

# MICROFILM DIVIDER

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



ROLL NUMBER

DESCRIPTION

14401

2001 HOUSE JUDICIARY

HB 1401

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1401

House Judiciary Committee

Conference Committee

Hearing Date 01-31-01

Tape Number	Side A	Side B	Meter #
TAPE 1	x		4898 to 6232
TAPE 1		x	01 to 455
Committee Clerk Signature <i>Joan Diers</i>			

Minutes: Chairman DeKrey opened the hearing on HB 1401. Relating to inmate accounts, payment of inmate financial obligations and payment for medical and health care costs.

Rep Koeber: District 48, Jamestown. I am here to introduce HB 1401 and to offer some amendments to the bill. He goes over the amendments.

Rep Klemm: on page 2 line 9, why did you put that in there?

Rep Kroeber: It was to be sure that it was understood that this would not take away their responsibility.

Rep Klemm: We have a bill to expand DNA tests. Would the criminal pay for the cost of the test. Does this change that?

Rep Kroeber: Is the inmate required to pay for the DNA test?

Rep Klemm: We are considering it.

Rep Kroeber: One of the problems we had is in the responsibility of the insurance company. The company think health care is the responsibility of the county. This is going to help in that area.

Page 2

House Judiciary Committee

Bill/Resolution Number HB 1401

Hearing Date 01-31-01

Mareje Fischer: from the Stutsman County Correctional Center. The correctional officers around the state felt that we needed some clarification of the health care costs. The amendments were made as a result of a second meeting of the administrators with the Attorney General's Office. Necessary emergency care, we will still provide, we must provide by statute. There are certain requirements by statute and she listed those.

Rep Klemin: Asked a question on requirements of the Correctional Facility.

Mareje Fischer: responded that he was correct.

Chairman DeKrey: Thank you for appearing. Anyone else wishing to testify?

TAPE 1 SIDE B

Mike Schwindt: Child Enforcement Director for the Department of Human Services. (see attached testimony)

Chairman DeKrey: Any questions , thank you for appearing.

Kent Sorenson: Attorney General's Office. Had some amendments for HB 1401. Discussed the due process hearing. Correction facilities have no objection to this bill.

Vice Chair Kretschmar: Would you have any concern for child support.

Kent Sorenson: I don't believe so.

Rep Klemin: With regard to the hearing, you don't need to have a hearing?

Kent Sorenson: Yes, if there is a court order and they have received their due process.

Rep Klemin: In other cases, are there some type of hearing?

Kent Sorenson: It would be a due process, they would have had a hearing.

Chairman DeKrey: Are there any questions, thank you for appearing before the committee. If not we will close the hearing on HB 1401.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. Hb 1401a

House Judiciary Committee

Conference Committee

Hearing Date 02-12-01

Tape Number	Side A	Side B	Meter #
TAPE II	x		711 to 1005
Committee Clerk Signature <i>Joan Diers</i>			

Minutes: Chairman DeKrey, we will take a look at Hb 1401. There is an amendment on that on.

Rep Kroeber brought that in to clean up the bill.

COMMITTEE ACTION

Rep Delmore moved the Kroeber amendments, seconded by Rep Grande.

DISCUSSION

Chairman DeKrey asked for a voice vote on the amendments, motion carried.

Rep Kingsbury moved a DO PASS as amend, seconded by Rep Mahoney. The clerk will call the roll on a DO PASS as amend on HB 1401. The motion passes with 13 YES, 0 NO and 2

ABSENT. Carrier is Rep Kingsbury.

**FISCAL NOTE**  
 Requested by Legislative Council  
 01/23/2001

Bill/Resolution No.: HB 1401

Amendment to:

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

- This legislation would allow county correctional facilities, under direction of the correctional administrator, to collect funds from inmate financial accounts for the purpose of paying legitimate financial obligations. These obligations include court ordered obligations, which would not result in any financial revenue or expenditure for the correctional facility. It would allow the correctional facility to be the pass-through agency for financial payment of these obligations.
- This legislation would also allow correctional facilities, under direction of the correctional administrator, to collect inmate funds for certain medical costs. This collection would be a co-payment or reimbursement for certain medical treatments. Since all correctional facilities currently have in place some form of accounting practice for inmate accounts, this legislation would have no significant fiscal impact.
- This legislation would have no fiscal impact on the Department of Corrections and Rehabilitation.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

N/A.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

N/A.

**C Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

N/A

<b>Name:</b>	Elaine Little	<b>Agency:</b>	Dept. of Corrections & Rehab.
<b>Phone Number:</b>	701-328-6390	<b>Date Prepared:</b>	01/26/2001

**Proposed Amendments to House Bill No. 1401**

Page 1, line 9, replace "may" with "shall"

Page 1, line 10, remove: "Not more than fifty percent of the earnings and funds an Inmate receives"

Page 1, remove lines 11 through 15

Page 2, line 3, replace "sick call charges" with "medical visit", replace "five" with "ten", replace "per sick call" with "per medical visit made at the request of an Inmate"

Page 2, line 9, after "carrier." insert: "A correctional facility may not assess an Inmate for any costs associated with an intake health care assessment and related testing or for an examination of an Inmate made at the request of the facility."

Renumber accordingly



VK  
2/12/01

HOUSE AMENDMENTS TO HB 1401 HOUSE JUDICIARY 02-13-01

Page 1, line 9, replace "may" with "shall"

Page 1, line 10, remove "Not more than fifty percent of the earnings and funds an inmate receives"

Page 1, remove lines 11 through 15

HOUSE AMENDMENTS TO HB 1401 HOUSE JUDICIARY 02-13-01

Page 2, line 3, replace "sick call charges" with "a medical visit", replace "five" with "ten", and replace "sick call" with "medical visit made at the request of an inmate"

Page 2, line 9, after the period insert "A correctional facility may not assess an inmate for any costs associated with an intake health care assessment and related testing or for an examination of an inmate made at the request of the facility."

Renumber accordingly

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

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. H131401

House JUDICIARY Committee

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

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

Action Taken Do Pass as amend

Motion Made By Rep Kingsbury Seconded By Rep Mahoney

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. Klenin	✓				
Rep John Mahoney	✓				
Rep Andrew G Maragos					
Rep Kenton Onstad	✓				
Rep Dwight Wrangham	✓				

Total (Yes) 13 No 0

Absent 2

Floor Assignment Rep Kingsbury

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

**REPORT OF STANDING COMMITTEE**

HB 1401: Judiciary Committee (Rep. DeKrey, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1401 was placed on the Sixth order on the calendar.

Page 1, line 9, replace "may" with "shall"

Page 1, line 10, remove "Not more than fifty percent of the earnings and funds an inmate receives"

Page 1, remove lines 11 through 15

Page 2, line 3, replace "sick call charges" with "a medical visit", replace "five" with "ten", and replace "sick call" with "medical visit made at the request of an inmate"

Page 2, line 9, after the period insert "A correctional facility may not assess an inmate for any costs associated with an intake health care assessment and related testing or for an examination of an inmate made at the request of the facility."

Renumber accordingly

2001 SENATE JUDICIARY

HB 1401

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1401

Senate Judiciary Committee

Conference Committee

Hearing Date March 14th, 2001

Tape Number	Side A	Side B	Meter #
2	x		18.0-29.6
MARCH 21 tape 1	x		33-36.7
Committee Clerk Signature			

Minutes: **Senator Traynor**, opened the hearing on HB 1401.

**Joe Kroeber**, rep. from district 48, appeared in favor to adopt an amendment to HB 1401.

**Senator Bercler**, where the problem happened on health care.

**Senator Watne**, this is an inmate at jail not state penitentiary.

**Joe Kroeber**, Marcie Fischer says it gives authority to withdraw money from inmate for health care.

**Senator Trenbeath**, why can't you take the money now?

**Marcie Fischer**, nothing covers it-just says we have to provide emergency health care. If inmate cany we pay we want them to pay.

**Senator Bercler**, how do they get an account?

**Marcie Fischer**, if they have money when they are arrested we take it and put it for this use.

**Senator Nelson**, is emergency health care not provided for by code?

**Marcie Fischer**, just says we have to provide and relieve pain and suffering.

Page 2

Senate Judiciary Committee

Bill/Resolution Number 1401

Hearing Date March 14th, 2001

Senator Lyson, it says needs glassed, no choice.

Senator Dever, how does this impact the family.

Marcie Flscher, child support payments come off top first.

Mike Schwandt, Child Support Enforcement Director, we are neutral, but would prefer you adopt the bill.

Senator Traynor, closed the hearing on HB 1401.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1401

Page 1, line 18, after the period insert "No written notice or hearing shall be required if the withdrawal of funds is being made to meet the inmate's child support obligation."

Page 2, after line 17, insert:

"5. Nothing <sup>does not</sup> in this section may be construed to limit or alter the provisions in chapter 14-09 relating to income withholding orders for child support."

← Renumber accordingly

Date: 3/21/01  
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1401

Senate Judiciary Committee

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

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

Action Taken Move Craber Amendments

Motion Made By Nelson Seconded By Lyson

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

Total (Yes) 7 No 0

Absent 0

Floor Assignment \_\_\_\_\_

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



Date: 3-21-01  
Roll Call Vote #: 2

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1401

Senate Judiciary Committee

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

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

Action Taken DPA

Motion Made By Watne Seconded By Bercier

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

Total (Yes) 5 No 2

Absent 0

Floor Assignment Bercier

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

**REPORT OF STANDING COMMITTEE**

**HB 1401, as engrossed: Judiciary Committee (Sen. Traynor, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1401 was placed on the Sixth order on the calendar.**

Page 1, line 18, after the period insert "No written notice or hearing is required if the withdrawal of funds is being made to meet the inmate's child support obligation."

Page 2, after line 17, insert:

"5. This section does not limit or alter the provisions of chapter 14-09 relating to income withholding orders for child support."

Renumber accordingly

2001 TESTIMONY

HB 1401

House Judiciary Committee

HB 1401

January 31, 2001

Mr. Chairman, Members of the Committee, I am Mike Schwindt, Child Support Enforcement Director for the Department of Human Services. The Department is neutral on the bill but has a number of questions.

We understand the bill proposes to set aside up to 50% of a county inmate's "earnings and funds" in a separate fund to cover the inmate's financial obligations.

The child support program collects and sends a significant amount to families each year. In calendar year 2000, we received just under \$77.5 million, up from \$69 million the year before. The primary means we have for efficient collection of child support are the income withholding orders that are to be issued unless the court determines there is good cause for not doing so.

N.D.C.C. 14-09, which governs the use of income withholding orders, is fairly specific on a number of items including the base for calculating as well as the amount that can be withheld by an income payer along with the priority of claims against the same income. However, this bill does not address some key elements:

- Does the phrase "earnings and funds" refer to pre-tax earnings, or post-tax earnings? The distinction is important because under N.D.C.C. 14-09-09.16(6), income withholding is permitted up to a maximum of 50% of disposable earnings. "Disposable earnings" means gross income

minus deductions required for taxes and social security. (N.D.C.C. 14-09-09.10(5)) The bill should be clarified to indicate that "earnings and funds" are after applicable taxes and social security.

- The wording of the bill suggests that child support will not be given priority over other expenses incurred by the inmate. The bill should be clarified to reflect the provision in existing law (N.D.C.C. 14-09-09.15) that income withholding has priority over any other legal process against the same income, including the medical expenses incurred under subsection three of the proposed new section.

We believe there should be an exception in the notice and hearing process in subsection two of the new section for child support obligations. These obligations have already been determined by a court and any additional review would be redundant, unnecessary to protect the inmate's due process rights, (N.D.C.C. 14-09-09.13) and burdensome on the regional child support enforcement units.

We do not have a problem with what we believe to be the intent of the bill; however, ask that some clarifications be made so that we can continue to collect the support due children. This can be readily accomplished by ensuring the provisions of N.D.C.C. 14-09 relating to income withholding for child support apply.

**Senate Judiciary Committee**

**HB 1401**

**March 14, 2001**

**Mr. Chairman, Members of the Committee, I am Mike Schwindt, Child Support Enforcement Director for the Department of Human Services. The Department is neutral on the bill but has a concern about its potential negative impact on income withholding for child support.**

**The child support program collects and sends a significant amount to families each year. In calendar year 2000, we received just under \$77.5 million, up from \$69 million the year before. The primary means we have for efficient collection of child support is the income withholding orders that are issued unless the court determines there is good cause for not doing so.**

**There are a number of federal and state requirements that apply to the income withholding process. N.D.C.C. ch. 14-09, which governs the use of income withholding orders, is fairly specific on a number of items including the priority of claims against the same income.**

**The wording of the bill suggests that child support will not be given priority over other expenses incurred by the inmate. The bill should be clarified to recognize the provision in existing state law (N.D.C.C. 14-09-09.15), which is predicated on federal law, that income withholding has priority over any other legal process against the same income, including the medical expenses incurred under subsection three of the proposed new section.**

We believe that the notice and hearing process in subsection two of the new section should not apply to child support obligations. These obligations have already been determined by a court and any additional review would be redundant, unnecessary to protect the inmate's due process rights (N.D.C.C. 14-09-09.13), and burdensome on the regional child support enforcement units. Additionally, the federal law was changed a few years ago to remove advance notice requirements; instead, they are to receive notice when the income withholding order is issued. Thus, the prior notice language in this bill is inconsistent with federal law.

We do not have a problem with what we believe to be the intent of the bill; we ask that some clarifications be made so that we can continue to collect the support due children and that the income withholding process is consistent with the federal requirements. This can be readily accomplished by ensuring the income withholding provisions of N.D.C.C. ch. 14-09 for child support apply by adopting the attached amendments.

**PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1401**

Page 1, line 18, after the period insert "No written notice or hearing shall be required if the withdrawal of funds is being made to meet the inmate's child support obligation."

Page 2, after line 17, insert:

- "5. Nothing in this section may be construed to limit or alter the provisions in chapter 14-09 relating to income withholding orders for child support."

Renumber accordingly



#1401

Chairman Traynor and members of the Judiciary Committee. I'm Joe Kroeber State Representative from District #48-Jamestown. Engrossed HB #1401 relates to inmate accounts, payments of inmate financial obligations and payment for medical and health care costs. At the request of Mike Schwindt, Child Support Enforcement Director of the Department of Human Services we would like to consider the amendment prepared by the DHS as a friendly amendment. I have included a copy which is dated 03/14/01. County Correctional Centers have had a number of problems with elective health care requested by inmates. They have also had problems with health care providers filing claims for reimbursement for health insurance coverage. Marcie Conmy Fisher from the Stutsman County Correctional Center and others from the Department of Corrections & Rehabilitation will also testify on this bill. I would be happy to try and answer any questions the committee may have.