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La Costa Rickford
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10/3/03
Date

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2003 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1287

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1287

House Industry, Business and Labor Committee

Conference Committee

Hearing Date January 28, 2003

Tape Number	Side A	Side B	Meter #
2	X		2494-3578

Committee Clerk Signature *Elizabeth R. Feier*

Minutes: **CHAIR KEISER:** Opened hearing on HB 1287.

REP. KASPER: Discussed intent of bill concerning consumer reporting. The is an amendment coming from Human Services, which he supports.

REP. KEISER: There is an exception where this information can be provided to law enforcement. Is "law enforcement" broad enough? Do safety personnel fall under the definition? Rep. Kasper did not know, but felt the committee should look into whether or not they are covered.

REP. JOHNSON: Are you aware of the 800 # for opting out? Rep. Keiser is aware of the number. This bill would not stop that number from working, but this will be additional protection.

REP. NOTTESTAD: How do we enforce credit bureaus operating out of ND? Rep. Kasper noted that it would be difficult. The final solution is a federal law. The Hill is trying to solve the problem, but they are not there yet and this bill would help somewhat until then.

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Page 2

House Industry, Business and Labor Committee

Bill/Resolution Number 1287

Hearing Date 1-28-03

REP. JOHNSON: Are there penalties? Rep. Kasper said there are none in the current language, but it could be added.

JIM FLEMING (Dept of Human Services): Neutral with written testimony. Offered amendment to help in cases of finding parents for child support.

CHAIR KEISER: Closed hearing on HB 1287

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10/3/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1287

House Industry, Business and Labor Committee

Conference Committee

Hearing Date February 10, 2003

Tape Number	Side A	Side B	Meter #
1		X	2985-3463

Committee Clerk Signature *Elizabeth R. Linn*

Minutes: **Chair Keiser:** Opened discussion on HB 1287

Rep. Kasper: Received an e-mail from Marilyn Foss concerning the bill. This is a bad bill because they can not pass anything that interferes with the Fair Credit Act (FCRA). Rep. Kasper wanted to note that Marilyn and Pete McCorkell were instrumental in helping him. Rep. Kasper moved a DNP. Seconded by Rep. Johnson. The motion was withdrawn to add an amendment. Rep. Johnson moved to adopt the amendment. Seconded by Rep. Ekstrom. Voice vote. Amendment adopted.

Rep. Kasper moved to recommend DNP as amended. Rep. Johnson seconded.

Vote: 14 Yes 0 No 0 Absent and not voting Carrier: Boe

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10/3/03
Date

30372.0201
Title.0300

Adopted by the Industry, Business and Labor
Committee

February 10, 2003

VR
2/11/03

HOUSE AMENDMENTS TO HOUSE BILL NO. 1287 IBL 2-12-03

Page 1, line 10, after the right bracket insert "or if the disclosure is requested by a state or local
child support agency"

Renumber accordingly

Page No. 1

30372.0201

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10/3/03
Date

Date: 2/10/03
Roll Call Vote #: |

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1287

House INDUSTRY BUSINESS & LABOR Committee

Check here for Conference Committee

Legislative Council Amendment Number 30372.0201 / .0300

Action Taken DNP as amended

Motion Made By Kasper Seconded By Johnson

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	✓		Boe	✓	
Vice-Chair Severson	✓		Ekstrom	✓	
Dosch	✓		Thorpe	✓	
Froseth	✓		Zaiser	✓	
Johnson	✓				
Kasper	✓				
Klein	✓				
Nottestad	✓				
Ruby	✓				
Tieman	✓				

Total (Yes) 14 No 0

Absent _____

Floor Assignment Boe

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

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Lu Costa Rickford 10/3/03
Operator's Signature Date

REPORT OF STANDING COMMITTEE (410)
February 12, 2003 8:31 a.m.

Module No: HR-27-2359
Carrier: Boe
Insert LC: 30372.0201 Title: .0300

REPORT OF STANDING COMMITTEE

HB 1287: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO NOT PASS (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1287 was
placed on the Sixth order on the calendar.

Page 1, line 10, after the right bracket insert "or if the disclosure is requested by a state or local
child support agency"

Renumber accordingly

(2) DESK, (3) COMM

Page No. 1

HR-27-2359

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Ja Costa Richardson
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10/3/03
Date

P

2003 TESTIMONY

HB 1287

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**TESTIMONY
HB 1287 – DEPARTMENT OF HUMAN SERVICES
HOUSE INDUSTRY, BUSINESS, AND LABOR
GEORGE KEISER, CHAIRMAN
JANUARY 28, 2003**

Chairman Keiser, members of the House Industry, Business, and Labor Committee, I am James Fleming, Deputy Director and General Counsel of the State Child Support Enforcement Office of the Department of Human Services. I am here today to provide information regarding House Bill 1287 and to request an amendment.

The Department is very careful to protect the privacy of personal information it obtains. At the same time, the child support enforcement program needs to acquire personal information to do its job. When we are trying to locate a missing parent, one of the best ways we can find the parent is to request a credit report from a consumer reporting agency. This is a use of credit reports that is specifically authorized by the Fair Credit Reporting Act (FCRA), but consumer reporting agencies are not required under FCRA to provide us with that information. Therefore, we would be prohibited under the bill as introduced from obtaining credit reports without the parent's consent, which is impossible when we are asking for the report because we cannot locate the missing parent. Attached to my testimony is a proposed amendment that would preserve our current ability to obtain credit reports. Any information we obtain from a credit report is confidential under FCRA and state law (N.D.C.C. § 50-06-15) and may be used only for child support enforcement purposes.

The Department appreciates Representative Kasper's willingness to accept our request as a "friendly" amendment and we ask that the committee adopt the amendment prior to taking final action on the bill.

Mr. Chairman, this concludes my testimony. I would be happy to answer any questions the committee may have.

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Prepared by the North Dakota
Department of Human Services
1/28/03

PROPOSED AMENDMENTS TO HOUSE BILL 1287

Page 1, line 10, after "]" insert "or if the disclosure is requested by a state or local child support agency"

Renumber accordingly

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1287

Representative Kasper:

This will follow-up on the conversation you had with me and Pete McCorkell, senior attorney for Wells Fargo, on HB 1287. First of all, thank you for taking the time yesterday and today to hear us out. We never had any doubt that you did not intend for HB 1287 to impose restrictions that would keep banks (and others) from being able to open accounts or take and decide loan applications over the telephone. However, as we discussed, that would be the effect of HB 1287 because banks can't immediately approve a customer's telephone application for a loan or to open an account if the credit bureau can't share the credit file without first obtaining the customer's written consent to give the information to the bank.

Wells Fargo, through Pete, and I did try to come up with a way to amend the bill to accomplish your purpose, prohibiting pre-screening and credit card solicitations without a customer's written pre-authorization. However, as we discussed, the Fair Credit Reporting Act (FCRA) specifically provides that consumer reporting agencies are permitted to use consumer information for pre-screening and that they may share the names of persons who meet a creditors' qualifications for a credit offer. FCRA also explicitly prohibits states from enacting laws to restrict prescreening until after January 1, 2004. The FCRA provisions I'm talking about are found in FCRA section 624(b)(1)(a), 15 U.S.C. sec. 1681(t). With this type of federal law in place, any bill which the 2003 legislature would pass to prohibit or limit pre-screening would be ineffective even if it had a delayed effective date. The way FCRA now stands, you will need to wait until the 2005 session before an effective state law to limit pre-screening can be enacted. (You will also need to make sure that a future bill complies with the FCRA requirements for an effective state law on this point.)

Given the circumstances, I would ask you to either arrange for the House IBL committee to return HB 1287 to the floor so that you may withdraw it or that you ask the committee to kill the bill on your behalf.

Wells Fargo, Pete and I were pleased to be able to assist you with this.

Marilyn Foss
NDBA General Counsel

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