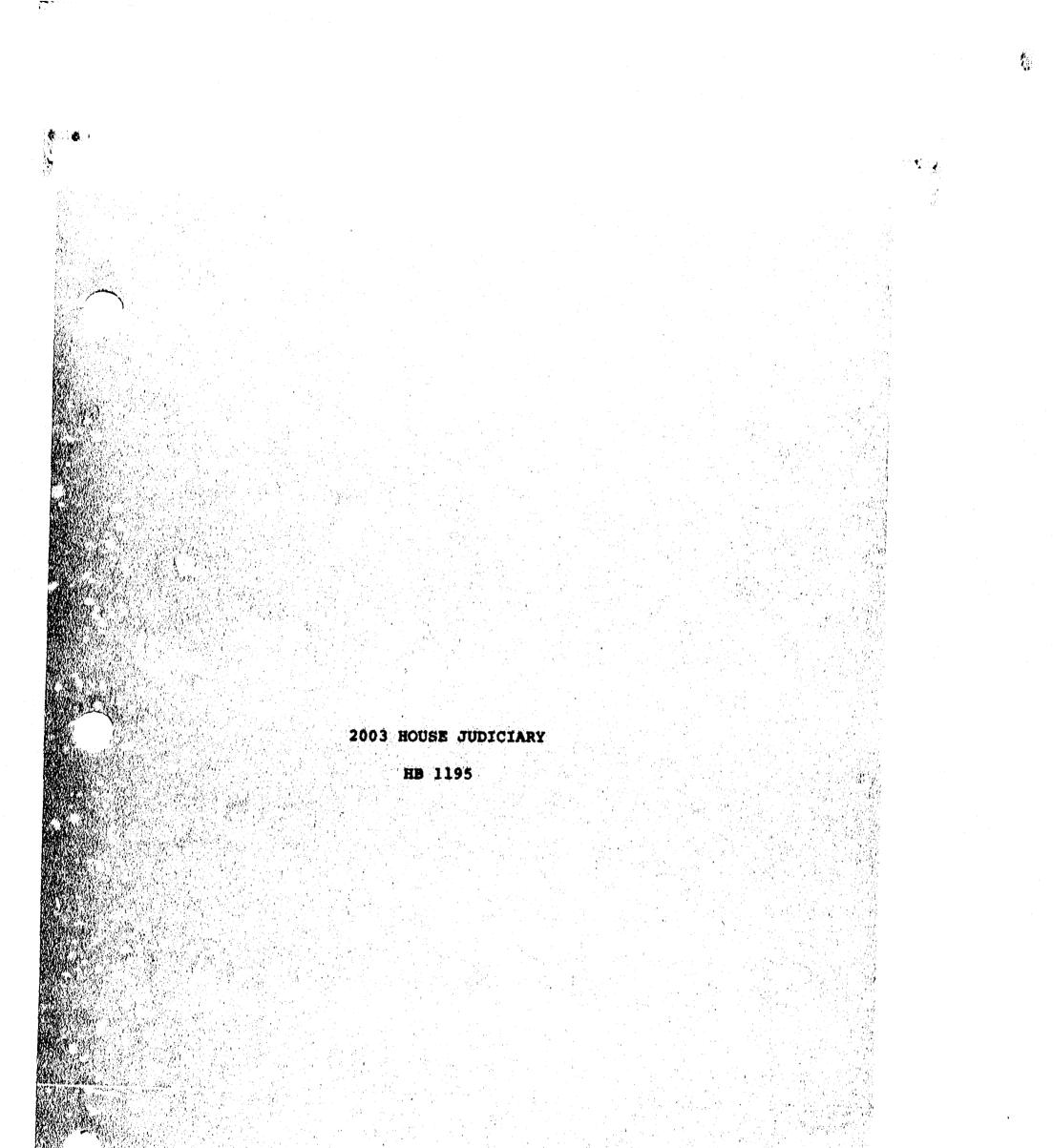


. .

The micrographic images on this film are accurate reproductions of records delivered to Modern information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American Mational Standards Institute (AMSI) for erchival microfilm. MOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

.

 \dot{v}





R. F. F.

÷

The micrographic images on this film are accurate reproductions of records delivered to Nodern Information Systems for microfilming and Here filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

nat 10/2/03 Operator's Signature nor Date

nasaal)

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1195

House Judiciary Committee

Conference Committee

Hearing Date 1-28-03

1.

Tape Number	Side A	Side B	Meter #
2		X	27-30
Committee Clerk Signs	uture APenio	se	

Minutes: 13 members present.

Chairman DeKrey: We will open the hearing on HB 1195.

Rep. Klemin: Introduced the bill.

Christine Hogan. Exec. Dirc. of State Bar Association: (see attached testimony) Support.

Chairman DeKrey: Thank you. Anyone wishing to testify in support? Opposition? We will close the hearing. What are the committee's wishes.

Rep. Wrangham: Move a Do Pass.

Rep. Grande: Seconded.

į.

13 YES 0 NO 0 ABSENT DO PASS

CARRIER: Rep. Wrangham

黄倉の町

f monteness manipus in the second state in the second second states and states and the second states and second The micrographic images on this film are accurate reproductions of records delivered to mean information Destant for Microfilming end were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. MOVICE: If the filmed image above is less legible than this Notice, it is due to the quality of the AMERICANSI of archival microfilm. MOVICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed. Den MON M OL

Date: 1/28/03 Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES BILL/RESOLUTION NO. 1195

۰,

House Judiciary			Com	Committee	
Check here for Conference	Committee				
egislative Council Amendment	Number				
ction Taken	D.	Paso		· · · · · · · · · · · · · · · · · · ·	
Notion Made By Rep. W.	ingham	Se	conded By Rep. Gran	le	
Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	//		Rep. Delmore		
Vice Chairman Maragos			Rep. Eckre	1/	
Rep. Bernstein			Rep. Onstad		
Rep. Boehning					
Rep. Galvin					
Rep. Grande					
Rep. Kingsbury					
Rep. Klemin					
Rep. Kretschmar					
Rep. Wrangham					
otal (Yes) 3	* 2	No	Ø		
bsent	¢	>			
loor Assignment Reg	>. Wran	rahi	um		
f the vote is on an amendment, b		0			

Contraction and the second A top Street فالعا ملتامها The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meats standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed. যিগ $\mathcal{D}\mathcal{L}$ 03 Ł Operator's Signature Date 4

٠

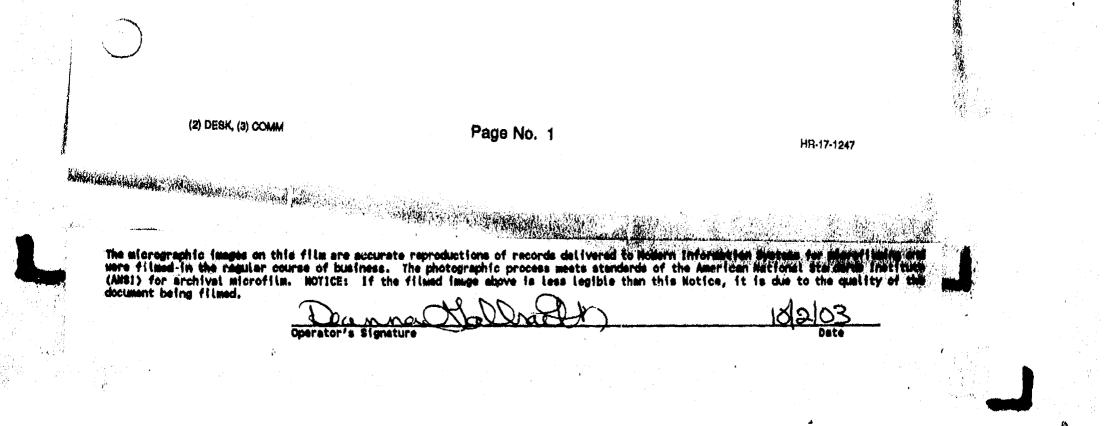
REPORT OF STANDING COMMITTEE (410) January 29, 2003 12:09 p.m.

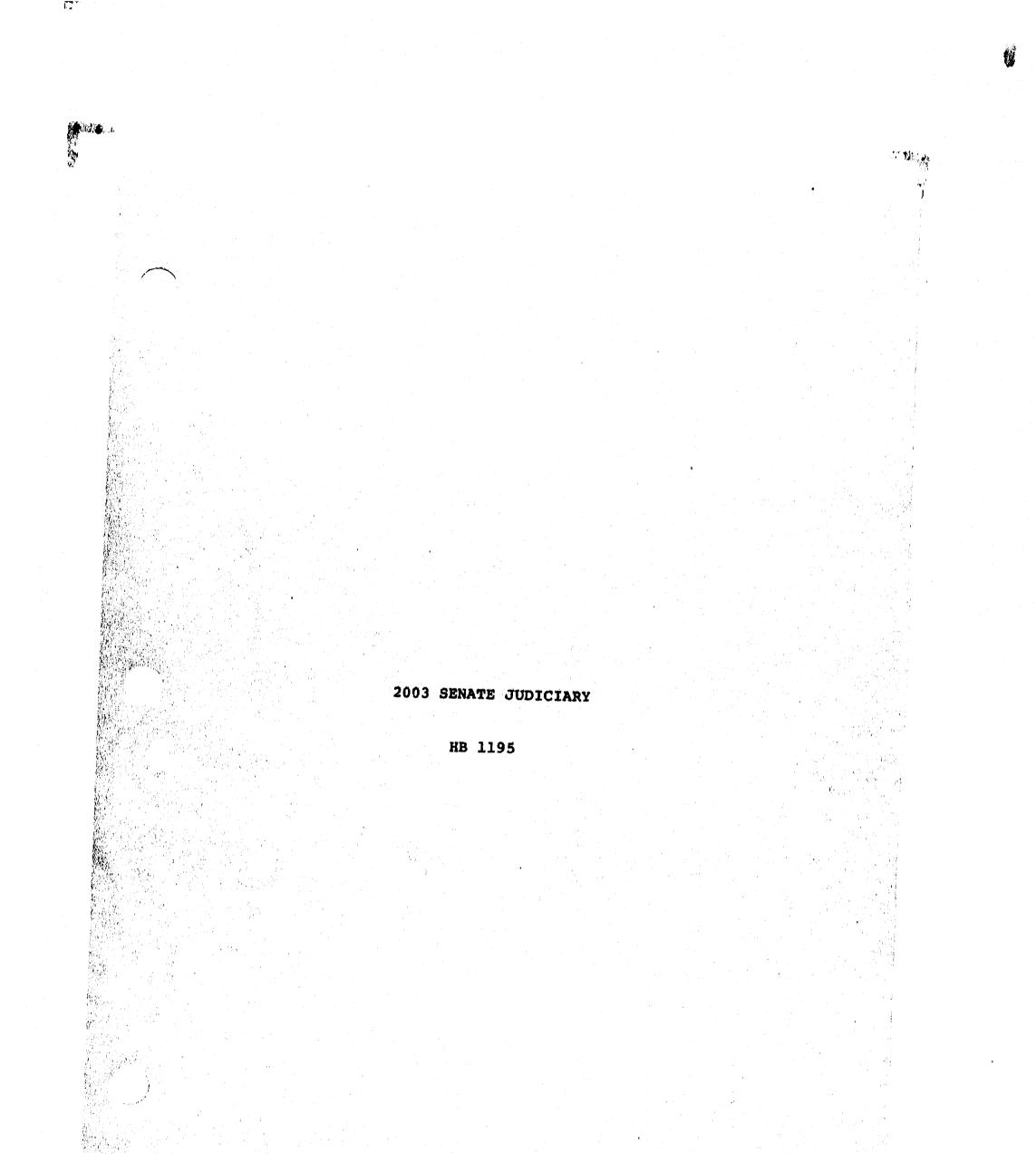
Module No: HR-17-1247 Carrier: Wrangham Insert LC: Title: . 小装置

Y



REPORT OF STANDING COMMITTEE HB 1195: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1195 was placed on the Eleventh order on the calendar.







The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

10/2/03 Date Operator's Signature MAT

the second

4

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1195

Senate Judiciary Committee

Conference Committee

Hearing Date 03/17/03

5

Tape Number	Side A	Side B	Meter #
1	X		28-36
Committee Clerk Signatu	TO MARIA O	l Solling	

Minutes: Senator John T. Traynor, Chairman, called the meeting to order. Roll call was taken and all committee members present. Sen. Traynor requested meeting starts with testimony on the bill:

Testimony in Support of HB 1195

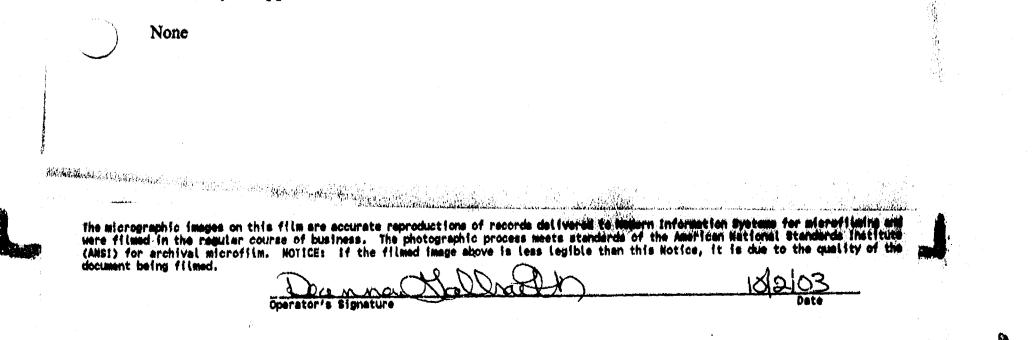
<u>Rep Klemin-</u> Dist 47. Co-Introduced bill with Sen. Trenbeath at the request of the State Bar Assoc.

<u>Sen. Dever</u> asked if we heard this last session? Yes, it was a bill that effected another statute last session and this one was overlooked.

Christina Hogan - Executive Director, State Bar Association (meter 30) Read testimony -

Attachment #1.

Testimony in Opposition of HB 1195



Page 2 Senate Judiciary Committee Bill/Resolution Number HB1195 Hearing Date 03/17/03

Testimony Neutral to HB 1195

None

「「「「「「」」」

h.,...

Motion Made to DO PASS HB 1195 Sen, Lyson and seconded by Sen, Dever

6.22

Roll Call Vote: 5 Yes. 0 No. 1 Absent

Motion Passed

Floor Assignment: Sen. Traynor

Senator John T. Traynor, Chairman closed the hearing

の時代は、日本の The micrographic images on this film and accurate representiane of reserve delivered is Madern Information Bratem for eleverilleding and were filmed in the regular course of business. The photographic process makes standards of the American Mational Standards Institute (ANSI) for archival microfilm. MOVICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed. 10/2/03 Date Operator's Signature Da noi é.

Date: March 17, 2003 Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES **BILL/RESOLUTION NO. HB 1195**

Senate	JUDICIARY			Com	Committee	
Check here for Conference Co	ommittee					
Legislative Council Amendment N	lumber _					
Action Taken DO PASS						
Motion Made By Sen. Lyson		Se	conded By Sen. Dever			
Senators	Yes	No	Senators	Yes	No	
Sen. John T. Traynor - Chairman	X		Sen. Dennis Bercier	A	A	
Sen. Stanley. Lyson - Vice Chair	X		Sen. Carolyn Nelson	X		
Sen. Dick Dever	X					
Sen. Thomas L. Trenbeath	X					
	- 1 - 1) p e :	
			1			

ONE (1) Absent

Bartha Charles and an a

1

Floor Assignment Sen. Traynor

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

съ<u>й</u>, ------5 12 2.83 1. Salati The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (AMSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed. 10/2/03 DU no 20 **Operator's Signature**

*****5

A 12 180

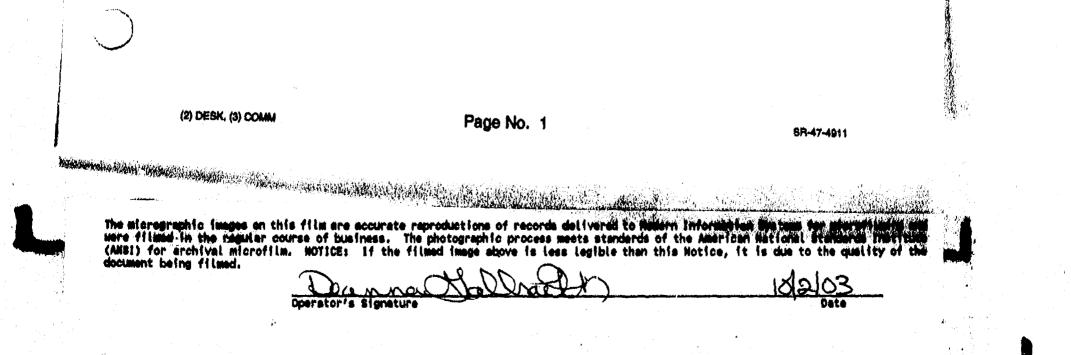
REPORT OF STANDING COMMITTEE (410) March 17, 2003 12:42 p.m.

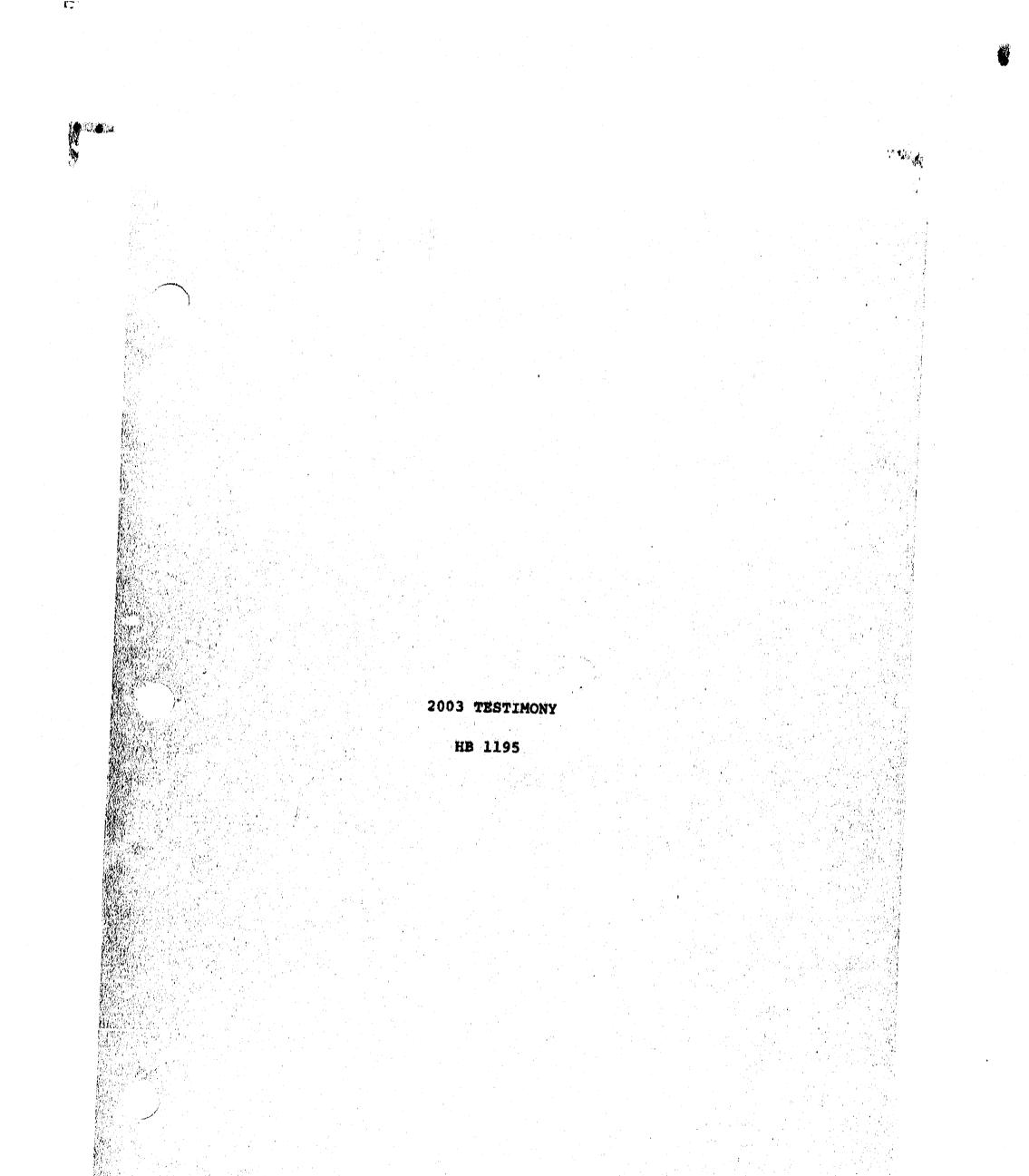
Module No: 8R-47-4911 Carrier: Traynor Insert LC: . Title: .

4. **2** 1

ģ

REPORT OF STANDING COMMITTEE HB 1195: Judiciary Committee (Sen. Traynor, Chairman) recommends DO PASS (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1195 was placed on the Fourteenth order on the calendar.







ning a sanggi

÷

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the formation for the document being filmed.

Date 1212 b/1 Operator's Signature

-



Testimony on HB 1195 House Judiciary Committee

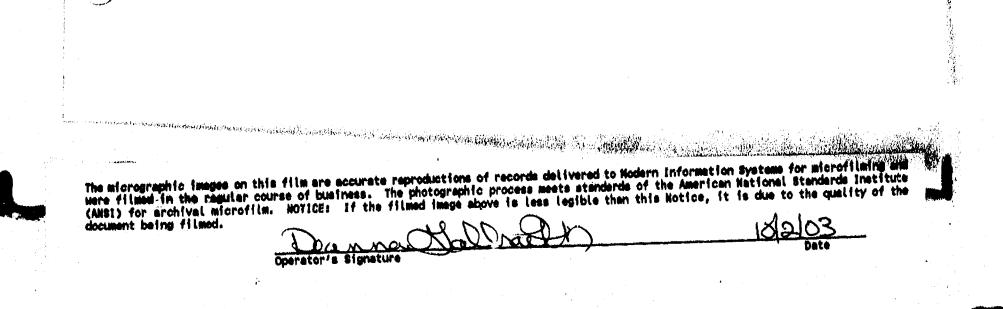
12

Christine Hogan Executive Director State Bar Association of North Dakota

The State Bar Association of North Dakota requests your favorable consideration of House Bill 1195. Representative Larry Klemin introduced this bill at the request of the Board of Governors of the State Bar Association.

The Association is requesting that subsection 1 of Section 35-20-08, North Dakota Century Code, which allows an attorney to assert a lien on a client's papers and files, be repealed. Repeal of this attorney retaining lien statute is necessary because it has been held unethical in this state for lawyers to withhold client files on the condition that copying charges be paid. In the past, there have been recurring complaints that lawyers did not return files to clients and some lawyers charged excessively for providing copies of a file after the lawyer's services were terminated by the client.

During the last legislative session in 2001, at the request of the Association, three statutes allowing attorney retaining liens against client files were repealed. However, due to an oversight on our part, Section 35-20-08(1) was not included in the repealing legislation last session and it remains in the Code.



It is necessary to repeal this statute now because, if it remains on the books, the appearance of statutory authority for retaining liens causes continuing confusion for lawyers. Even though the statute purports to allow attorneys to assert retaining liens, this very conduct has been held unethical by the Ethics Committee of the State Bar Association and also by the North Dakota Supreme Court in a 1997 case entitled Disciplinary Board vs. Anseth.

The Joint Attorney Standards Committee, which is made up of lawyers and lay people appointed by the Supreme Court and by the State Bar Association of North Dakota studied the issue of client access to files. The Committee determined that it is not appropriate for a lawyer to assert a retaining lien against a client's files, papers, or property. The Committee developed a new draft rule of professional conduct to address the issue. The proposed rule change is currently pending consideration by the North Dakota Supreme Court. We anticipate that the rule will be adopted as soon as this remaining statute allowing the retaining lien is repealed. The rule will, in the future, provide guidance to lawyers on the proper handling of client files.

In order to bring the Century Code into compliance with current ethical decisions and with the proposed new rule of professional conduct, the State Bar Association of North Dakota recommends House Bill 1195 be passed.

Thank you for this opportunity to appear before you.

The micrographic images on this film are accurate reproductions of records delivered to Nodern Information Systems for microfilming and use filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archivel microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed. Operator's Signature

AH #1

Testimony on HB 1195

E.,

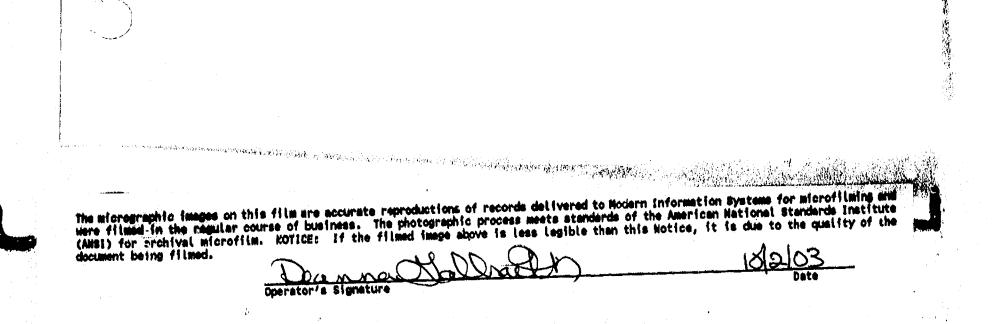
Senate Judiciary Committee

Christine Hogan Executive Director State Bar Association of North Dakota

The State Bar Association of North Dakota requests your favorable consideration of House Bill 1195. Representative Larry Klemin introduced this bill at the request of the Board of Governors of the State Bar Association.

The Association is requesting that subsection 1 of Section 35-20-08, North Dakota Century Code, which allows an attorney to assert a lien on a client's papers and files, be repealed. Repeal of this attorney retaining lien statute is necessary because it has been held unethical in this state for lawyers to withhold client files on the condition that copying charges be paid. In the past, there have been recurring complaints that lawyers did not return files to clients and some lawyers charged excessively for providing copies of a file after the lawyer's services were terminated by the client.

During the last legislative session in 2001, at the request of the Association, three statutes allowing attorney retaining liens against client files were repealed. However, due to an oversight on our part, Section 35-20-08(1) was not included in the repealing legislation last session and it remains in the Code.



It is necessary to repeal this statute now because, if it remains on the books, the appearance of statutory authority for retaining liens causes continuing confusion for lawyers. Even though the statute purports to allow attorneys to assert retaining liens, this very conduct has been held unethical by the Ethics Committee of the State Bar Association and also by the North Dakota Supreme Court in a 1997 case entitled *Disciplinary Board vs. Anseth.*

Π.

The Joint Attorney Standards Committee, which is made up of lawyers and lay people appointed by the Supreme Court and by the State Bar Association of North Dakota studied the issue of client access to files. The Committee determined that it is not appropriate for a lawyer to assert a retaining lien against a client's files, papers, or property. The Committee developed a new draft rule of professional conduct to address the issue. The proposed rule change is currently pending consideration by the North Dakota Supreme Court. We anticipate that the rule will be adopted as soon as this remaining statute allowing the retaining lien is repealed. The rule will, in the future, provide guidance to lawyers on the proper handling of client files.

In order to bring the Century Code into compliance with current ethical decisions and with the proposed new rule of professional conduct, the State Bar Association of North Dakota recommends House Bill 1195 be passed.

Thank you for this opportunity to appear before you.

÷

ran e terrere retre i mensione ante a substitution parte de la destriction de la d The micrographic faces on this film are accurate reproductions of records delivered to Nodern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed. Da <u>JAON</u> M Operator's Signature