

2019 SENATE JUDICIARY

SB 2034

2019 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2034
1/9/2019
#30588 (26:46)

- 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 subsection to section 62.1-02-01 and a new subsection to section 62.1-02-10 of the North Dakota Century Code, relating to the possession of firearms; to amend and reenact subsections 3 and 7 of section 62.1-01-01, subdivision c of subsection 1 of section 62.1-02-01, subsection 1 of section 62.1-02-01.1, subsection 1 of section 62.1-02-05, subdivision l of subsection 2 of section 62.1-02-05, section 62.1-02-07, subdivision a of subsection 6 of section 62.1-02-13, and sections 62.1-03-01 and 62.1-04-02 of the North Dakota Century Code, relating to the possession of firearms; and to provide a penalty.

Minutes:

1 Attachment

Chair Larson opened the hearing on SB 2034.

Samantha Kramer, Legislative Counsel, introduces bill as neutral party

Kramer: Section 1 removes language relating how a felon who may or may not be able to possess a firearm. For purposes of clarity it's now in section 3 of the bill which is actually the law relating to possession of a firearm. Where it is currently being a list of definitions that pertain to the entire title. For clarity sake the committee felt that it was better to move it to a different section of title 62.1. Also in that section is some clean up relating to the possession of a firearm by a retired law enforcement officer or public servant. The committee felt the language was duplicative in subsection 7.

Section 2 on page 3 simply adds the words "a mental" for clarification. That language relates to the ability of an individual with a mental health disability to possess a firearm. The committee felt it was important to add what type of disability that was referring to.

Section 3 is in relation to a felon possessing a firearm.

Section 4 addresses an inconsistency relating to whether the state or federal government has the jurisdiction to reinstate an individual's right to possess a firearm. Now it specifies that a petitioner has to file that petition in the venue where his or her rights were revoked. They cannot petition in North Dakota if rights were revoked in Connecticut.

Section 5 clarifies a church "or other place of worship" as it's referenced.

Section 6 is also clarification relating to the exception for possessing a firearm in a church or place of worship. As it read it only referred to “a dangerous weapon concealed”, so now it’s “a firearm or dangerous weapon concealed”.

Section 7 relates to the use of a firearm by minors. These are just clean up changes and are not substantive.

Section 8 and 10 address inconsistencies that came about after the legislature passed the constitutional carry last session relating to possession of a loaded firearm in a vehicle. These sections clean that up so that there would no longer be questions about who can carry what type, whether loaded or unloaded, firearm.

Section 9 clarifies a section relating to the restriction of carrying a firearm at a public gathering specifically with relation to possessing a firearm in a public or nonpublic school.

Section 10 is an attempt to clarify the reader’s understanding of carrying a handgun. It was brought to the committee’s attention that the original language was difficult to read. The committee received considerable testimony as to how this could be worded to make it easiest to read, so this is their attempt at that. It also adds clarification to Subsection 2 relating to that same constitutional carry provision that was enacted last section.

Section 11 provides a clarifying distinction between the differences between a class 1 and a class 2 concealed license.

(7:25) Vice Chairman Dwyer: Please explain the constitutional carry bill that was passed.

Kramer: Last session the bill that is referred to as Constitutional carry essential allows an individual who is not otherwise restricted from possessing a firearm and who has been a resident of the state of North Dakota for at least a year, the ability to carry that firearm or dangerous weapon concealed. It puts them on equal footing as somebody who has a class 1 firearm or dangerous weapons license.

Senator Luick: What are the limitations to the areas they can carry?

Kramer: They would be the same as they were before except for the fact that some of the sections of law have now been added exceptions so that that particular individual could carry a concealed weapon in that place. Section 8 is amending section 62.1-02-10, that is the reference to an individual who could carry a loaded firearm in a vehicle. The way it’s written without this language applies to someone who has a concealed weapons or firearm license. The question is if that applies to someone under constitutional carry because they don’t specifically have that license. This language clarifies you can have that license or if you fit that qualification that you’ve been a resident you can also carry in your vehicle.

Senator Myrdal: I was on this interim committee. Page 4 section 4 in the venue where the rights of the individual were revoked- we had testimony in our committee where because we passed constitutional carry, people were coming into North Dakota to get their gun rights back even though their still under revocation in their states. That clarifies this. This was a lengthy process and most of it is clarifications. Law enforcement came to us specifically about

carrying in a car, loaded or not loaded. This constitutional carry applies only in North Dakota and does not apply outside unless you have concealed carry and reciprocity with other states.
Kramer: Correct.

(11:10) Gregory Ian Runge, Attorney for mental health law, testifies in opposition to bill (see attachment #1)

(18:23) Chair Larson: It's your suggestion to say "mental illness and/or a chemical dependency" instead of "mental disability"?

Runge: Yes, I specifically request "mental illness" not "disability".

Vice Chairman Dwyer: Did this come up during the interim at all?

Runge: No, I just found out about this and looked it up yesterday, but there has to be a change.

Vice Chairman Dwyer: The language you provided, mental illness and/or chemical dependent, that is what's in the statute?

Runge: Yes.

Senator Myrdal: Legally what defines "chemically dependent"? Does it include alcoholic?

Runge: A "chemically dependent" person means an individual who has an illness or disorder characterized by a maladaptive pattern of usage of alcohol or drugs, or a combination thereof, resulting in social, occupational, psychological, or physical problems. It covers everything. However, in court it's a two-step process where the state has to prove it first then they also have to prove that it results in the problems listed.

(21:05) Vice Chairman Dwyer: Does the statute require that your clients show a risk of harm to themselves or others?

Runge: State legislature last session changed the statute that when we go to court, an individual who is alleged to be mentally ill and/or chemically dependent, it is the petitioner's duty to prove that my client is mentally ill and/or chemically dependent and requiring treatment. A person requiring treatment is pretty vague. Standing by itself would be unconstitutional. Serious risk of harm has 4 elements that basically covers everything. I have to do some creative arguing in some of my cases.

Chair Larson: In your practice, you help to restore gun rights to people who have had them suspended?

Runge: Only if they hire me. I do mental health cases for the counties. This does not address anything under federal law. Under federal law mental illness is a vague thing. It's nebulous and I don't know what to tell my clients half the time.

Chair Larson closes the hearing on SB 2034.

Vice Chairman Dwyer: I think we need to pass this amendment offered by Mr. Runge because those are defined in statute, and I don't think you can separate them.

Senator Myrdal: I will take this to Legislative Counsel since I was on the interim committee.

2019 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2034
1/9/2019
#30613 (08:18)

- 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 subsection to section 62.1-02-01 and a new subsection to section 62.1-02-10 of the North Dakota Century Code, relating to the possession of firearms; to amend and reenact subsections 3 and 7 of section 62.1-01-01, subdivision c of subsection 1 of section 62.1-02-01, subsection 1 of section 62.1-02-01.1, subsection 1 of section 62.1-02-05, subdivision l of subsection 2 of section 62.1-02-05, section 62.1-02-07, subdivision a of subsection 6 of section 62.1-02-13, and sections 62.1-03-01 and 62.1-04-02 of the North Dakota Century Code, relating to the possession of firearms; and to provide a penalty.

Minutes:

1 Attachment

Chair Larson calls the committee to order on SB 2034.

Chair Larson: I've handed out a proposed amendment that Samantha Kramer prepared. (see attachment #1)

(1:35) Samantha Kramer, Legislative Council

Kramer: This amendment LC 19.0040.04001 removes section 2 from the bill. It is my understanding that there is a potential, unforeseen issue with the use of the word "mental" on page 3 line 28. Simply removing that is an option for the committee. Another consideration would be the change from "or" to "and" on line 29 of page 3. That would be more of a substantive change and that was not considered by the interim Judiciary committee.

(2:40) Senator Bakke: The concern the gentleman had on line 28 is that it should say "a mental illness and/or chemical dependency". He said that mental illness and chemical dependency are two separate things and they both would be appropriate in that spot.

Chair Larson: You are correct-that was what he was looking for. However, when we discussed this with Legislative Council and our intern, it looks like the only thing we had done to make a change in this section anyway was just to add "mental". So just going back to the way it was before is probably the simplest way to deal with this rather than try to negotiate a lot of the different possibilities of how it can be framed. He can go back to the way he was representing it. I think his biggest thing is that we limited it to the one issue, so just deleting

it altogether might be the simplest way to address the problem. That's the solution that Ms. Kramer came up with. Is that correct?

Kramer: Correct.

Senator Myrdal: Does this change anything substantially in the 2nd amendment rights of our gun laws on the larger scale. Does this have any fundamental change?

Kramer: Removing this section from the bill will have no impact on our existing law.

(4:45) Senator Osland: In the code, is disability defined anywhere?

Kramer: Yes, in various places. For purposes of this particular subdivision, lines 23-25 are the particular disability that's being addressed in this area of the law which would include all of those diagnoses that you can't see because they're not included in the bill but they might be listed under those sections that are referenced.

Vice Chairman Dwyer: A person could still petition for relief because there's that provision in the statute, but they just wouldn't have the 3-year limitation?

Kramer: No. This limitation would not apply to a person who has suffered from a disability that is referenced in this section of law. Again you are only seeing the subdivision of that section in the bill

(6:20) Senator Bakke: You're putting the "or" back and striking the "and"?

Kramer: taking this section out of the bill will revert this section to how it exists today. It will read as it does in the Century code.

Vice Chairman Dwyer: moves to adopt amendment 19.0040.04001 to remove language and renumber accordingly

Senator Bakke: Seconds

A Roll Call Vote Was Taken: 6 yeas, 0 nays, 0 absent. Amendment is adopted.

Senator Luick: Moves a Do Pass as Amended

Senator Myrdal: Seconded

A Roll Call Vote Was Taken: 6 yeas, 0 nays, 0 absent. Motion carries.

Senator Luick will carry the bill.

January 9, 2019

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10/1

PROPOSED AMENDMENTS TO SENATE BILL NO. 2034

Page 1, line 3, remove ", subdivision c of"

Page 1, line 4, remove "subsection 1 of section 62.1-02-01"

Page 3, remove lines 18 through 29

Renumber accordingly

**2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2034**

Senate Judiciary Committee

Subcommittee

Amendment LC# or Description: 19.0040.04001

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 Senator Myrdal

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

SB 2034: Judiciary Committee (Sen. D. Larson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2034 was placed on the Sixth order on the calendar.

Page 1, line 3, remove ", subdivision c of"

Page 1, line 4, remove "subsection 1 of section 62.1-02-01"

Page 3, remove lines 18 through 29

Renumber accordingly

2019 HOUSE ENERGY AND NATURAL RESOURCES

SB 2034

2019 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Coteau A Room, State Capitol

SB 2034
2/28/2019
33011

- Subcommittee
 Conference Committee

Committee Clerk, Kathleen Davis

Explanation or reason for introduction of bill/resolution:

Relating to possession of firearms; and to provide a penalty

Minutes:

Chairman Porter: opened the hearing on SB 2034.

Samantha Kramer, Legislative Council: SB 2034 comes out of the interim Judiciary committee. The committee wanted to come up with language to reduce confusion of 62.1. This is all technical corrections. Nothing is changing the law.

- Section 1 and 2 of the bill, the committee felt to take out the restrictions relating to felons out of the definition of firearm or weapon and put in a new subsection, so it's clear what the restrictions were to someone who is a felony conviction.
- Section 3 was raised by BCI, where an individual has had their right to carry a firearm-revoked due to a criminal conviction, and how to get that back. This specifies to go to the venue where the right was revoked to get it back.
- Section 4 is clarification adding additional words to make clear for churches.
- Section 5 is another clarification.
- Section 6 makes it easier to read, active voice instead of passive voice.
- Section 7 & 9 relate to inconsistencies in carrying a loaded firearm in the vehicle, clears that up.
- Section 8 specifically with parents who might have a firearm in the vehicle when you're taking a child to school.
- Section 10 provides a distinction between class 1 and 2, decipher the difference.

Rep. Keiser: Page 2, Line 10-11, what if it's a mental disability?

6:30

Ms. Kramer: I believe this language came from last session. The concern of the committee was, bottom of Page 2, carrying over into Line 3, that subdivision C is removed. The committee thought it was repetitive language and took out the distinction of a retired public servant in good standing that met the qualifications of B1 and C1 to be the same thing.

Chairman Porter: We may have to look at, because of Sub 4 Line 24. I don't have a problem between related and disability because the mental part is covered under Sub 4. We need to be in line with the federal Leosa Act, reciprocity component across the country that we adopted.

Further questions? Further testimony?

8:28

Paul Hammers, US Army retired, and US Judge – in support of the bill. I was solicited on matters regarding this bill. I concur with questions answered.

Chairman Porter: Questions, further support? Opposition? Closed the hearing.

2019 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee

Coteau A Room, State Capitol

SB 2034

4/5/2019

34559

Subcommittee

Conference Committee

Committee Clerk, Kathleen Davis

Explanation or reason for introduction of bill/resolution:

Relating to possession of firearms; and to provide a penalty

Minutes:

Attachment 1

Chairman Porter: opened the hearing on SB 2034. We as a committee decided we would elevate an individual with the same level of training as law enforcement to be able to be in those restricted places. This is the interim bill we worked on. It opened up the chapter of dangerous weapons and conceal carry. It rewrites it into a positive rather than areas of double negatives. That came out of judiciary that had no amendments and sent over to us.

A couple things have come up since we passed armed first responders for schools. There's a component the Senate missed and we can add back in. There's a couple areas as weapons, and less than lethal weapons are starting to be more prevalent where people want restrictions. The question whether we want to allow the building owners or administrator or governing body to allow their staff or individuals in that building to have what is now considered a dangerous weapon but is really less than a lethal weapon, that may fire with CO₂ like pepper ball and other items.

Rep Heinert: presented 05001 as Attachment 1. The main emphasis is a couple things. In Sec. 2, HB 1332, the armed first responder bill, we had offered an amendment requested by the Supt. Of Public Instructions, to allow that agency to consult and work with the Dept of Emergency Services and the Attorney General BCI office to promulgate the administrative rules. All 3 groups would work on that versus just coming out of DPI. That's Page 3 Line 17.

One Page 4 Line 13, Sec. 5 authorizing the less than lethal weapons as part of the security plan for the school and building property. With that I would move Amendment 05001.

Rep. Anderson: second

Chairman Porter: we have a motion and a second to adopt amendment 05001. Discussion? Voice vote, motion carried.

Page 2 Line 11 is the section that deals with the LEOSA for retired law enforcement. We were in the hearing of the bill, if we wanted to add the word after related, add the word

physical so it's very specific on the disability because we are adding language on Lines 10-11 is to match us up with the federal program if we want to make sure it's a physical disability, we should add that as an amendment also.

Rep Heinert: I would agree with that. I am assuming in the future we will be hearing some PTSD bills for law enforcement, firefighters, emergency responders, coming in. I don't know if I would want to be the administrator signing off on someone who's been placed on permanent leave because of PTSD and allowing them to carry. I would agree with the amendment.

Rep. Roers Jones: I would so move, Line 11 of Page 2, after the word related we insert the word physical.

Rep. Anderson: second.

Chairman Porter: We have a motion and a second to further amend, Line 11 of Page 2, after the word related we insert the word physical. Discussion? Voice vote, motion carried.

Rep Heinert: I would move a Do Pass as Amended on SB 2034.

Rep. Roers Jones: second.

Chairman Porter: We have a motion and a second for a Do Pass as amended on SB 2034. Discussion? Roll call vote: 11 yes, 0 no, 3 absent.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2034

Page 1, line 1, after "62.1-02-01" insert ", a new subsection to section 62.1-02-05,"

Page 1, line 3, after the semicolon insert "to amend and reenact subsection 1 of the new section to chapter 62.1-02 of the North Dakota Century Code as created by section 1 of House Bill No. 1332, as approved by the sixty-sixth legislative assembly, relating to the carrying of a concealed firearm on school property by qualified individuals;"

Page 3, after line 17, insert:

"SECTION 2. AMENDMENT. Subsection 1 of the new section to chapter 62.1-02 of the North Dakota Century Code as created by section 1 of House Bill No. 1332, as approved by the sixty-sixth legislative assembly, is amended and reenacted as follows:

1. The superintendent of public instruction, in consultation with the department of emergency services and the attorney general, shall adopt rules to administer this section and develop criteria for approval of plans under this section."

Page 4, after line 13, insert:

"SECTION 5. A new subsection to section 62.1-02-05 of the North Dakota Century Code is created and enacted as follows:

This section does not prevent the governing body of a school or the entity exercising control over a publicly owned or operated building or property from authorizing the use of a less than lethal weapon as part of the security plan for the school, building, or property."

Renumber accordingly

DO 4/5/19

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2034

Page 1, line 1, after "62.1-02-01" insert ", a new subsection to section 62.1-02-05,"

Page 1, line 3, after the semicolon insert "to amend and reenact subsection 1 of the new section to chapter 62.1-02 of the North Dakota Century Code as created by section 1 of House Bill No. 1332, as approved by the sixty-sixth legislative assembly, relating to the carrying of a concealed firearm on school property by qualified individuals;"

Page 2, line 11, after "service-related" insert "physical"

Page 3, after line 17, insert:

"SECTION 2. AMENDMENT. Subsection 1 of the new section to chapter 62.1-02 of the North Dakota Century Code as created by section 1 of House Bill No. 1332, as approved by the sixty-sixth legislative assembly, is amended and reenacted as follows:

1. The superintendent of public instruction, in consultation with the department of emergency services and the attorney general, shall adopt rules to administer this section and develop criteria for approval of plans under this section."

Page 4, after line 13, insert:

"SECTION 5. A new subsection to section 62.1-02-05 of the North Dakota Century Code is created and enacted as follows:

This section does not prevent the governing body of a school or the entity exercising control over a publicly owned or operated building or property from authorizing the use of a less than lethal weapon as part of the security plan for the school, building, or property."

Renumber accordingly

Date: 4-5-19
Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2034

House Energy and Natural Resources Committee

Subcommittee

Amendment LC# or Description: 19.0040 . 05001

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 Heinert Seconded By Rep Anderson

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter			Rep. Lefor		
Vice Chairman Damschen			Rep. Marschall		
Rep. Anderson			Rep. Roers Jones		
Rep Bosch			Rep. Ruby		
Rep. Devlin			Rep. Zubke		
Rep. Heinert					
Rep. Keiser			Rep. Mitskog		
			Rep. Eidson		

Total (Yes) _____ No _____

Absent _____

Floor Assignment Voice vote. Motion carried

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

Date: 4-5-19
Roll Call Vote #: 2

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2034

House Energy and Natural Resources 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 Roers Jones Seconded By Rep Anderson

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter			Rep. Lefor		
Vice Chairman Damschen			Rep. Marschall		
Rep. Anderson			Rep. Roers Jones		
Rep. Bosch			Rep. Ruby		
Rep. Devlin			Rep. Zubke		
Rep. Heinert					
Rep. Keiser			Rep. Mitskog		
			Rep. Eidson		

Total (Yes) _____ No _____

Absent _____

Floor Assignment Voice Vote. Motion carried

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

Ln 11 pg 2 after "service-related" insert "physical".

Date: 4-5-19
 Roll Call Vote #: 3

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2034**

House Energy and Natural Resources Committee

Subcommittee

Amendment LC# or Description: 19.0040.05002

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 Heinert Seconded By Rep Roers Jones

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter	✓		Rep. Lefor	✓	
Vice Chairman Damschen	AB		Rep. Marschall	✓	
Rep. Anderson	✓		Rep. Roers Jones	✓	
Rep. Bosch	✓		Rep. Ruby	AB	
Rep. Devlin	✓		Rep. Zubke	✓	
Rep. Heinert	✓				
Rep. Keiser	AB		Rep. Mitskog	✓	
			Rep. Eidson	✓	

Total (Yes) 11 No 0

Absent 3

Floor Assignment Rep Marschall

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

REPORT OF STANDING COMMITTEE

SB 2034, as engrossed: Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). Engrossed SB 2034 was placed on the Sixth order on the calendar.

Page 1, line 1, after "62.1-02-01" insert ", a new subsection to section 62.1-02-05,"

Page 1, line 3, after the semicolon insert "to amend and reenact subsection 1 of the new section to chapter 62.1-02 of the North Dakota Century Code as created by section 1 of House Bill No. 1332, as approved by the sixty-sixth legislative assembly, relating to the carrying of a concealed firearm on school property by qualified individuals;"

Page 2, line 11, after "service-related" insert "physical"

Page 3, after line 17, insert:

"SECTION 2. AMENDMENT. Subsection 1 of the new section to chapter 62.1-02 of the North Dakota Century Code as created by section 1 of House Bill No. 1332, as approved by the sixty-sixth legislative assembly, is amended and reenacted as follows:

1. The superintendent of public instruction, in consultation with the department of emergency services and the attorney general, shall adopt rules to administer this section and develop criteria for approval of plans under this section."

Page 4, after line 13, insert:

"SECTION 5. A new subsection to section 62.1-02-05 of the North Dakota Century Code is created and enacted as follows:

This section does not prevent the governing body of a school or the entity exercising control over a publicly owned or operated building or property from authorizing the use of a less than lethal weapon as part of the security plan for the school, building, or property."

ReNUMBER accordingly

2019 TESTIMONY

SB 2034

#1
SB 2034
1/9/2019

Testimony on Senate Bill No. 2034
by Gregory Ian Runge
(701 222-1808)

Madam Chairperson and Members of the Senate Judiciary Committee:

My name is Gregory Ian Runge. I am an attorney practicing mental health law here in the Bismarck/Mandan area. Specifically, I am contracted to work as a county public defender. I am contracted with Burleigh and Morton Counties to represent respondents who have been petitioned for an involuntary commitment. I have been practicing mental health law for the last thirty (30) years. To this end, I am here to testify against **Section 2. Amendment** on page three (3) of Senate Bill No. 2034.

At the outset, I need to state that back when this body originally passed section 62.1-02-01, subsection 1, subdivision c of the North Dakota Century Code, this body included the following statement. I quote, in part,

c. A person who is or has ever been diagnosed and confined or committed to a hospital or other institution in this state or elsewhere by a court of competent jurisdiction, other than a person who has had the petition that provided the basis for the diagnosis, confinement, or commitment dismissed under section 25-03.1-17, 25-03.1-18, or 25-03.1-19, or equivalent statutes of another jurisdiction, ***as a person requiring treatment as defined in section 25-03.1-02***, or as a mentally deficient individual, is prohibited from purchasing a firearm or having one in possession or under control. This limitation does not apply to a person who has not suffered from the disability for the previous three years or who has successfully petitioned for relief under section 62.1-02-01.2.

N.D.C.C. 62.1-02-01 §1 §§ c (2017) (Emphasis added).

Please note that I have highlighted a portion of this statute for a reason. This will be explained shortly.

As I stated at the outset, I am here to testify against this section of the Senate Bill

#1
SB 2034
1/9

because you have not included all of the individuals who are grouped in the above highlighted verbiage. That is, you only include persons that have a “mental disability.”

See, S.B. NO. 2034, Line 28. You have not included a “chemically dependant” person.

Under section 25-03.1-02 §13 of the North Dakota Century Code, a:

“Person requiring treatment” means a person who is mentally ill or a person who is chemically dependent, and there is a reasonable expectation that if the individual is not treated for the mental illness or chemical dependency there exists a serious risk of harm to that individual, others, or property.

N.D.C.C. 25-03.1-02§13 (2017). (Emphasis added).

As such, this bill does not treat “chemically dependant” individuals with equal status thereby denying “chemically dependant” individuals equal protection under the law and would be unconstitutional. However, a possible remedy would be to strike the term “a mental disability” to read “mentally illness and/or a chemically dependancy.”

Thank you for your attention and if you have questions, I would be happy to answer them.

Gregory Ian Runge

COMPARISON OF ALL CASES FROM 2015-2017

	<u>2015</u>		<u>2016</u>		<u>2017</u>	
	No.	%	No.	%	No.	%
Total Cases:	179	100	208	100	251	100
Chemical:	36	20	35	17	45	18
Mental:	72	40.3	92	44	99	39
Both:	71	39.7	81	39	107	43
Total Actions:	179	100	220*	100	299*	100
Waivers:	78	43.5	103	47	141	47
Dismissals:	80	44.7	94	43	131	44
Court:	21	11.8	23	10	27	09

* Information below applies only to 2016 and 2017 case actions:

All cases with a W code in the are included here. Some have two W's and are counted as two.

All cases coded with a D are included here.

All cases that went to court are included here. Some cases went to court more than once.

There was a 13.9% increase in the total number of cases from 2015 - 2016.

There was a 17% increase in the total number of cases from 2016 -2017.

There was a 29% increase in the total number of cases from 2015 -2017.

19.0040.04001
Title.

Prepared by the Legislative Council staff for
Senator D. Larson

January 9, 2019

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SB 2034
1/9/19

PROPOSED AMENDMENTS TO SENATE BILL NO. 2034

Page 1, line 3, remove ", subdivision c of"

Page 1, line 4, remove "subsection 1 of section 62.1-02-01"

Page 3, remove lines 18 through 29

Renumber accordingly

19.0040.05001
Title.

Prepared by the Legislative Council staff for Representative Heinert

April 3, 2019

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2034

Page 1, line 1, after "62.1-02-01" insert ", a new subsection to section 62.1-02-05,"

Page 1, line 3, after the semicolon insert "to amend and reenact subsection 1 of the new section to chapter 62.1-02 of the North Dakota Century Code as created by section 1 of House Bill No. 1332, as approved by the sixty-sixth legislative assembly, relating to the carrying of a concealed firearm on school property by qualified individuals;"

Page 3, after line 17, insert:

"SECTION 2. AMENDMENT. Subsection 1 of the new section to chapter 62.1-02 of the North Dakota Century Code as created by section 1 of House Bill No. 1332, as approved by the sixty-sixth legislative assembly, is amended and reenacted as follows:

1. The superintendent of public instruction, in consultation with the department of emergency services and the attorney general, shall adopt rules to administer this section and develop criteria for approval of plans under this section."

Page 4, after line 13, insert:

"SECTION 5. A new subsection to section 62.1-02-05 of the North Dakota Century Code is created and enacted as follows:

This section does not prevent the governing body of a school or the entity exercising control over a publicly owned or operated building or property from authorizing the use of a less than lethal weapon as part of the security plan for the school, building, or property."

Renumber accordingly