

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1379

2001 HOUSE JUDICIARY

HB 1379

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1379

House Judiciary Committee

Conference Committee

Hearing Date 01-31-01

Tape Number	Side A	Side B	Meter #
TAPE II	X		1816 to 3419

Committee Clerk Signature *J. van Diers*

Minutes: Chairman DeKrey opened the hearing on HB 1379, Relating to detection of deception examiners.

Rep Grande: District 41, Fargo, introduced the bill, this would give the right to use something other than polygraph. Page 1, line 8 - a is the new language of the bill. The amendment to the will is to take out the word it and add the new language on lines 20, 21, 22.

Li Rick Majerus: Chief Investigator of Cass County Sheriff Office, (see attached testimony).

Rep Delmore: What other devices do they want to use and how reliable are they?

Rick Majerus: They left the language vague, because they don't know what will be coming up in the future.

Rep Delmore: Why are we creating this bill, stress devices aren't as reliable.

Rick Majerus: This would be another tool for law enforcement that do not have polygraph. North Dakota is one of eight states that you cannot use anything but the polygraph.

Rep Fekre: Give law enforcement any tool, this opens it up a lot.

Rick Majerus: This is left for future techknowledge.

Rep Eickre: North Dakota is one of eight states, have you checked out other states have written this.

Rick Majerus: The basis of this law is Tennessee also talked to Minnesota.

Rep Mahoney: Maybe a solution would be to fashion this after our implied consent laws? Maybe something approved by the Attorney Generals Office.

Rick Majerus: That is correct, by changing the original amendment of the bill, it would have to be approved by the Attorney General.

Rep Mahoney: The amendment refers to courses, maybe we should add the devices.

Rick Majerus: I would agree.

Chairman DeKrey: If there are no further questions, thank you for appearing.

It Doug Locker: Minot polygraph examiner. My concerns have been addressed. The only other things I would like to see is the devise should be named and tested. Administrataive Code title 10 has definitions there and we could use the defined language there.

Chairman DeKrey: Are there any questions.

Rep Mahoney: Couldn't that be put into agency management type of thing, machines, courses and so on.

Chairman DeKrey: Does any one else wish to testify in support of HB 1379? Anyone wish to testify against HB 1379? We will close the hearing on HB 1379.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1379a

House Judiciary Committee

Conference Committee

Hearing Date 02-12-01

Tape Number	Side A	Side B	Meter #
TAPE 1		x	2515 to 2557
Committee Clerk Signature <i>Juan Davis</i>			

Minutes: Chairman DeKrey called the committee to order, we will take up HB 1379. This is the bill on detection of deception examiners.

Rep Grande: explains the amendments.

COMMITTEE ACTION

Rep Grande moved the amendments and Rep Maragos seconded.

DISCUSSION

A voice vote was taken on the amendments, motion carries

Chairman DeKrey: What are the wishes of the committee? Rep Delmore moved a DO PASS as amend, seconded by Rep Kingsbury.

DISCUSSION

The clerk will call the roll on a DO PASS as amend motion on HB 1379. The motion passes with 14 YEA, 0 NO and 1 ABSENT Carrier Rep Wrangham

VK  
2/12/01

**HOUSE AMENDMENTS TO HB 1379 HOUSE JUDICIARY 02-13-01**

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new subsection to section 44-08-20 of the North Dakota Century Code, relating to the authority of peace officers to use certain instruments or devices.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1.** A new subsection to section 44-08-20 of the North Dakota Century Code is created and enacted as follows:

To use any instrument or device to detect deception or to verify truth of statements which meets minimum instrumentation standards and which the peace officer has been licensed by the attorney general to operate."

Renumber accordingly

Date: 02-12-01  
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1379

House JUDICIARY Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass as amend

Motion Made By Rep Delmore Seconded By Rep Kingsbury

Representatives	Yes	No	Representatives	Yes	No
CHR - Duane DeKrey	✓				
VICE CHR -- Wm E Kretschmar	✓				
Rep Curtis E Brekke	✓				
Rep Lois Delmore	✓				
Rep Rachael Disrud					
Rep Bruce Eckre	✓				
Rep April Fairfield	✓				
Rep Bette Grande	✓				
Rep G. Jane Gunter	✓				
Rep Joyce Kingsbury	✓				
Rep Lawrence R. Klemin	✓				
Rep John Mahoney	✓				
Rep Andrew G Maragos	✓				
Rep Kenton Onstad	✓				
Rep Dwight Wrangham	✓				

Total (Yes) 14 No 0

Absent 1

Floor Assignment Rep Wrangham

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

**REPORT OF STANDING COMMITTEE**

**HB 1379: Judiciary Committee (Rep. DeKrey, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1379 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new subsection to section 44-08-20 of the North Dakota Century Code, relating to the authority of peace officers to use certain instruments or devices."

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1.** A new subsection to section 44-08-20 of the North Dakota Century Code is created and enacted as follows:

To use any instrument or device to detect deception or to verify truth of statements which meets minimum instrumentation standards and which the peace officer has been licensed by the attorney general to operate."

Renumber accordingly



2001 SENATE JUDICIARY

HB 1379

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1379

Senate Judiciary Committee

Conference Committee

Hearing Date March 14th, 2001

Tape Number	Side A	Side B	Meter #
1	X		0-22.9
2	X		52-end
2		x	0-5.4
Committee Clerk Signature			

Minutes: **Senator Traynor**, opened the hearing on HB 1379.

**Rep. Grande**, testifies in favor of HB 1379. Primary sponsor of the bill

**Lt. Rick Majerus**, Cass County Sheriff's Department, (testimony attached) supports the bill.

**Senator Watne**, has this been approved by the Attorney General and is it in their budget?

**Rick Majerus**, the Attorney General has approved the polygraph machine use. The Attorney General has in place a certification process for these machines. Officer still needs to be certified.

**Senator Trenbeath**, are poly operators licensed by the state? If the results are not admissible in court, why do we need this?

**Rick Majerus**, same question came up in the house. Polygraph is the only instrument certified.

**Senator Trenbeath**, people can't administer without being certified.

**Rick Majerus**, the bill was drawn up that way. In discussion with the poly operators they didn't want to hurt the amendment.

**Senator Bercler**, have the support of poly examiners, are there any here today? Will we hear from them?

**Bob Bennet**, from the office of the Attorney General, quite a few courts have treated the "voice stress analysis" machine just like a polygraph machine. Polygraph machines can only be used as evidence if people consent to it. Have 16 people licensed as polygraph operators in ND. May not be impossible to do-but don't know why may happen.

**Senator Traynor**, if this passes, would the attorney general need an appropriation?

**Bob Bennet**, I would assume that we would need it, with the hearing process and licensing. There will be a cost involved.

**Senator Nelson**, costs less than 5,000 dollars?

**Bob Bennet**, I don't know, I assume less than 5,000.

**Dave Cysneski**, Detective for the Bismarek Police Department. Concern that legislation not taint the process we presently use. Had to do 50 field tests before licensing. Don't know requirements for other machines as far as licensing. Went to school as a polygraph examiner in 1998. Polygraph has been around for about 100 years and is an effective tool for detecting truth and deception.

**Senator Lyson**, would it be fair to say that FBI grads do this?

**Dave Cysneski**, don't have any experience with the FBI.

**Senator Lyson**, any graduates from the FBI in you department?

**Dave Cysenski**, yes we have some.

**Senator Lyson**, have you discussed this with them?

**Senator Bercler**, are there other technologies in the next two years?

**Dave Cysenski**, No I am not. Some departments would like to use voice stress analysis.

Page 3

Senate Judiciary Committee

Bill/Resolution Number 1379

Hearing Date March 14th, 2001

**Senator Watne, galvanizes what is it?**

**Dave Cysenski, may feel BP use it.**

**Senator Traynor, closed the hearing on HB 1379.**

**SENATOR WATNE MOTIONED TO DO NOT PASS, SECONDED BY SENATOR  
TRENBEATH. VOTE INDICATED 4 YEAS, 3 NAYS AND 0 ABSENT AND NOT  
VOTING. SENATOR DEVER VOLUNTEERED TO CARRY THE BILL.**

10618.0101  
Title.0200

Prepared by the Legislative Council staff for  
Representative Grande  
February 6, 2001

**PROPOSED AMENDMENTS TO HOUSE BILL NO. 1379**

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new subsection to section 44-08-20 of the North Dakota Century Code, relating to the authority of peace officers to use certain instruments or devices.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1.** A new subsection to section 44-08-20 of the North Dakota Century Code is created and enacted as follows:

To use any instrument or device to detect deception or to verify truth of statements which meets minimum instrumentation standards and which the peace officer has been licensed by the attorney general to operate."

Renumber accordingly

Date: 3/14/01  
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

Senate Judiciary Committee

Subcommittee on \_\_\_\_\_

or

Conference Committee

Legislative Council Amendment Number HB 1379

Action Taken Do Not Pass

Motion Made By Watne Seconded By Trenbeath

Senators	Yes	No	Senators	Yes	No
Traynor, J. Chairman	✓		Bercier, D.		✓
Watne, D. Vice Chairman	✓		Nelson, C.		✓
Dever, D.	✓				
Lyson, S.		✓			
Trenbeath, T.	✓				

Total (Yes) 4 No 3

Absent \_\_\_\_\_

Floor Assignment ~~Trenbeath~~ Dever

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

**REPORT OF STANDING COMMITTEE (410)**  
March 15, 2001 8:21 a.m.

Module No: SR-45-5648  
Carrier: Dever  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**HB 1379, as engrossed: Judiciary Committee (Sen. Traynor, Chairman) recommends DO NOT PASS (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1379 was placed on the Fourteenth order on the calendar.**

2001 TESTIMONY

HB 1379



**Testimony in support of House Bill No. 1379  
To the house Judiciary Committee  
On January 31, 2001**

I am here to testify in support of House bill 1379, because I believe it will help law enforcement to provide better service to the public they serve.

Under current law, the only detection of deception machine that is allowed is the polygraph machine. I am not here to argue the validity of the polygraph machine or any other detection of deception machine. But rather I am here to have the legislative body give law enforcement the ability to use any technology at it's disposal. As the law is currently written it is much like telling law enforcement what kind of vehicle to drive or what kind of weapon to use rather than giving them the choice to use what best fits their needs

House bill 1379 allows the ability for law enforcement to use other deception machines that meet instrumentation requirements set fourth by the Attorney General of North Dakota. I have discussed this bill with many of my colleagues across the state and have had a lot of success with getting their support of this bill. It was never my intention to affect the integrity of the current law as it deals with the polygraph machine, but rather augment the usefulness of detection of deception machines.

I have also talked with several currently certified polygraph examiners and have gained their support as well, as long as the examiner portion of the law stays intact. Therefore, I would ask that the amended change in section 43-31-03 not be changed to exempt law enforcement but rather leave it the same except for

the minor change as noted toward the bottom of the page from himself to oneself. This will still make sure that an operator of any device will still have to be licensed and certified to operate the device by the attorney general.

I would also like to amend 43-31-07 subsection 5 to read as follows: Who has satisfactorily completed a polygraph examiners course, or other certified courses for any deception detection device approved by the attorney general. I believe this would allow the use of the polygraph and other deception detection devices by trained and attorney general licensed examiners.

I would like to thank you for your time and consideration on House Bill 1379 and ask you for a do pass.

Thank you.

Lt. Rick Majerus, Chief Investigator  
Cass County Sheriff Office

**Testimony in Support of House Bill No. 1379  
To The Senate Judiciary Committee  
On March 14, 2001**

I am here to testify in support of House bill 1379 because I believe it will help law enforcement to provide better service to the public they serve.

Under current law, the only detection of deception machine that is allowed is the polygraph machine. I am not here to argue the validity of the polygraph machine or any other detection of deception machine. But rather I am here to have the Legislative body give law enforcement the ability to use any technology at it's disposal. As the law is currently written it is much like telling law enforcement what kind of vehicle to drive, or what kind of weapon to use rather than giving them the choice to use what best fits their needs.

House bill 1379 allows the ability for law enforcement to use other deception machines such as computer stress analyzers that meet instrumentation requirements set forth by the Attorney General of North Dakota.

I have discussed this bill with many of my colleagues across the state and have had a lot of success with getting their support of this bill. It was never my intention to affect the integrity of the current law as it deals with the polygraph machine, but rather augment the usefulness of detection of deception machines.

I have also talked with several currently certified polygraph examiners and have gained their support as well, as long as the examiner portion of the law stays intact.

Therefore, after the first reading of this bill the house amended the bill and simply wrote it up as an addition to section 44-08-20 which deals with powers of peace officers. With this amendment

the use of other detection of deception machines would be allowable without affecting the polygraph examiner law. This will also make sure that an operator of any machine will still have to be licensed and certified to operate the machine by the Attorney General.

I would like to thank you for your time and consideration on House Bill 1379 and ask you for a do pass.

Lt. Rick Majerus, Chief Investigator  
Cass County Sheriff's Office