

**2023 HOUSE HUMAN SERVICES**

**HB 1338**

# 2023 HOUSE STANDING COMMITTEE MINUTES

## Human Services Committee Pioneer Room, State Capitol

HB 1338  
1/17/2023

Relating to collection of samples for DNA testing and chemical tests to determine alcohol concentration and presence of drugs for individuals operating motor vehicles; and to declare an emergency.
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Chairman Weisz called the meeting to order at 9:01 AM.

Chairman Robin Weisz, Vice Chairman Matthew Ruby, Reps. Karen A. Anderson, Mike Beltz, Clayton Fegley, Kathy Frelich, Dawson Holle, Dwight Kiefert, Carrie McLeod, Todd Porter, Brandon Prichard, Karen M. Rohr, Jayme Davis, and Gretchen Dobervich. All present.

### **Discussion Topics:**

- Cotton buccal swabs
- New drug test kits
- Change in policy language
- Amendment

Rep. Porter introduced HB 1338, speaking in favor of bill.

Claire Ness, Chief Deputy Attorney General, provided testimony in support of HB 1338 (#20507).

Chairman Weisz adjourned the meeting at 9:12 AM.

*Phillip Jacobs, Committee Clerk*

# 2023 HOUSE STANDING COMMITTEE MINUTES

## Human Services Committee Pioneer Room, State Capitol

HB 1338  
1/17/2023

Relating to collection of samples for DNA testing and chemical tests to determine alcohol concentration and presence of drugs for individuals operating motor vehicles; and to declare an emergency.
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Chairman Weisz called the meeting to order at 2:33 PM.

Chairman Robin Weisz, Vice Chairman Matthew Ruby, Reps. Karen A. Anderson, Mike Beltz, Clayton Fegley, Kathy Frelich, Dawson Holle, Dwight Kiefert, Carrie McLeod, Todd Porter, Brandon Prichard, Karen M. Rohr, Jayme Davis, and Gretchen Dobervich. All present.

### Discussion Topics:

- Committee work
- Amendment

Rep. Anderson moved to adopt amendment (23.0895.01001) as follows:

Page 1, line 9, remove the overstrike over “or other body fluids”

Page 1, line 9, remove “only”

Renumber accordingly

Chairman Weisz read the proposed amendment (23.0895.01001) to HB 1338.

Motion seconded by Rep. Rohr.

Motion carried by voice vote.

Rep. Rohr moved a do pass as amended

Seconded by Rep. McLeod.

Roll Call Vote:

Representatives	Vote
Representative Robin Weisz	Y
Representative Matthew Ruby	Y
Representative Karen A. Anderson	Y
Representative Mike Beltz	Y

Representative Jayme Davis	Y
Representative Gretchen Dobervich	Y
Representative Clayton Fegley	Y
Representative Kathy Frelich	Y
Representative Dawson Holle	Y
Representative Dwight Kiefert	Y
Representative Carrie McLeod	Y
Representative Todd Porter	Y
Representative Brandon Prichard	Y
Representative Karen M. Rohr	Y

Motion carries 14-0-0.

Carried by Rep. Fegley.

Chairman Weisz adjourned the meeting at 2:37 PM.

*Phillip Jacobs, Committee Clerk*

January 17, 2023

*Atx  
1-17-23  
(1-1)*

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1338

Page 1, line 9, remove the overstrike over "~~or other body fluids~~"

Page 1, line 9, remove "only"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1338: Human Services Committee (Rep. Weisz, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1338 was placed on the Sixth order on the calendar.

Page 1, line 9, remove the overstrike over "~~or other body fluids~~"

Page 1, line 9, remove "only"

Renumber accordingly

**2023 SENATE JUDICIARY**

**HB 1338**

# 2023 SENATE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Peace Garden Room, State Capitol

HB 1338  
3/20/2023

A bill relating to collection of samples for DNA testing and chemical tests to determine alcohol concentration and presence of drugs for individuals operating motor vehicles; and to declare an emergency.

10:30 AM Chairman Larson opened the meeting.  
Chairman Larson and Senators Myrdal, Luick, Estenson, Sickler, Braunberger and Paulson are present.

**Discussion Topics:**

- DNA sample collection
- Crime laboratory
- Supply chain issues
- Qualified sample collectors

10:30 AM Representative Todd Porter introduced the bill.

10:32 AM Jennifer Penner, Interim Director, North Dakota State Crime Laboratory, spoke in favor of the bill.

10:37 AM Chairman Larson closed the public hearing.

10:37 AM Senator Myrdal moved to Do Pass the bill.  
Motion seconded by Senator Estenson.

10:37 AM Roll call vote was taken.

<b>Senators</b>	<b>Vote</b>
Senator Diane Larson	Y
Senator Bob Paulson	Y
Senator Jonathan Sickler	Y
Senator Ryan Braunberger	Y
Senator Judy Estenson	Y
Senator Larry Luick	Y
Senator Janne Myrdal	Y

Motion passes 7-0-0.

Senator Larson will carry the bill.

10:37 AM This bill does not affect workforce development.

10:37 AM Chairman Larson closed the meeting.

*Rick Schuchard, Committee Clerk*



**REPORT OF STANDING COMMITTEE**

**HB 1338, as engrossed: Judiciary Committee (Sen. Larson, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1338 was placed on the Fourteenth order on the calendar. This bill does not affect workforce development.

**TESTIMONY**

**HB 1338**



Drew H. Wrigley  
ATTORNEY GENERAL

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**HOUSE BILL NO. 1338**

**TESTIMONY OF CLAIRE NESS**

**JANUARY 17, 2023**

Mr. Chairman and members of the House Human Services Committee:

I am Claire Ness, Chief Deputy Attorney General, and I appear on behalf of the Attorney General in support of House Bill 1338.

Section 1 of House Bill 1338 amends N.D.C.C. § 31-13-04 regarding collection of DNA samples to be added to the DNA database identification system. DNA samples are collected from individuals by using a cotton buccal swab to swab the inside of an individual's cheek. The State Crime Laboratory has found that DNA samples collected with cotton buccal swabs are degrading after about 10 years making it difficult for the Lab to retest those samples when needed to confirm a database match. The Lab intends to begin using collection kits that have a sponge type applicator to obtain the DNA sample. The new kits include special paper containing a preservative to protect the sample and prevent degradation of the sample.

The Lab occasionally receives DNA samples from individuals in jail which were collected by someone who was not qualified by the Lab. Under current law, those samples may not be included in the DNA database identification system. For this reason, Section 1 of House Bill 1338 has language to remove the qualification requirement and allow all licensed peace officers to collect DNA samples.

Section 2 is simply a housekeeping amendment to make N.D.C.C. § 39-20-07(10) consistent with changes to the North Dakota Century Code made in 2005. That year, House Bill 1088 was introduced as a housekeeping bill to replace “state toxicologist” with “the director of the state crime laboratory or the director’s designee” in multiple sections. This change enabled the Lab to operate more efficiently by allowing the director to delegate responsibilities to crime laboratory personnel. Section 2 would change a reference to lab methods approved by the state toxicologist to methods approved by the director or director’s designee.

An emergency clause is added to the bill so the Lab can begin utilizing the new kits immediately. There have been supply chain difficulties in obtaining the old kits, and the new collection kits will ensure that samples are preserved longer than 10 years.