

2009 SENATE JUDICIARY

SB 2120

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No 2120

Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: January 19, 2009

Recorder Job Number: 7200

Committee Clerk Signature

Diane Davis

Minutes: **Senator Nething, Chairman**

Relating to selection of jurors and defendants rights.

Jim Ganje – Office of State Court Administrator – See written testimony.

Regarding appointing people from out of the county to be on a jury.

Closed hearing on 2120

Committee voted do pass, 6 yes 0 no

Senator Nelson motioned do pass

Senator Schneider seconded

Senator Olafson will carry

Date: 1/19/09
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES SB2120
BILL/RESOLUTION NO.

Senate JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Pass Do Not Pass Amended

Motion Made By Senator Nelson Seconded By Senator Schneider

Senators	Yes	No	Senators	Yes	No
Sen. Dave Nething - Chairman	X		Sen. Tom Fiebiger	X	
Sen. Curtis Olafson - V. Chair.	X		Sen. Carolyn Nelson	X	
Sen. Stanley W. Lyson	X		Sen. Mac Schneider	X	

Total (Yes) 6 (N) _____

Absent _____

Floor Assignment Senator Olafson

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

REPORT OF STANDING COMMITTEE (410)
January 19, 2009 1:26 p.m.

Module No: SR-10-0483
Carrier: Olafson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2120: Judiciary Committee (Sen. Nething, Chairman) recommends DO PASS
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2120 was placed on the
Eleventh order on the calendar.

2009 HOUSE JUDICIARY

SB 2120

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2120

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 3/4/09

Recorder Job Number: 10124

Committee Clerk Signature

D. Penrose

Minutes:

Chairman DeKrey: We will open the hearing on SB 2120.

Jim Ganje, Office of State Court Administrator: Sponsor, support (attachment), explained the bill.

Rep. Vig: In a special situation, can a case in one county get the jurors from another county.

Jim Ganje: I think that would be highly unlikely, typically a juror is selected from the county where the trial will be held. I can't imagine a trial being held in Cass County and the jurors being selected from another county.

Rep. Vig: What if we reverse it, have the court case in Steele and call a jury from Cass.

Jim Ganje: Conceivably they could call someone from Cass County, if for some reason there weren't enough jurors available in Steele County. It's possible, but not likely.

Rep. Delmore: The benefit would be an impartial jury, which would benefit the defendant.

Jim Ganje: In all situations, we seek to have an impartial jury. We recognize that sometimes there are those limited circumstances where they might have to reach out to another county.

Chairman DeKrey: Thank you. Further testimony in support. Testimony in opposition. We will close the hearing.

Chairman DeKrey: We now have the bill before us. What are the committee's wishes in regard to SB 2120.

Rep. Delmore: I move a Do Pass.

Rep. Boehning: Second.

12 YES 0 NO 1 ABSENT

DO PASS

CARRIER: Rep. Kingsbury

Date: 3/4/09
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2120

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. Boehning

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) 12 No 0

Absent 1 / Rep. Klemin

Floor Carrier: Rep. Kingsbury

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

REPORT OF STANDING COMMITTEE (410)
March 4, 2009 9:36 a.m.

Module No: HR-39-4007
Carrier: Kingsbury
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2120: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS
(12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2120 was placed on the
Fourteenth order on the calendar.

2009 TESTIMONY

SB 2120

2009 SENATE BILL NO. 2120 - SUMMARY

Senate Bill 2120 is essentially a technical correction bill. It is intended to remedy an ambiguity and potential conflict among three statutes. The principal statute to which Senate Bill 2120 relates, though it is not addressed in the bill, is N.D.C.C. Section 27-09.1-05.1, which is included at the close of this summary. Section 27-09.1-05.1 was enacted in 1997 as legislation recommended and introduced by the Interim Judiciary Committee. The statute allows a court to select prospective jurors from one or more counties within the judicial district in which the court is located if the number of prospective jurors is insufficient to obtain an adequate pool from which to select jurors to serve in a trial. The statute was a response to the recognition that declining populations in rural areas of the state sometimes hamper a court's ability to assemble a satisfactory jury pool from which jurors can be selected. The statute was later amended to allow selection of jurors from an adjoining county in the event a natural disaster impairs jury selection in a particular county.

The central feature of Section 27-09.1-05.1 is the ability of the court to select prospective jurors from "one or more counties in which the court is located." In normal situations, a juror must be a resident of the county in which the particular trial is venued or held. Section 27-09.1-05.1 modifies normal requirement by permitting service by a juror who is not a resident of the county in which the trial occurs, but who is a resident of the county within the judicial district from which the expanded number of prospective jurors is selected.

Senate Bill No. 2120 amends two statutes that were likely overlooked when Section 27-09.1-05.1 was enacted and which arguably conflict with the expanded selection process authorized under that statute. The bill amends Section 27-09.1-08(2), which describes factors that would disqualify a person from serving as a juror, to link residency to the county in the jury pool. This recognizes that a court may be required to select prospective jurors from another county in the judicial district to complete an adequate jury pool. The bill also amends Section 29-01-06(5) to refer to trial by an impartial jury "in", rather than "of", the county in which the offense occurred. This clarifies that an impartial jury will hear the case even though members of the jury may not be residents "of" the county in which the offense occurred.

The authority conferred under Section 27-09.1-05.1 to select prospective jurors from another county within the judicial district is cautiously exercised. It is, however, an important tool available to courts to ensure that, when the situation arises, a sufficient number of prospective jurors can be summoned to form an adequate jury pool. The amendments in the bill address arguably conflicting statutory language that may hinder a court's ability to use the authority provided under Section 27-09.1-05.1.

Submitted by:

Jim Ganje
Office of State Court Administrator

*Same
handout
given to
House.*

27-09.1-05.1. Selection of jurors from judicial district - Impact of natural disaster - Grounds and method for selection. The court, upon its own motion or in response to a motion by a party, may direct that prospective jurors be selected from one or more counties in the judicial district in which the court is located if the court determines that the number of prospective jurors within the county of venue is insufficient to obtain an adequate jury pool. Following notification by the court, the clerk of court of any county in the judicial district shall submit a specified number of names, with mailing addresses, of the prospective, qualified jurors to the clerk of court of the county of venue. If a natural disaster impairs the selection of a sufficient number of prospective jurors in any county, the supreme court, by emergency order, may authorize the court in the affected county to obtain additional names and mailing addresses of prospective, qualified jurors from the clerk of court of an adjoining county or from the clerk of court of another county in the judicial district if a sufficient number of names and addresses is not available from the adjoining county.

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