

# MICROFILM DIVIDER

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ROLL NUMBER

DESCRIPTION

1059

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*Yolanda Rickford*  
Operator's Signature

10/2/03  
Date

2003 HOUSE JUDICIARY

HB 1059

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*Valista Rickford*  
Operator's Signature

*10/2/03*  
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1059

House Judiciary Committee

Conference Committee

Hearing Date 1-8-03

Tape Number	Side A	Side B	Meter #
1	xx		42-end
Committee Clerk Signature <i>D. Penrose</i>			

Minutes: 12 members present, 1 absent (Rep. Bernstein)

**Chairman DeKrey:** We will now hear testimony on HB 1059.

**Rep. B. Thoreson:** (See testimony)

**Chief Deputy Jim Thoreson:** I'm here today to testify in favor of HB 1059, this bill would allow for the service of civil process on election day, which is currently prohibited by law. Our officers serve approximately 9,000 civil papers a year. When the current law was written, its concern was that the sheriff of the town would sit at the one polling place and wait to make service on an individual coming to vote. We've never laid in wait at any of the polling places to make service. There should be no negative impact in the change of this law. This change is similar to Sunday retail opening, and liquor establishments being open on election day. There is nothing more efficient than doing our jobs.

**Rep. Kretschmar:** Has this caused you problems in not being able to serve someone on election day?

Page 2  
House Judiciary Committee  
Bill/Resolution Number 1059  
Hearing Date 1-8-03

**J. Thoreson:** What brought this to light was that we needed to serve a child support paper of a trucker who was in and out of town and we wanted to make service and it happened to be election day and we couldn't; and that is what prompted this.

**Rep. Klemin:** I know you said you can't imagine anyone lying in wait for someone to be served, but on the other hand, we have a lot of private process servers who don't necessarily do things exactly the same way as maybe someone in the sheriff department might, and I know from personal experience that there are some people are extremely difficult to get served because they avoid being served. I am wondering if it might accomplish the same purpose if we had some sort of distance restriction from the polling place on where a person could be served, as opposed to just repealing this all together, because if we do repeal it all together, it seems to me that a private process server could lie in wait at the polling place someplace to serve someone, maybe you wouldn't do that, but maybe someone else might. Would you have a problem if we had some sort of distance restriction on the polling place rather than saying we can't do it at all on those dates.

**J. Thoreson:** I would have no objection to that whatsoever. Our intent is to just to allow us to continue doing our duties on election day.

**Rep. Eckre:** How far is it on election day, like the federal law says you can't get within so many feet of the polling place, in State of North Dakota, you can't campaign at all; but there is federal law that says you have to be so far from the polling place? We could set it at the same amount, that way we'd be consistent with federal law. The intern could find out. That way it would be similar for law enforcement.

*Yalosta Rickford*  
Operator's Signature

10/2/03  
Date

Page 3  
House Judiciary Committee  
Bill/Resolution Number 1059  
Hearing Date 1-8-03

**Chairman DeKrey:** Is there any other testimony in favor of the bill? Is there anyone wanting to testify in opposition to the bill.

**Rep. Eckre:** I would like to ask Rep. Thoreson if he has any concerns with Rep. Klemin, for or against or bother you at all to change your bill.

**Rep. Thoreson:** I would have no problem with changing the bill as long as the people who are in support would care to amend the bill in this way.

**Al Jaeger:** I am not here to testify for or against the bill, but whenever the bill has the word election in it, it does get our attention. We did first look at the footnotes in the law, it actually goes back to territorial days, and we are probably in a different time and place now than what we were then, so we have run through archives, whether there could be some inhibiting factor in today's climate or environment as far as elections were, where somebody could go out and do something, it may have been more prevalent in the early history of our state, so I am just bringing that to your attention. The other thought that came to mind, while we do have an election day, voting does happen somewhat before election day, whether it's a concern or not, I don't know.

**Chairman DeKrey:** We will have the intern check on the required feet from the polling place and close this bill for now.

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Operator's Signature

10/2/03  
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1059

House Judiciary Committee

Conference Committee

Hearing Date 1-13-03

Tape Number	Side A	Side B	Meter #
3	xx		31-35

Committee Clerk Signature *A. Penrose*

**Minutes:** 11 representatives present, 2 representatives absent (Rep. Wrangham & Rep. Bernstein)

**Chairman DeKrey:** One other thing, HB 1059, here is the amendment, law enforcement wants to be able to serve people on election day, you can't in North Dakota, but we as a committee felt, by straw poll decided, it probably wasn't a bad idea if we found out how many feet to polling place, so our intern Sara Brown, looked it up, it's a 100 feet. Here is the amendment to that effect. Let's take a look at the amendment (see amendment). I don't think that not being able to serve on election day serves anybody.

**Rep. Maragos:** I would move the adoption of the amendment.

**Rep. Delmore:** Second.

**Chairman DeKrey:** It was moved by Rep. Maragos, seconded by Rep. Delmore that we accept amendment 30298.0101 on HB 1059. Is there any discussion on the amendment?

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House Judiciary Committee  
Bill/Resolution Number 1059  
Hearing Date 1-13-03

**Rep. Klein:** There are several private process servers that are awfully aggressive too, and I would hate to have this interfere with someone's right to vote. They can catch them on the other side of the block.

**Rep. Kingsbury:** It is across the street, actually.

**Chairman DeKrey:** Is there any other discussion on the amendment? Hearing none, we will take a voice vote on the amendment. All those in favor of HB 1059, say Aye (11 aye), no Nays were heard. Amendment carries. We now have the bill before us with the amendment, what is your wishes?

**Rep. Delmore:** I move adoption of the bill as amended.

**Rep. Kretschmar:** Second.

**Chairman DeKrey:** It was moved by Rep. Delmore and seconded by Rep. Kretschmar a Do Pass on HB 1059 as amended. Any further discussion on the bill as amended. If not, we will call the roll.

11 Yes      0 No      2 Absent      DO PASS      Carrier: Rep. Eckre

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10/2/03  
Date

30298.0101  
Title.0200

Prepared by the Legislative Council staff for  
Representative DeKrey  
January 9, 2003

VR  
1/13/03

House Amendment to HB 1059 JUD 1-14-03

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 1-08-09 of the North Dakota Century Code, relating to the service of process on election day.

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

**SECTION 1. AMENDMENT.** Section 1-08-09 of the North Dakota Century Code is amended and reenacted as follows:

**1-08-09. No Service of civil process served on election day.** During the day on which any general or special election shall be held in this state, or in any district, county, city, or precinct therein, no civil process may not be served on any person entitled to vote at such the election within one hundred feet (30.48 meters) from any entrance leading into a polling place.

Renumber accordingly

4

Date: 1/13/02  
Roll Call Vote #: Voice Vote

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1059

House Judiciary Committee

Check here for Conference Committee

Legislative Council Amendment Number 30298.0101

Action Taken Do Pass on Amendment

Motion Made By Maragos Seconded By Delmore

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey			Rep. Delmore		
Vice Chairman Maragos			Rep. Eckre		
Rep. Bernstein			Rep. Onstad		
Rep. Boehning					
Rep. Galvin					
Rep. Grande					
Rep. Kingsbury					
Rep. Klemin					
Rep. Kretschmar					
Rep. Wrangham					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

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

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

*Voice vote - all year amendment passed*

Galosta Rickford  
Operator's Signature

10/2/03  
Date

Date: 1-13-03  
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1059

House Judiciary Committee

Check here for Conference Committee

Legislative Council Amendment Number 30298.0101 Title: 0200

Action Taken Do Pass with Amendment

Motion Made By Rep. Delmore Seconded By Rep. Kretschmar

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Rep. Delmore	✓	
Vice Chairman Maragos	✓		Rep. Eckre	✓	
Rep. Bernstein	AB		Rep. Onstad	✓	
Rep. Boehning	✓				
Rep. Galvin	✓				
Rep. Grande	✓				
Rep. Kingsbury	✓				
Rep. Klemin	✓				
Rep. Kretschmar	✓				
Rep. Wrangham	AB				

Total (Yes) 11 No 0

Absent 2

Floor Assignment Rep. Eckre

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

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Yolanda Rickford Date 10/2/03  
Operator's Signature

REPORT OF STANDING COMMITTEE (410)  
January 14, 2003 3:51 p.m.

Module No: HR-06-0556  
Carrier: Eckre  
Insert LC: 30298.0101 Title: .0200

REPORT OF STANDING COMMITTEE

HB 1059: Judiciary Committee (Rep. DeKrey, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1059 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 amend and reenact section 1-08-09 of the North Dakota Century Code, relating to the service of process on election day.

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

**SECTION 1. AMENDMENT.** Section 1-08-09 of the North Dakota Century Code is amended and reenacted as follows:

**1-08-09. ~~No Service of civil process~~ served on election day.** During the day on which any general or special election ~~shall be~~ is held in this state, or in any district, county, city, or precinct ~~therein~~, no civil process may not be served on any person entitled to vote at ~~such~~ the election within one hundred feet [30.48 meters] from any entrance leading into a polling place."

Renumber accordingly

LP

2003 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1059

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10/2/03  
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1059

Senate Government and Veterans Affairs Committee

Conference Committee

Hearing Date 02/27/03

Tape Number	Side A	Side B	Meter #
Tape 1	x		0-1111

Committee Clerk Signature *Lisa Hyman*

Minutes:

**Senator Karen Krebsbach**, Chairman opens HB 1059. All senators with exception of Senator Fairfield present.

**Representative Blair Thoreson**, sponsor of bill, goes over bill. (Testimony attached)

**Senator Tim Mather**, sponsor of bill says he is in support of bill and that serving of a notice has become daily rituals and an interruption of that day causes problems.

**Jim Thoreson**, Chief Deputy, Cass County Sherriff's Office (Testimony attached)

**Senator Dever** : Do you now make a special point of avoiding process serving on election day?

**Jim Thoreson**: Yes, we do, we do other services such as delivering of ballots, etc.

**Senator Krebsbach** : If we don't change this and we passed that bill on early voting and would that preclude serving of these on those days?

**Cory Fong**: No

**Senator Nelson** : Is that 100 feet outside the building or where the table is inside?

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*10/2/03*  
Date

Page 2

Senate Government and Veterans Affairs Committee

Bill/Resolution Number HB 1059

Hearing Date 02/27/03

**Jim Thoreson:** I believe it would be from the door that is marked.

**Senator Dever :** I would suppose that they would have to park more than 100 feet away though?

**Jim Thoreson:** I can assure you that we will not be patrolling the voting precincts.

**Senator Dever:** I would like to ask Rep. Thoreson, is the only amendment that the House made the 100 feet?

**Rep. Thoreson:** What the house Judiciary committee did was they took the original language fromt the bill and hog housed it and the original bill just said the section was repealed, they replaced it with the language that you had before you.

**Senator Krebsbach :** that is fine with you?

**Rep. Thoreson:** Yes

**Senator Krebsbach :** I also spoke with Terry Traynor from the Association of Counties and he is in support of this bill also.

Closed HB 1059

Senator Brown motions for a Do Pass on engrossed HB 1059.

Senator Nelson 2nd

5 Yes 0 No 1 Absent

Carrier: Senator Nelson

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10/2/03  
Date



**REPORT OF STANDING COMMITTEE (410)**  
February 27, 2003 11:47 a.m.

Module No: SR-35-3568  
Carrier: Nelson  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**  
HB 1059, as engrossed: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1059 was placed on the Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-35-3568

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*10/2/03*  
Date

2003 TESTIMONY

HB 1059

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Operator's Signature

*10/2/03*  
Date

UP

**TESTIMONY ON HB 1059  
HOUSE JUDICIARY COMMITTEE  
REP. DUANE DEKREY, CHAIRMAN  
WEDNESDAY, JANUARY 8, 2003**

GOOD MORNING MR. CHAIRMAN AND MEMBERS OF THE HOUSE JUDICIARY COMMITTEE. I AM REP. BLAIR THORESON, FROM DISTRICT 44 IN FARGO. I AM HERE TODAY AS SPONSOR OF HB 1059.

I HAVE INTRODUCED THIS BILL AT THE REQUEST OF CASS COUNTY, WHICH SEES A NEED FOR A CHANGE IN THE NORTH DAKOTA CENTURY CODE. CURRENTLY, SECTION 1-08-09 OF THE CODE PROHIBITS LAW ENFORCEMENT FROM SERVING CIVIL PROCESSES ON THE DAY OF A SPECIAL OR GENERAL ELECTION. THIS LITTLE, IF EVER, USED SECTION OF LAW IS NOW CAUSING DIFFICULTY FOR LAW ENFORCEMENT, AS THEIR LOAD OF SERVING PROCESSES HAS GROWN BY LARGE NUMBERS OVER THE PAST SEVERAL YEARS. BEING PROHIBITED FROM SERVING CIVIL PROCESSES ON JUST ONE OR TWO DAYS A YEAR CAN BACK UP THEIR WORKLOAD BY MANY CASES. THOSE WHO WILL FOLLOW ME IN THEIR TESTIMONY THIS MORNING WILL GIVE MORE SPECIFIC CIRCUMSTANCES AS TO WHERE THE CURRENT LAW HAS BROUGHT ABOUT TROUBLE FOR THEM.

AT THIS TIME, MR. CHAIRMAN, I WOULD LIKE TO STEP ASIDE AND INTRODUCE A MAN WHO SHARES A WONDERFUL LAST NAME, BUT...LUCKILY FOR HIM...NO FAMILY RELATIONSHIP TO YOURS TRULY: CASS COUNTY CHIEF DEPUTY JIM THORESON!

THANK YOU.

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*Galosta Rickford*  
Operator's Signature

10/2/03  
Date

January 8, 2003

Mr. Chairman and members of the Committee:

My name is Jim Thoreson. I am the Chief Deputy with the Cass County Sheriff's Office.

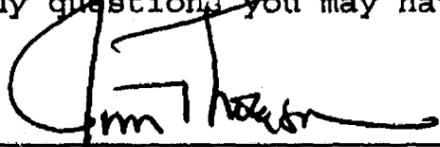
I am here today to testify in favor of House Bill 1059. This Bill would allow for the service of civil process on election days, which is currently prohibited by law.

Our office serves approximately 9,000 civil papers per year. These include court subpoenas, child support orders, small claims, summons and complaints, executions, levies, etc.

My guess is that when the current law was written, the concern was that the sheriff of a county would sit at the one polling place and wait to make service on an individual coming to vote. I can assure you that in my 32 years with the Sheriff's Office that we have never laid in wait at a polling place to make service, and there are currently 67 polling places in our county.

I cannot imagine anyone in law enforcement getting in the way of the people's opportunity to cast their vote and there should be no negative impact whatsoever regarding this change in law. This change, in my mind, is similar to Sunday retail openings and also liquor establishments being open on election days. It is nothing more than allowing us to be more efficient in doing our job.

This concludes my testimony. I will be happy to answer any questions you may have. Thank you.



Jim Thoreson  
Chief Deputy

CP

**TESTIMONY ON HOUSE BILL 1059  
SENATE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE  
SEN. KAREN KREBSBACH, CHAIR  
THURSDAY, FEBRUARY 27, 2003**

GOOD MORNING MADAM CHAIR AND MEMBERS OF THE SENATE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE. I AM REP. BLAIR THORESON, FROM DISTRICT 44 IN FARGO. I AM HERE TODAY AS SPONSOR OF HB 1059.

I INTRODUCED THIS BILL AT THE REQUEST OF CASS COUNTY, WHICH SEES A NEED FOR A CHANGE IN THE NORTH DAKOTA CENTURY CODE WHEN DEALING WITH THE SERVING OF CIVIL PROCESSES. CURRENTLY, SECTION 1-08-09 OF THE CODE PROHIBITS LAW ENFORCEMENT FROM SERVING PROCESSES ON THE DAY OF A SPECIAL OR GENERAL ELECTION. THIS LITTLE, IF EVER, USED SECTION OF LAW IS NOW CAUSING DIFFICULTY FOR LAW ENFORCEMENT, AS THEIR LOAD OF SERVING PROCESSES HAS GROWN BY LARGE NUMBERS OVER THE PAST SEVERAL YEARS. BEING PROHIBITED FROM SERVING CIVIL PROCESSES ON JUST ONE OR TWO DAYS A YEAR CAN BACK UP THEIR WORKLOAD BY MANY CASES. THOSE WHO WILL FOLLOW ME IN THEIR TESTIMONY THIS MORNING WILL GIVE MORE SPECIFIC CIRCUMSTANCES AS TO WHERE THE CURRENT LAW HAS BROUGHT ABOUT TROUBLE FOR THEM.

MADAM CHAIR AND MEMBERS OF THE COMMITTEE, HB 1059 WAS AMENDED BY THE HOUSE TO ALLOW FOR THE SERVICE OF CIVIL PROCESSES ON ELECTION DAY, BUT THE AMENDMENT ALSO PUT IN PLACE A BUFFER ZONE OF 100 FEET AROUND THE POLLING PLACE. THIS BUFFER PROVIDES A LEVEL OF PROTECTION TO THE VOTER, SO THAT A OVERLY EAGER PROCESS SERVER COULD NOT "LIE IN WAIT" WITHIN THE POLLING PLACE ITSELF, AND ATTEMPT TO SERVE THE VOTER AS THEY ARE CASTING THEIR BALLOT. WITH THESE AMENDMENTS, THE BILL PASSED THE HOUSE BY A VOTE OF 89-3. I ASK THIS COMMITTEE TO GIVE THE BILL A "DO PASS" RECOMMENDATION, AND ASK THE SENATE FOR THEIR SUPPORT ALSO. AT THIS TIME, I WILL STEP ASIDE AND LET OTHERS WHO WILL PROVIDE ADDITIONAL INFORMATION ABOUT THE NEED FOR THIS LEGISLATION SPEAK. LET ME INTRODUCE NOW A PERSON WHO SHARES MY LAST NAME, BUT...LUCKILY FOR HIM...NO FAMILY RELATIONSHIP: CASS COUNTY CHIEF DEPUTY JIM THORESON.

THANK YOU.



# Office of the Sheriff

Don Rudnick, Sheriff

Administration  
701-241-5800

Adult Detention  
701-241-5819

Juvenile Detention  
701-241-5845

Emergency Mgmt.  
701-241-5858

Fax  
701-241-5805

## TESTIMONY IN FAVOR OF HB 1059

February 20, 2003

Madam Chairman and members of the Committee:

My name is Jim Thoreson. I am the Chief Deputy with the Cass County Sheriff's Office.

I am here today to testify in favor of House Bill 1059. This Bill would allow for the service of civil process on election days, which is currently prohibited by law.

Our office serves approximately 9,000 civil papers per year. These include court subpoenas, child support orders, small claims, summons and complaints, executions, levies, etc.

My guess is that when the current law was written, the concern was that the sheriff of a county would sit at the one polling place and wait to make service on an individual coming to vote. I can assure you that we have never laid in wait at a polling place to make service, and there are currently 67 polling places in our county.

I cannot imagine anyone in law enforcement getting in the way of the people's opportunity to cast their vote. This change, in my mind, is nothing more than allowing us to be more efficient in doing our job.

This concludes my testimony. I will be happy to answer any questions you may have. Thank you.

Jim Thoreson  
Chief Deputy

211 9th St. S.  
Box 488  
Fargo, North Dakota 58107-0488  
[www.co.cass.nd.us/sheriff](http://www.co.cass.nd.us/sheriff)

*Yolanda Rickford*  
Operator's Signature

10/2/03  
Date