony
House Bill 1252
House Judiciary Committee
January 21, 2009; 2:15 p.m.
North Dakota Department of Health

Good afternoon, Chairman DeKrey and members of the House Judiciary Committee. My name is Darin Meschke, and I am the state registrar and director of the North Dakota Department of Health's Division of Vital Records. I am here today to support House Bill 1252 and to offer an amendment.

The Division of Vital Records would be responsible for implementing House Bill 1252. Because the language proposed in the bill is not clear, it would be difficult to implement and would trigger many questions among people wanting to change their middle names or surnames following marriage.

The Department of Health has had discussions with Rep. Mueller regarding this bill and has worked with Legislative Council to develop the following amendment, which replaces the proposed changes in House Bill 1252 while keeping the intent of the bill as originally drafted.

The suggested amendment removes the proposed language from House Bill 1252, thus leaving section 14-03-20.1 of state law unchanged. We propose instead that a new section be added to this bill after line 12 on page 2. The new section would be numbered 14-03-20.2 and be titled "Middle name options." The amendment for this section would be worded as follows:

14-03-20.2. Middle name options.

1. One party or both parties to a marriage may elect to change the middle name by which that party wishes to be known after the solemnization of the marriage by entering the new middle name in the space provided on the marriage license application. If a party elects to change that party's middle name, the middle name entry on the application must consist of the premarriage surname or former surname of that party.

Again, the Department of Health believes that this change still captures the intent of the bill, which would allow an individual getting married to use a former surname or maiden name as a new middle name.

This concludes my testimony. I am happy to answer any questions you may have.

Janice Clark Klein Testimony on HOUSE BILL NO. 1252 January 21, 2009

I'm not sure to which century the North Dakota Century code applies, but I want to first take a moment to tell you about my 90-year old mother. Irene Katherine Donnelly was born in 1918 in Upham, North Dakota. That makes her 10 years shy of a century, does that count? When she married [over 70 years ago in Valley City, North Dakota], she legally became Irene Donnelly Clark. She has North Dakota Driver's License that reads Irene D [for Donnelly] not K [for Katherine] Clark.

The point here is this: I'm not here to talk to you about some new fangled idea. Many women have been choosing their maiden name as their middle name for a century or more and if that's good enough for my mom, it's good enough for me.

Now, permit me to briefly detail the road that leads me here before you today:

I was born in 1947 in Valley City, North Dakota to parents who were life-long residents of the State of North Dakota. I graduated high school in Valley City, and left home for college. Within a few years, I ended up in Green Bay Wisconsin, where I spent over half my life, raised my family and had a successful career. I was married for 25 years. My name was Janice Clark White. My middle name was Clark.

In the year 2000 I was divorced. I requested to return to my maiden name, and was granted that in a divorce decree in Brown County, Wisconsin. My name legally returned to my birth name, Janice Rae Clark.

A short time after my divorce I moved back to North Dakota. I purchased a home and started my life over. It has been one of the better decisions made in my life. Two and a half years ago my father passed away. I would not have changed that time with him for anything. My mother and I were able to grant him his wish: to die at home. We did that with the help of hospice.

I was so impressed with the work of hospice that I began volunteering after my father's death. This is where I met and fell in love with Robert Klein [a fellow volunteer who also wanted to show his appreciation to hospice while in caring for his wife before she passed away]. This coming February 29th, we'll be married.....correction. On March 1st we will have been married 12 months.

When we decided to marry, I wanted to honor my husband by taking his last name, Klein. I'm a bit old fashioned that way. My middle name of Rae has no value to me, but my maiden name of Clark did. No one has ever known me as Janice Rae. People know me as Janice Clark. Thus, I legally became Janice Clark Klein at my marriage on February 29, 2008.

The name Janice, middle name Clark, Klein wasn't a problem with my marriage license; it wasn't a problem when I mailed in a certified copy of the marriage certificate to obtain an updated Social Security Card; it wasn't a problem at work when I presented these documents to update my payroll information at Valley City State University, neither was it a problem when I went to the banks and retirement accounts to update my name to my married name. It wasn't a problem when I applied for a government ID as the wife of a retired Army Veteran. I just wasn't a problem until I got to the Driver's License Bureau Office in Valley City and found they would not issue me a Driver's License with my new, legal, name. They cited the North Dakota Century Code 14-03-20.1. "Surname options" and also told me that in 2009 the name on my driver's license likely would become my legal name of record. I was offered Janice R Clark Klein, Janice R Clark-Klein, Janice R Klein or remain as Janice R Clark. None of

these are my legal name. I settled for Janice R Klein under protest in order to conform to my new last name [but I signed it Janice Klein in protest].

I called the head of the North Dakota License Bureau and was told there was 'nothing they could do'. I wrote to the Governor, radio & TV news stations, and to my Senators and Legislators in North Dakota. I discussed what I should do next with my attorney, who explained that there were only two options because of the way the Century Code is written. A) I could go to court and ask the Judge to declare my name to be Janice Clark Klein, or B) work to change the wording in the Century Code.

By going to court I would be required to publish in the newspaper to declare my name was 'changed' to Janice Clark Klein. This would be a needless redundancy. My legal name is already Janice Clark Klein. Every document, all my credit, and the United States Government already say my legal name is Janice Clark Klein. My attorney suggested that we attempt to change the North Dakota Century Code to allow the use of a maiden name as a middle name, thus allowing the North Dakota License Bureau to issue me a Driver's License with my correct name.

Gentlemen, that is what brings me here today. I very much hope to convince you it is important to change North Dakota Century Code 14-03-20.1 to include the use of a maiden name as a middle name. I suggest that is an important subject. If, as I am told, the driver's license becomes something akin to a passport ID in the future. If, as the North Dakota License Bureau states, it's the birth certificate that is a basis for what appears on the driver's license and only a last name can be changed, there are going to be a lot of surprised women when they are informed they need a new driver's license in a different name, including my 90-year-old mother.

I have an expired United States Passport in the name of Janice Clark White which will be updated to Janice Clark Klein. I'll tell you why. Because, when I get on a plane or take a trip to Canada, and they ask for ID, I don't want to be hassled because my legal name is not the name that appears on my driver's license.

I want to conclude with one other comment. I keep hearing about identity theft and the State's need to be careful about how a person changes their name. My last name has been Clark, White, and Klein. These are very common names. I've met a number of Jan Clarks in my life. There was another Janice White living in Green Bay and there currently is another Janice Klein living in the Valley City area. However, in the whole United States, there is likely only one Janice Clark who married a man named Klein and became Janice Clark Klein. My point: The use of a maiden name as a middle name has made my identity more, not less, secure because it is unique.

Ladies and Gentlemen, please approve the proposed wording change as outlined in Phil Mueller's

HOUSE BILL NO. 1252

Thank you.

Janice Clark Klein
439 Riverview Drive
Valley City, North Dakota 58072

Testimony
House Bill 1252
Senate Judiciary Committee
March 4, 2009; 10:30 a.m.
North Dakota Department of Health

Good morning, Chairman Nething and members of the Senate Judiciary Committee. My name is Darin Meschke, and I am the state registrar and director of the North Dakota Department of Health's Division of Vital Records. I am here today to support House Bill 1252 and to offer an amendment.

The Division of Vital Records would be responsible for implementing House Bill 1252. Because the language proposed in the bill is not clear, it would be difficult to implement and would trigger many questions among people wanting to change their middle names or surnames following marriage.

The Department of Health has had discussions with Rep. Mueller regarding this bill and has worked with Legislative Council to develop the following amendment, which replaces the proposed changes in House Bill 1252 while keeping the intent of the bill as originally drafted.

The suggested amendment removes the proposed language from House Bill 1252, thus leaving section 14-03-20.1 of state law unchanged. We propose instead that a new section be added to this bill after line 12 on page 2. The new section would be numbered 14-03-20.2 and be titled "Middle name options." The amendment for this section would be worded as follows:

14-03-20.2. Middle name options.

1. One party or both parties to a marriage may elect to change the middle name by which that party wishes to be known after the solemnization of the marriage by entering the new middle name in the space provided on the marriage license application. If a party elects to change that party's middle name, the middle name entry on the application must consist of the premarriage surname or former surname of that party.

Again, the Department of Health believes that this change still captures the intent of the bill, which would allow an individual getting married to use a former surname or maiden name as a new middle name. It would also allow the counties to amend previous marriage records to allow individuals who were not given this opportunity at the time of their marriage to make this change.

This concludes my testimony. I am happy to answer any questions you may have.

Janice Clark Klein Testimony on HB 1252 on March 4, 2009

As I mentioned when testifying for this bill on the House side, I'm not sure to which "century" the North Dakota Century code applies, but I want to begin by telling you about my 90-year-old mother. Irene Katherine Donnelly was born in 1918 in Upham, North Dakota. That makes her 10 years shy of a century. When she married [over 70 years ago in Valley City, North Dakota], she legally became Irene Donnelly Clark. She has a valid North Dakota Driver's License to this day in the name of Irene D [for Donnelly] not K [for Katherine] Clark.

The point I'm trying to make is: I'm not here to talk to you about some new fangled idea. Many women have been choosing their maiden name as their middle name for a century or more and if that's good enough for my mom, it's good enough for me.

Now, permit me to briefly detail the road that leads me here today:

I was born in Valley City, North Dakota to parents who were life-long residents of the State of North Dakota. I graduated high school in my home town, and left for college. Within a few years, I ended up in Green Bay Wisconsin, where I spent over half my life, raised my family and had a successful career. I was married for 25 years. My name was Janice Clark White. My middle name was Clark.

In the year 2000 I filed for, and was granted, a divorce in Brown County, Wisconsin. My name legally returned to my birth name, Janice Rae Clark.

A short time following my divorce I moved back to North Dakota, purchased a home and started my life over. It was one of the better decisions made in my life. Three days after I moved back my only brother was in an accident that left him with a traumatic brain injury. I was able to care for him during the nearly one year it took for him to achieve independent living again. Then three years ago, my father became ill. My mother and I were able to grant him his wish: to die peacefully at home. We did that with the help of hospice.

I was so impressed with the work of hospice that I began volunteering after my father's death. I met and fell in love with Robert Klein [a like-minded volunteer at hospice after his wife passed way]. Last weekend we celebrated our first wedding anniversary.

Being a bit old fashioned, and wanting to honor my husband by taking his last name, I became Janice Clark Klein at my marriage on February 29, 2008 in Barnes County, North Dakota.

My new name, Janice, middle name Clark, last name Klein wasn't a problem with my marriage license. Transferring information to my new name wasn't a problem when I mailed in a certified copy of the marriage certificate to obtain an updated Social Security Card; it wasn't a problem at work, with banks, credit cards, or retirement companies. It wasn't a problem when I applied for a government ID as the wife of a retired Army Veteran [and what is good enough for the US government should be good enough for me, right?]. I just didn't have a problem until the day I went to the Driver's License Bureau Office in Valley City.

I was dismayed to discover that I could not obtain a North Dakota Driver's License in the name of Janice Clark Klein. I was given a short course education in the subtleties and nuances of the North Dakota Century Code 14-03-20.1. "Surname options". The irony being missed by staff as they accepted my check in the name of Janice Clark Klein and handed me a license in the name of Janice R Klein. It was

also suggested to me that shortly the name on the driver's license would become my legal name of record, as the driver's license will become some type of a government "super ID". That bothers me.

I called the head of the North Dakota License Bureau and was told there was 'nothing they could do'. I wrote to the Governor, TV and radio stations, Senators and representatives in North Dakota. I discussed what I should do next with my attorney, who explained that there were only two options because of the way the Century Code is written. A) I could go to court and ask the Judge to declare my name to be Janice Clark Klein, thus allowing the Driver's License Bureau to issue a proper license, or B) work to change the wording in the Century Code.

Under option A), I would be required to publish extensively in the local newspaper declaring my name was being 'changed' to Janice Clark Klein. My legal name is already Janice Clark Klein. Why would I do that? My driver's license is the only document with a photo, address and birth date that refers to me as Janice R. Klein. My attorney, Carol Nelson, suggested that we attempt to change the North Dakota Century Code to allow the use of a maiden name as a middle name, thus allowing the North Dakota License Bureau to issue me a Driver's License with my correct name. Incidentally, she has the same issue with the law, and was able to testify previously on this issue although she couldn't be here today.

Gentlemen, that is why I'm here today. I very much hope to convince you it is important to change North Dakota Century Code to include an option to use a maiden name as a middle name. If, as I am told, the driver's license becomes something akin to a passport ID in the future it will be a problem. If, as the North Dakota License Bureau states, it's the birth certificate that is a basis for what appears on the driver's license and only a last name can be changed, there are going to be a lot of surprised women when they are informed they need a new driver's license in a different name, including my 90-year-old mother.

I have an outdated passport in the name of Janice Clark White, which I can [and will] update in the name of Janice Clark Klein. I'll tell you why. Because, when I get on a plane or take a trip to Canada, and they ask for ID, I don't want to be hassled because my legal name is not the name that appears on my driver's license.

The subject of identity theft keeps coming up surrounding this issue and the State's need to be careful about how a person changes their name. I want to conclude with just one more comment. My last name has been Clark, White, and Klein. These are very common names. I've met a number of Jan Clarks in my life. There was another Janice White living in Green Bay and there currently is another Janice Klein living in the Valley City area. However, there is probably is only one Janice Clark who married a man named Klein and became Janice Clark Klein in the whole United States. My point: The use of a maiden name as a middle name has made my identity more, not less, secure because it is unique.

Ladies and Gentlemen, please approve the proposed wording change as outlined in Phil Mueller's

HOUSE BILL NO. 1252

Thank you.

Janice Clark Klein
439 Riverview Drive
Valley City, North Dakota 58072

Dahl, Stacey A.

From: Meschke, Darin J.
Sent: Monday, April 20, 2009 2:53 PM
To: Dahl, Stacey A.
Subject: RE: Scan of HB 1252 amendments

Rep. Dahl,

I believe this will accomplish everything the intent of the bill is trying to accomplish, now that you have tweaked it. The retroactivity is now covered and the DOT portion is also now covered. If you need anything else from me, just let me know.

Darin J. Meschke, State Registrar
Director, Division of Vital Records
ND Department of Health
Phone: (701) 328-2494
Fax: (701) 328-1850

-----Original Message-----

From: Dahl, Stacey A.
Sent: Monday, April 20, 2009 2:46 PM
To: Meschke, Darin J.; Jackson, Glenn E.
Subject: Scan of HB 1252 amendments

Gentlemen,

Would you please look at these and let me know if they accomplish what we are trying to accomplish in this bill. Please let me know of any feedback you have.

-----Original Message-----

From: Richter, Vonette J.
Sent: Monday, April 20, 2009 2:43 PM
To: Dahl, Stacey A.
Subject: Scan of HB 1252 amendments

Rep. Dahl,

Here is your scan of 90467.0102

Vonette