

2019 HOUSE JUDICIARY

HB 1084

2019 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

HB 1084
1/9/2019
30607

- Subcommittee
 Conference Committee

Committee Clerk: DeLores D. Shimek

Explanation or reason for introduction of bill/resolution:

A BILL relating to criminal history record checks.

Minutes:

1,2

Chairman K. Koppelman: Opened the hearing on HB 1084.

Paul Olson, Superintendent of ND Vision Services/School for the Blind: (Attachment 1,2) (Handed out testimony #2 for Hovendick) (:47-5:01) Went over testimony. We do background checks on anyone who is a final applicant for a position. We now use discursion.

Rep. Vetter: This is just cleanup work.

Rep. Magrum: When is the last time something happened at your school that would have been prevented where a background check would have helped avoid the problem.

Paul Olson: We have had very little issues on this matter. Discussed past history and lack of problems with background checks.

Rep. Rick Becker: How much does a full criminal background check cost?

Paul Olson: I am not sure; \$45-\$65 range.

Rep. Rick Becker: What does this do besides putting a financial burden on an individual?

Paul Olson: I would be concerned about hiring anyone who had an allegation. If there was someone where there was a background check that illustrated that they could be in danger like day care providers.

Rep. Rick Becker: You are already conducting background checks. What does this bill really do then?

Paul Olson: The language does allow me as an administrator now to say that any individual that has contact with students at our facility; even contractors, has to have a background check completed.

Rep. McWilliams: Do you plan on hiring differently now?

Paul Olson: Individuals who are almost done with their master degree in special education has been asked through an initial vetting process asked to do their student teaching experience, so they have already passed through one level. That background check will catch an incident. BCI had an issue with this and they contacted us and that is why the bill is here. The FBI flagged this so BCI did not have direct authority. They needed to clean up their language in Section 12.

Chairman K. Koppelman: What is accomplished it includes the Supt. Of Public Instruction to obtain background checks for schools that are represented here with testimony. Page 2 allows you to require the prospective employee to submit to a background check and assess them the cost.

Paul Olson: Yes that is correct.

Rep. McWilliams: When these federal audits happen where does these opinions come from?

Paul Olson: Our original communication came from Ass't Attorney General Dave Schibley who was the one who worked with BCI's attorney. I would have to research that. I do not know the nature of the audit whether it is annual or electronic or a face to face meeting with BCI.

Opposition: None

Hearing closed.

Chairman K. Koppelman: Hearing reopened.

Do Pass motion made by Rep. Vetter; Seconded by Representative Satrom:

Discussion:

Rep. Rick Becker: I am a definite no on this one. When the FBI goes to the BCI to tell the DPI what it is supposed to do I am a no vote. I disagree with putting the burden of a criminal background check on the person who is looking for employment. They already have been doing the background checks and I do not think this does anything to give them authority to do greater background checks.

Rep. Paur: I believe the schools were using the DPI's authority to do background checks. This section 25-07 we have a list of one hundred organizations that can ask for school background checks so all this does is add them to that list so they don't have to go through the DPI.

Chairman K. Koppelman: I think it still goes through the Supt. Of Public Instruction according to the first page. Currently they can require background checks for certain things there. This clarifies current statutes.

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Roll Call Vote: 9 Yes 5 No 0 Absent Carrier: Rep. Vetter

Closed.

Date: 1-9-19
Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1084

House Judiciary Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By VETTER Seconded By SATROM

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman	✓		Rep. Buffalo	✓	
Vice Chairman Karls	✓		Rep. Karla Rose Hanson	✓	
Rep. Becker		✓			
Rep. Terry Jones	✓				
Rep. Magrum		✓			
Rep. McWilliams		✓			
Rep. B. Paulson		✓			
Rep. Paur	✓				
Rep. Roers Jones	✓				
Rep. Satrom	✓				
Rep. Simons		✓			
Rep. Vetter	✓				

Total (Yes) 9 No 5

Absent 0

Floor Assignment Rep Vetter

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

REPORT OF STANDING COMMITTEE

HB 1084: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **DO PASS**
(9 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1084 was placed on the
Eleventh order on the calendar.

2019 SENATE JUDICIARY

HB 1084

2019 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

HB 1084
2/12/2019
#32585 (04:59)
#32687 (00:08)

- Subcommittee
 Conference Committee

Committee Clerk: Meghan Pegel

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new section to chapter 25-06 and a new section to chapter 25-07 of the North Dakota Century Code, relating to criminal history record checks; and to amend and reenact paragraph 5 of subdivision x of subsection 2 of section 12-60-24 and paragraph 5 of subdivision y of subsection 2 of section 12-60-24 of the North Dakota Century Code, relating to criminal history record checks.

Minutes:

1 Attachment

Chair Larson opens the hearing on HB 1084. Senator Myrdal was absent.

Addy Schmaltz, DPI, speaks on behalf of Paul H. Olson, Superintendent of ND Vision Services/School and Blind, testifies in favor (see attachment #1)

Senator Bakke: This is for the school for the blind and the school for the deaf?

Schmaltz: Correct.

Vice Chairman Dwyer: Are they currently doing background checks?

Schmaltz: Yes; it's a requirement for all teachers and any other personnel. I think what he's referring to are vendors and temporary employees who maybe come in for a short time.

Senator Luick: Moves for a Do Pass

Vice Chairman Dwyer: Seconds.

A Roll Call Vote was Taken: 5 yeas, 0 nays, 0 absent. Motion carries.

Senator Luick will carry the bill.

Chair Larson: We'll leave the vote open so Senator Myrdal can vote.

Chair Larson closes the hearing on HB 1084.

(Job #32687 on 2/13/19) **Senator Myrdal** votes yes. Unanimous vote is recorded.

**2019 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1084**

Senate Judiciary Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Senator Luick Seconded By Vice Chairman Dwyer

Senators	Yes	No	Senators	Yes	No
Chair Larson	X		Senator Bakke	X	
Vice Chair Dwyer	X				
Senator Luick	X				
Senator Myrdal	X				
Senator Osland	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Luick

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

REPORT OF STANDING COMMITTEE

HB 1084: Judiciary Committee (Sen. D. Larson, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1084 was placed on the Fourteenth order on the calendar.

2019 TESTIMONY

HB 1084

#1
HB 1084
1-9-19



North Dakota Vision Services / School for the Blind

500 Stanford Road, Grand Forks, ND 58203-2799

phone: (701) 795-2700 fax: 701-795-2727

January 9, 2019

Chairman Koppelman and members of the committee, my name is Paul Olson and I am the superintendent of North Dakota Vision Services/School for the Blind.

I am here today in support of HB 1084 which provides clarification regarding the general responsibility of the superintendent of public instruction and the two state schools that report to the superintendent in conducting criminal history record checks for employees and other individuals with a presence in our facilities.. The state schools specifically referred to in the bill are the North Dakota School for the Deaf and North Dakota Vision Services/ School for the Blind.

I can speak most directly regarding the new section in 25-06. The new language provides me with the appropriate parameters and discretion in conducting background checks to ensure the safety and well-being of existing students and staff. The language specifies that final applicants are fully vetted and allows for me to initiate checks on any employee or individual as circumstances may arise or be needed. Although it is our practice and policy at NDVS/SB to initiate and pay the costs for a final applicant, the language does allow us the discretion to place the responsibility of paying the costs on the individual. There are circumstances when it may be reasonable to expect persons doing internships, volunteer work or contract work at our facilities to pay for their own background check costs.

In conclusion, this bill is in alignment with the expectation that schools require individuals with direct student contact to pass a background check. Furthermore, it does provide further guidance that is helpful to administration as we routinely oversee this process in our schools.

I am happy to answer any question you may have and I thank you for the opportunity to speak in support of this bill.

I can be reached by email at polson@nd.gov or by phone at (701) 795-2717.

Paul H. Olson--Superintendent



**North Dakota School for the Deaf
Resource Center for Deaf and Hard of Hearing**

1401 College Drive North
Devils Lake, ND 58301-1596
(701)665-4400 V/TDD (701)665-4409 FAX
<http://www.nd.gov/ndsd/>
Dr. Connie Hovendick, Superintendent

#2
HB 1084
1-9-19

January 9, 2019

Testimony

Chairman Kim Koppleman and Members of the House Judiciary Committee:

My name is Dr. Connie Hovendick. I am the superintendent of the North Dakota School for the Deaf/Resource Center for Deaf and Hard of Hearing (NDS/D/RCDHH). I am honored to have the opportunity to provide testimony relative to House Bill 1084 with special attention to the new section to chapter 25-07. This bill provides clarification for the responsibility of Superintendent of Public Instruction and the two state schools that report to the Superintendent in regards to criminal history background checks.

At NDS/D/RCDHH we have expanded our service to include birth to death and all deaf or hard of hearing individuals across the state. We have four major programs at the resource center; parent infant program, model school, school age outreach and adult services. The staff of all four programs are working with deaf or hard of hearing individual and their families. They are working with individuals in homes, daycares, schools, assistive living and other settings as needed. All of our staff have an opportunity to have contact with students or other individuals who are deaf or hard of hearing.

This bill aligns with the current policy and allows me to initiate background checks on any employee or possible employee as may be needed. To protect our clients, all current staff have had background checks completed on them at the time of employment. At this time NDS/D/RCDHH pays for these nationwide criminal history record checks. There may be times when we would ask someone to pay for the background check.

Thank you for your time and for your support of NDS/D/RCDHH.

Connie Hovendick, Superintendent



1
HB 1084
2.12.19



North Dakota Vision Services / School for the Blind

500 Stanford Road, Grand Forks, ND 58203-2799

phone: (701) 795-2700 fax: 701-795-2727

February 12, 2019

Chairman Larson and members of the Senate Judiciary Committee, my name is Paul Olson and I am the superintendent of North Dakota Vision Services/School for the Blind (NDVS/SB).

I am writing in support of HB 1084 which provides clarification regarding the responsibility of the superintendent of public instruction and the two special, state schools that report to the superintendent in conducting criminal history record checks for employees and other individuals with an intermittent or ongoing presence in our facilities.

The new language provides me as superintendent of NDVS/SB with the appropriate parameters and limited discretion in conducting background checks to ensure the safety and well-being of students and staff. Although it is a long-term policy at NDVS/SB to initiate and pay the costs for final job applicants, the new language does allow us the discretion to place the responsibility of paying the costs on an individual or other entity seeking a relationship within our facility. There are circumstances when it may be reasonable to expect persons doing internships, volunteer work or contract work at our facilities to pay their own background check costs. This cost-shifting option may be used in situations where a delivery company, contractor or vendors—who's staff will need to be in the school—might frequently change their personnel or seek to send high numbers of personnel into the school.

In conclusion, this bill is in alignment with the expectation that schools require individuals with direct student contact to pass a background check. It does provide further guidance that is helpful to administration as we routinely oversee this process in our schools. Most importantly it provides the appropriate authority to ensure the best possible safety for our students.

I would be happy to provide further information if requested or answer any questions you may have relating to the impact of this proposed bill. I can be reached by email at polson@nd.gov or by phone at (701) 795-2717.

Sincerely,

Paul H. Olson--Superintendent