

2019 HOUSE JUDICIARY

HB 1478

2019 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

HB 1478
1/30/2019
31854

- Subcommittee
 Conference Committee

Committee Clerk: DeLores D. Shimek

Explanation or reason for introduction of bill/resolution:

Relating to juvenile hearings.

Minutes:

1,2

Chairman Koppelman: Opened the hearing on HB 1478.

Rep. Boschee: Introduced the bill. (Attachment #1) Went over testimony. Handed out (Attachment #2) They could not attend due to weather.

Opposition: None

Hearing closed.

Do Pass Made by Rep. Satrom; Seconded by Rep. Roers Jones

Discussion:

Roll Call Vote: 12 Yes 0 No 2 Absent Carrier: Rep. Hanson

Closed.

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. HB 1478**

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 Rep. Satrom Seconded By Rep. Roers Jones

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

Total (Yes) 12 No 0

Absent 2

Floor Assignment Rep. Hanson

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

REPORT OF STANDING COMMITTEE

HB 1478: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1478 was placed on the Eleventh order on the calendar.

2019 SENATE JUDICIARY

HB 1478

2019 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

HB 1478
3/18/2019
#33832 (4:08)

- Subcommittee
 Conference Committee

Committee Clerk: Meghan Pegel

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact section 27-20-24 of the North Dakota Century Code, relating to juvenile hearings.

Minutes:

1 Attachment

Chair Larson opens the hearing on HB 1478. Senator Osland was absent.

Josh Boschee, District 44 Representative, testifies in favor (see attachment #1)

Chair Larson: I recall several years ago, when there's a transfer to adult court, that is because of committing certain egregious crimes such as kidnapping and murder. Years ago, the law was that the court may transfer a juvenile to adult court. Then it switched over after the Neugebauer murders to be that a juvenile was automatically transferred to adult court, and they could prove that they are amenable to treatment to be held in juvenile court. This is the section of law that that applies to. It would make sense then that while it's being considered in terms of being held in adult or juvenile court that we would do this.

Vice Chairman Dwyer: Did the states attorneys association or others take a position on this?

Representative Boschee: I can't speak to if they took a position or not. In the House hearing, they're lobbyist was prepared to testify, but there weren't any questions, and the committee moved it right away. They have been engaged as part of the process.

Vice Chairman Dwyer: Motions for a Do Pass.

Senator Myrdal: Seconds.

A Roll Call Vote Was Taken: 5 yeas, 0 nays, 1 absent. Motion carries.

Chair Larson will carry the bill.

REPORT OF STANDING COMMITTEE

HB 1478: Judiciary Committee (Sen. D. Larson, Chairman) recommends DO PASS
(5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1478 was placed on the
Fourteenth order on the calendar.

2019 TESTIMONY

HB 1478



North Dakota House of Representatives

State Capitol
600 East Boulevard Avenue
Bismarck, ND 58505-0360

Representative
Josh Boschee
District 44
517 First Street North
Fargo, ND 58102-4540
C: 701-367-3513
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Minority Leader

#1
HB 1478
1-30-19
January 30, 2019
P. 1

HB 1478 Testimony House Judiciary Committee

Chairman Koppelman and members of the House Judiciary Committee. For the record, my name is Josh Boschee and I represent District 44, here in the House of Representatives.

House Bill 1478 is being introduced at the request of Assistant State's Attorneys in Cass County to protect the identity of juveniles being considered for transfer to adult court. Under current law, the transfer hearings found in subsections 1.b and 2 of Chapter 27-20-34 are open hearings which means that when juveniles are being considered for transfer, information shared at the hearing becomes open to the public and has made it's way into media accounts. The problem here is if the court decides not to transfer the juvenile to adult court and now their name and other information is in the public realm. Of course, if they are transferred to adult court, then the hearings that follow become public as the court has determined they have the ability to be treated as an adult.

I have attached the written testimony that was provided to you all by e-mail last night from four Assistant Cass County State's Attorneys.

I appreciate the committee's consideration of this legislation and hope that you can assist in developing a solution.

I will try my best to answer any questions committee members may have.

#2
HB 1478
1-30-19
P.1

**Testimony of Kimberlee Hegvik, Katherine Naumann, Renata Olafson Selzer,
and Kara Schmitz Olson, Assistant Cass County State's Attorneys
Judiciary Committee Hearing Concerning HB 1478
January 30, 2019**

Chairman Koppelman and Members of the Judiciary Committee:

We are writing in support of HB 1478, which amends N.D.C.C. § 27-20-24(5) to remove the language that makes some juvenile transfer hearings open to the public. Under N.D.C.C. § 27-20-34, there are certain circumstances in which a juvenile delinquency case must—or may—be transferred to adult court for prosecution. Subsection 5 of N.D.C.C. § 27-20-24 currently provides for juvenile transfer hearings to be open to the public in a large category of delinquency cases.

The problem with this subsection is that it allows members of the public to access information in transfer hearings, even though the case may ultimately remain in juvenile court. In some cases, transfer to adult court is discretionary. See N.D.C.C. § 27-20-34(1)(c), (2). Thus, the juvenile court has the power to deny the State's motion to transfer and keep the case in juvenile court.

Our office handled a case in which a 16-year-old juvenile was charged with manslaughter as a result of a fatal car crash in which the juvenile was the driver, and the passenger was killed. Our office filed a motion to transfer the case to adult court. Because N.D.C.C. 27-20-24(5) currently provides that transfer hearings in manslaughter cases are open to the public, the media was able to access the juvenile's identity and facts surrounding the case. The court denied the State's motion to transfer; therefore, the case remained in juvenile court. However, details of the case from the transfer hearing, including the juvenile's name, were published in several newspapers and can still be accessed online today. This result is inconsistent with N.D.C.C. §§ 27-20-51 and 27-20-52, which provide that juvenile delinquency files and records are confidential, with limited exceptions.

Thank you for your time and consideration.

#1
HB 1478
3-18-19

March 18, 2019



North Dakota House of Representatives

State Capitol
600 East Boulevard Avenue
Bismarck, ND 58505-0360

Representative
Josh Boschee
District 44
517 First Street North
Fargo, ND 58102-4540
C: 701-367-3513
jboschee@nd.gov
Minority Leader

HB 1478 Testimony Senate Judiciary Committee

Chairwoman Larson and members of the Senate Judiciary Committee. For the record, my name is Josh Boschee and I represent District 44, here in the House of Representatives.

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I appreciate the committee's consideration of this legislation and hope that you can assist in developing a solution.

I will try my best to answer any questions committee members may have.

Boschee, Joshua A.

From: Hegvik, Kimberlee <HegvikK@casscountynyd.gov>
Sent: Friday, March 15, 2019 9:07 AM
To: Larson, Diane K.; Bakke, JoNell; Luick, Larry E.; Myrdal, Janne; Dwyer, Mike A.; Osland, Arne
Cc: Selzer, Renata Olafson; Boschee, Joshua A.; Naumann, Katherine; Schmitz Olson, Kara S.; Vaagen, Tessa M.; Kringlie, Karen; Leitner, Nicole; Aaron Birst
Subject: HB 1478 - closing juvenile transfer hearings

CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe.

**Testimony of Kimberlee Hegvik, Katherine Naumann, Renata Olafson Selzer,
and Kara Schmitz Olson, Assistant Cass County State’s Attorneys
Judiciary Committee Hearing Concerning HB 1478
March 15, 2019**

Chairman Larson and Members of the Judiciary Committee:

We are writing in support of HB 1478, which amends N.D.C.C. § 27-20-24(5) to remove the language that makes some juvenile transfer hearings open to the public. Under N.D.C.C. § 27-20-34, there are certain circumstances in which a juvenile delinquency case must—or may—be transferred to adult court for prosecution. Subsection 5 of N.D.C.C. § 27-20-24 currently provides for juvenile transfer hearings to be open to the public in a large category of delinquency cases.

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Thank you for your time and consideration.

Notice regarding electronic service of documents: I do not accept e-service of documents at this individual e-mail address. If you are e-serving a document upon anyone in the State’s Attorney’s Office, please use the office e-mail address: sa-defense-notices@casscountynyd.gov.