MICROFILM DIVIDER

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

ROLL NUMBER

DESCRIPTION

1484

2005 HOUSE JUDICIARY

HB 1484

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1484

House Judiciary Committee

☐ Conference Committee

Hearing Date 2/2/05

Tape Number	Side A	Side B	Meter #
1	xx		0-2.7
Committee Clerk Signature	Dawn Rennose		

Minutes: 13 members present, 1 member absent (Rep. Kingsbury).

Chairman DeKrey: We will open the hearing on HB 1484.

Rep. Scott Kelsch: I am the sponsor of this bill, I got a call from a person in Fargo, who related a story about the fact that two developmentally disabled daughters, who were under the care of Friendship Village, and the person who had been hired by the Friendship Village, had a criminal background check, conducted on them and they were given an all clear. So that the Village hired him, and it turns out that the person had quite a rap sheet and actually had ended up being arrested for murder in Fargo, after Christmas. When I talked to Friendship Village, I asked if there were anything that could be done legislatively to correct how this happened, and they basically said, well what you could do is require the state to provide at least 7 years of criminal history when it comes to a background check. They have since contracted with another agency to do those background checks, and that may be another way to correct that problem, but this is one

way that this could be done legislatively. I handed out testimony from Joannne and Gregg Bale, they are the people who were affected by this (see written testimony).

Representative Delmore: Why did you go with 7 not 5 years.

Rep. Scott Kelsch: The number was an arbitrary number, it was what was suggested to me by the director of Friendship Village.

Chairman DeKrey: Thank you. We are going to recess the hearing on HB 1484.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1484

House Judiciary Committee

❑ Conference Committee

Hearing Date 2/9/05

Tape Number	Side A	Side B	Meter #
1		xx	11.5-31.9
Committee Clerk Signature	DawnPenrose		

Minutes: 14 members present.

Chairman DeKrey: We will reopen the hearing on HB 1484.

Rep. Scott Kelsch: First of all, I want to express my appreciation for you holding this hearing open and as I stated last week when we had the first hearing on this HB 1484, is just a protection measure and have someone here who's going to testify and tell her story about why this bill is needed.

Joanne Bale: My husband and I live in Fargo. We have two severely retarded daughters at Friendship in Fargo. This came about because there was a staff member at a group home that worked with one of our girls, just a super adult, the nicest man you would ever want to meet. He was so good with all the residents. We put a lot of trust in him, then December 31st, I picked up the paper and find out that he was one of the three people who were arrested that used the hatchet to kill that young man north of Glendale. That completely breaks your trust down. As we got into this a few more days, and his criminal record came out in the Fargo Forum, we were just

flabbergasted. Within an hour, we were over at Friendship's administration, wanting to know why somebody with a criminal record going back to 1997 was in the Penn. here in Bismarck in 1997-98, why he was hired. They went to his file, and found a background check that showed nothing about it. I think that company is flawed and that's kind of a different issue, but as we found more and more of why this could happen, one of the things that come up is the out-of-state companies, which a lot of providers use in ND, it isn't just for the handicapped, it's for daycare, schools, nursing homes, but this company and a lot of them, the administrator of Friendship has gone to a couple e-mail sites, and one of them it always goes back and says ND records only go back to October, 2002, which is not far enough. You can have a couple of good years, probably, if you're a criminal, trying to straighten yourself out, but when you are working with these vulnerable people; seven years is accepted I guess as probably the prime time that you're going to catch them, and it certainly would have if we would have had the right background check and had gone back 7 years, that is why I am particularly in favor of the 7 years being added into there. It just seems like with any person who has any criminal history, by going 7 years, hopefully you will be bound to catch something in their criminal history.

Representative Onstad: It's been talked about moving from 7 years to 5. Would they have detected that history if they had only gone back 5 years, or not.

Joanne Bale: I don't have his history, I know that from not having anything on the background check, when we started checking with some agencies in Fargo, they had two pages of his criminal history. Now whether 5 versus 7, I'm not sure. As it turns out, his time in the Penn would have been within the 7 year range. I don't know if 5 years would be sufficient or 7, but I just feel that two years is certainly not enough. It bothers me that all these agencies are using

these background checks and this guy slipped through the cracks, it seems like something needs to be done to clamp down a little bit and get a more efficient background check policy. How many daycare's are hiring people that have slipped through, or nursing homes. It just seems like in the whole state, the way it's being done it just isn't adequate for what should be done.

Representative Zaiser: What is the statute of limitations, is there anything that would tie into that, in terms of criminal checks, background checks.

Chairman DeKrey: When you read the bill, it is 1 year in present law. I would assume that is state law.

Judy Volk, Criminal History Records Manager, BCI: This bill, as it's written, will actually only have the impact of allowing us to release an arrest without a disposition for currently one year, this would move it to 7 years. We can currently release any record without a disposition as long as the disposition is one year. The only impact of this is, there is no statute of limitations on convictions.

Chairman DeKrey: You're okay with us.

Judy Volk, BCI: Certainly, the impact of this is just to allow us to release records that do not have a disposition.

Representative Klemin: It seems like what you're saying is that this really doesn't affect or help the situation that Mrs. Bale described. If that person had convictions...

Judy Volk, BCI: This actually does not address the problem they are discussing.

Representative Klemin: And if we were to address the problem properly, how would we do it.

Judy Volk, BCI: I'm not sure that you can even access ND criminal history records with the background check that was conducted in this situation. You cannot get a ND criminal history records check over the Internet and companies from out-of-state.

Chairman DeKrey: When you walk into BCI over here, and you pay the $25 fee...

Judy Volk, BCI: $30 fee.

Chairman DeKrey: What do we get when we do that.

Judy Volk, BCI: A ND criminal history record.

Chairman DeKrey: A ND criminal history. So if you're from Fargo and the guy is a really bad apple in MN, and you do a criminal records check in Fargo, you're not going to find that out.

Judy Volk, BCI: If you access ND criminal history records, you may only receive ND records.

Representative Koppelman: Who are these records available too, can anyone pay the fee and request it.

Judy Volk, BCI: Yes, anyone can do a background check, you need to provide the basic information, the SS # and a waiver from that individual or that individual's current address so we may notify them as we are required to by law, if there is release of information.

Representative Kretschmar: How long do you keep these records.

Judy Volk, BCI: We keep the records indefinitely.

Representative Zaiser: Would you be willing to possibly help us with working on an amendment that might enable us to reach across borders to look on criminal background.

Judy Volk, BCI: I do believe that is prohibited by law, we cannot access information from other states.

Representative Delmore: If I decided I wanted to find out about somebody, I could just go in off the street and say I want a criminal background check on him, any reason for it? Is that what you're telling me.

Judy Volk, BCI: Yes. However, you would need to know the basic information on the individual, their full name, their DOB, be able to provide their SS#, or additional information such as if you knew that they had been arrested on a particular date, and there had been a conviction. There are some things that you would absolutely need to know.

Representative Delmore: You made it sound like I could just walk in off the street.

Judy Volk, BCI: If you have the information, yes.

Representative Koppelman: You also either have to have a waiver from that individual, or give their address so that you folks can notify the individual of the request.

Judy Volk, BCI: Yes.

Representative Onstad: If a Fargo company contracts with somebody from MN, they can request that a background check on that person.

Judy Volk, BCI: No.

Representative Onstad: If it's a ND business and they are contracting with someone from MN, getting a worker, they can ask for a list of names, but we would like background check on each of those people in MN to go back 7 years from the date.

Judy Volk, BCI: I'm not quite sure if I understand your question. Are you asking if we can check ND's criminal history records.

Representative Onstad: No, this is a Fargo business, that contracts in MN, so they get a list of names from MN that, because they are from MN, could you give us the background check on those people.

Judy Volk, BCI: We cannot check MN criminal history records, only ND criminal history records are under our authority.

Representative Onstad: You could ask that company from MN to check for you.

Judy Volk, BCI: No.

Representative Klemin: I guess this is part of the language of current law, that you have to have two items of information in order to make this request. We have in the past couple of sessions, been excising or redacting SS#'s from everything, so we've made it very difficult to get SS#'s. This is one of the things that you require, two items of information, it would probably be very unusual for someone to have fingerprints from somebody, or pretty hard to have a state ID number unless you already had some of this information, and you may not have a reportable event if you're trying to find out what his history is, so you're really left with only two items that you've got left, that you can provide, and in most cases is the SS#'s and the birth date. Yet we are doing everything we can to make that SS# secret, so aren't we making it really difficult for people to get background checks unless they know the SS#.

Judy Volk, BCI: The more information you have, the more likely it is that you will have the right person identified. If you're doing background check, for employment, SS# is something that might be able to provide. A record check on the general public, if you want to check on your neighbor, if you don't have a SS#, for example, it does make it more difficult.

Chairman DeKrey: So, actually this bill, although helpful, would be very limited helpful.

Judy Volk, BCI: What this bill does is allow us to release arrests without disposition information for up to 7 years after the date of arrest.

Representative Boehning: There is a national database that you can access, do you put information into the national database, or is it just for federal crimes.

Judy Volk, BCI: Yes, this information, our state criminal history information is passed on to the FBI national database. Accessing that database, a fingerprint is required for that database, we also need to have a state law in place allowing access to that national criminal history records background check. State law has to be in place to allow that, and it has to be for a particular purpose.

Representative Boehning: Would something like that work for what they're looking for here for background checks, if they can access the national level, to cross state lines, especially Fargo/ Moorhead, you can't check on the MN from ND. Would that be something better suited for this.

Judy Volk, BCI: If you're talking about a national criminal history records check, rather than just a ND check, there would need to be fingerprints, there would have to be a separate piece of legislation allowing that background check to take place for a particular group, for example, we need do checks of that nature right now for the education standards and practices, for teacher licensures. So if there was a group that was approved, for employment, for the nature of work that they are concerned about, you could do that.

Representative Delmore: There are different types of record checks that we can do. I believe if I have access to fingerprints, then I would have access to more than just the ND records, or not. I know we do that in education, as part of what you must do to get your certification. So I know there is something more complex, than just saying here is what is happening in ND.

Judy Volk, BCI: This part of the our state law, describes how to do ND criminal history records check, and it provides information on what is required for that purpose. There are other sections of law that describe what we do for a federal background check. What we do for those is, we do a ND check, but we also have to have fingerprint cards that are required for a federal background check, and we process those through the FBI, we get the response back and we provide that response to the group asking for the check. They review the national criminal history record responses, as well as the state response, to ensure that the person is not someone that would be prohibited from licensure.

Representative Delmore: Are there any others beside the ESPD that you do that type of check for, like nursing homes, daycare's, etc. Because I guess I'm trying to look at how we can do something, that it would be a good check and assure people that somebody is okay when they're not.

Judy Volk, BCI: We do background checks for a quite a number of groups, we do Dept. of Human Services background checks for foster care, for adoption, we do for law enforcement coming in.

Representative Delmore: The cost.

Judy Volk, BCI: The cost is for BCI, $30 and FBI is $22 for a total of $52.00.

Joanne Bale: I was thinking as she was talking, in ND we have so many good laws or enforcement from anybody from out-of-state, if they come in and do business here, they have to meet certain standards, is there some way for these out-of-state background check companies could be required to follow this law. That would make them more efficient, if they were required to do the 7 years of background checks. It seems like when you are living on the border, you

almost have to go into other states and check on these people, because it is so easy to go over to Fargo and get a job, and find out all your criminal history is over in Moorhead and it would be completely missed.

Chairman DeKrey: It sound to me like that if there is a business out there, that does criminal records check and they are letting you assume that you are getting a whole lot more of the check than you are actually getting.

Joanne Bale: Right.

Chairman DeKrey: If they are contracting with somebody to do a check, I think they are under the impression that they are getting a lot more of the check than they're actually getting, because from what I can gather, from what we heard today, that if a better check was done, that wouldn't have happened because he would have had a record in the national database, but the company they contracted with just did a ND check, and he didn't come up on the ND screen.

Joanne Bale: But that isn't the only agency, there are quite a number of, that providers use, that are out-of-state, so if the guy moves here from California, these out-of-state companies can check all states, so it isn't just one company. I don't know what the others are doing. But it seems like somebody should be checking on somebody so these people aren't falling through the cracks and getting employed, working with vulnerable people.

Chairman DeKrey: Thank you. Further testimony in support of HB 1484. Testimony in opposition. We will close the hearing.

(Reopened later in the same session)

Chairman DeKrey: What are the committee's wishes in regard to HB 1484. I think what we have here is a classic example of somebody who has a business and people aren't getting the service they think they are.

Representative Delmore: Exactly right.

Chairman DeKrey: I know we say that nothing is hurt, you also have the other side of that equation, if you've been charged with something, and you're innocent, for 7 years they are going to look up and see that you were charged with something.

Representative Meyer: If we pass it, that does take place, right, that if you're charged and not convicted.

Chairman DeKrey: If you're charged and not convicted, that will be on your record for 7 years, they are going to let people know that.

Representative Klemin: I think that's the big problem with this bill, because our American system of justice, is that you are innocent until proven guilty. This is going to say that, notwithstanding that, you're certainly going to be guilty in the eyes of somebody who, for 7 years, even if you are innocent can look up and find that information. That doesn't even address the situation that the lady has. It isn't going to help her situation at all. But I think it is going to make it a difficult problem for people who are actually innocent, and they're going to have an arrest on 7 years on their record.

Representative Meyer: Is it covered under other sections of code, I am thinking of the Boy Scouts here, I was under the assumption that, where you access this national database and it doesn't have to be too.

Representative Klemin: The lady from the BCI, she said that other sections of the code take care of the national checks and there is a way to have national checks done. I think what we have here is an instance where a business is contracting out to do checks, and I'm not so sure that they are letting the client know that they only do ND checks. I generally agree with Representative Klemin, I would say that maybe one year is long enough. I still maintain that 5 is too long. I was thinking more like 3 would be more reasonable.

Representative Koppelman: Are arrests public record.

Chairman DeKrey: They are reportable.

Representative Delmore: Sure, because you can read about them in the paper.

Representative Koppelman: So it's not a confidential record to begin with.

Representative Klemin: Well, that's only if the newspaper happens to pick it up.

Representative Delmore: It's available.

Representative Kretschmar: For one year.

Representative Maragos: Is that current law.

Representative Delmore: Yes.

Representative Klemin: I guess whatever amount you have it, the problem is that it doesn't solve the problem and changing the number of years that it is a reportable event, isn't going to solve the problem.

Representative Koppelman: That's true. Obviously we have a lot of bills that come before us that one individual or one entity testifies on, and we have to look at it as to whether it is good public policy, not whether it helps that individual or not.

Representative Klemin: But I'm looking at it from it from the same standpoint, what does 3 years really do. So we change it from one year to three years. I don't think it makes any change at all.

Representative Koppelman: I guess the difficulty I have, and if it is a public record, and you're an employer and are going to hire somebody, you can make a case to say we're kind of violating that because there is no proof, because there is no standard to do this, but on the other hand, if you're employing someone and want to do a background check, and 13 months ago, back to two years ago, you were in trouble, and a record since then, as a potential employer I would want to know that. What's wrong with releasing it. Seven is too long, I agree.

Representative Meyer: Would it work, and I am addressing her situation, that in that part of the code these other things are covered, that they are required to, so you can put in nursing homes, daycare's, kindergarten.

Chairman DeKrey: If we put that in, they are going to come and put a fiscal note on it, that somebody is going to have to do it.

Representative Zaiser: The list would be so long.

Chairman DeKrey: I have sympathy for the lady and what happened, but this bill doesn't fix that.

Representative Koppelman: I move to amend the bill from 7 years to 3 years.

Representative Meyer: Second.

Chairman DeKrey: Motion carried. We now have the bill before us as amended.

Representative Kretschmar: I move a Do Not Pass as amended.

Representative Boehning: Seconded.

6 YES 8 NO 0 ABSENT **MOTION FAILED**

Representative Koppelman: I move a Do Pass as amended.

Representative Delmore: Seconded.

9 YES 5 NO 0 ABSENT **DO PASS AS AMENDED** **CARRIER: Rep. Onstad**

FISCAL NOTE

Requested by Legislative Council
03/21/2005

Amendment to: Engrossed HB 1484

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 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.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 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 bill will require any person who receives compensation for conducting background checks for applicants seeking positions providing care for vulnerable adults to conduct criminal history record checks through the Bureau of Criminal Investigation.

We do not have a way to determine how many more criminal history record checks will be required as the result of this bill and, therefore, cannot determine the fiscal impact.

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.*

   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.*

   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.*

Name:	Judy Volk / Kathy Roll	**Agency:**	Office of Attorney General
Phone Number:	701-328-5500 328-3622	**Date Prepared:**	03/22/2005

Adopted by the Judiciary Committee
February 9, 2005

House Amendments to HB 1484 - Judiciary Committee 02/09/2005

Page 1, line 14, replace "seven" with "three"

Renumber accordingly

Date: 2/9/05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1484

HOUSE JUDICIARY COMMITTEE

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass as Amended

Motion Made By Rep. Kretschmar Seconded By Rep. Boehning

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Representative Delmore		✓
Representative Maragos		✓	Representative Meyer		✓
Representative Bernstein		✓	Representative Onstad		✓
Representative Boehning	✓		Representative Zaiser		✓
Representative Charging		✓			
Representative Galvin	✓				
Representative Kingsbury	✓				
Representative Klemin	✓				
Representative Koppelman		✓			
Representative Kretschmar	✓				

Total (Yes) 6 No 8

Absent Ø

Floor Assignment Motion Failed

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

Date: 2/9/05
Roll Call Vote #: 2

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1484

HOUSE JUDICIARY COMMITTEE

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended

Motion Made By Rep. Koppelman Seconded By Rep. Delmore

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey		✓	Representative Delmore	✓	
Representative Maragos	✓		Representative Meyer	✓	
Representative Bernstein	✓		Representative Onstad	✓	
Representative Boehning		✓	Representative Zaiser	✓	
Representative Charging	✓				
Representative Galvin		✓			
Representative Kingsbury		✓			
Representative Klemin	✓				
Representative Koppelman	✓				
Representative Kretschmar		✓			

Total (Yes) 9 No 5

Absent 0

Floor Assignment Rep. Onstad

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

REPORT OF STANDING COMMITTEE

HB 1484: Judiciary Committee (Rep. DeKrey, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1484 was placed on the Sixth order on the calendar.

Page 1, line 14, replace "seven" with "three"

Renumber accordingly

2005 SENATE JUDICIARY

HB 1484

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1484

Senate Judiciary Committee

❑ Conference Committee

Hearing Date March 16, 2005

Tape Number	Side A	Side B	Meter #
1	X		0.0 - 2100
3	X		0.0 - 1290
Committee Clerk Signature	Mona L Shelley		

Minutes: Relating to the dissemination of criminal history record info.

Senator John (Jack) T. Traynor, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following testimony:

Testimony In Support of the Bill:

Rep. Scott Kelsch, Dist. #11, Introduced the bill (meter 35) This bill provides protection to venerable citizens while providing a three year look on criminal impositions. The case was a result from a murder in Fargo and the Company doing a background check that was non-conclusive. Care giver's for venerable persons need to bee accurate and not a background checks are equal or accurate. Gave an instance (meter 126) Gave out a proposed amendment - Att. #2.

Sen. Nelson stated that the original bill stated 7 years and the house amended it to 3 years. When I signed on to it was seven. **Rep. Kelsch** thought the whole amendment would get to the "teeth" of the issue.

Joanne Bale, Fargo Citizen (meter 286) Gave testimony - Att. #1 The person that we are referring to was a "gem" of an individual. We had coffee with him hours before the ax murders took place.

Senator Syverson stated that this is directed towards the caring of vulnerable individuals would you have a problem with it including all individuals, if it is not already covered? No problem. Sen. Trenbeath asked what is a record able event? It is an imposition, when a person is charged with something based on there criminal behavior or lack of it subsequent to that event it goes away.

Mike Ness, BCI (meter 628) Gave the definition of record able event and review of bill. Gave testimony on the "Internet company" doing the background checks and how their process works, accessing only court records of public documents. This is a cheaper process. How long does BCI keep records? Ours go back 10-15 years.

The committee requested that the intern do the amendment for the committee.

The committee discussed the cost of having a background check done. SB 2248 has changed the governments charge for a background check it is actually the same price as the Internet companies fees.

Testimony in Opposition of the Bill

None

Senator John (Jack) T. Traynor, Chairman closed the Hearing

Senator John (Jack) T. Traynor, Chairman reopened the Hearing (tape 3, side 2)

Sandi Tabor, Deputy for the Attorney Generals office (meter 60) Stated that upon reviewing the amendment submitted by Rep. Kelsch we have some minor things. The substance is good. Our

main concern is that this bill can only concern "state wide" checks. If we do any "Federal Checks" the process is a complex system that needs to be pre-approved. If we could add after the word "criminal investigation" add "statewide criminal history data base" so that there may be no questions. The other minor issue is the language of the fee change is to broad. Discussion of the Non Profit status, the reduction of the rate for certain groups. The overall price was $30 and is now $15. We can not mandate the federal testing unless we write a whole new section and have the FBI's approval. They pre approved SB 2248.

Senator Hacker stated that this bill would not have helped the situation. The person in question was from Minnesota and had a Minnesota record. The ND background check would not have looked at Minnesota? Discussion of how this company was an "Internet search" that only checks the "clerk of courts" document. The statewide check is a more of an in-depth check. **Sen Hacker** questioned the ability to check neighboring states. They do not do this. Discussion of SB 2248 (meter 500). The committee greatly debated the term "vulnerable adult".

Senator Triplett made the motion to Amend and **Senator Hacker** seconded the motion. All members were in favor and the motion passes.

Senator Triplett made the motion to Do Pass As Amended and **Senator Hacker** seconded the motion. All members were in favor and the motion passes.

Carrier: **Senator Syverson**

Senator John (Jack) T. Traynor, Chairman closed the Hearing

Date: 3/14/05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1484

Senate Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Adopt Amend. State wide + Add pay fees as set forth

Motion Made By Senator Triplett Seconded By Senator Hacker

Senators	Yes	No	Senators	Yes	No
Sen. Traynor	✓		Sen. Nelson	✓	
Senator Syverson	✓		Senator Triplett	✓	
Senator Hacker	✓				
Sen. Trenbeath	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

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

Date: 3/16/05
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1484

Senate Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended

Motion Made By Senator Triplett Seconded By Senator Hacker

Senators	Yes	No	Senators	Yes	No
Sen. Traynor	✓		Sen. Nelson	✓	
Senator Syverson	✓		Senator Triplett	✓	
Senator Hacker	✓				
Sen. Trenbeath	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Syverson

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

REPORT OF STANDING COMMITTEE

HB 1484, as engrossed: Judiciary Committee (Sen. Traynor, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1484 was placed on the Sixth order on the calendar.

Page 1, line 1, after "to" insert "create and enact section 12-60-16.11 of the North Dakota Century Code, relating to obtaining criminal history record information; and to"

Page 2, after line 4, insert:

"**SECTION 2.** Section 12-60.16.11 of the North Dakota Century Code is created and enacted as follows:

12-60-16.16. Criminal history record information - Required action. Any person offering criminal background checks for compensation, for the purpose of screening applicants seeking a position in which the applicant is responsible for providing care for a vulnerable adult, shall utilize the bureau of criminal investigation statewide criminal history database in addition to any other compiled information. The entity shall pay any applicable fees set forth in section 12-60-16.9."

Renumber accordingly

2005 TESTIMONY

HB 1484

H.B. 1484

Chairman DeKrey and members of the House Judiciary Committee

We are the parents of two developmentally disabled daughters at Friendship in Fargo. This bill is an excellent idea in light of some of the events we have gone through recently. The agency hired to conduct background checks did not adequately compile necessary information. According to web sites, the database that they can use only goes back to 2002. In the case that we refer to here, this person's record at the State Penitentiary was not disclosed, as it should have been. By going back 7 years, you can get a much clearer picture of the person who will be serving these vulnerable people. This also is necessary for other agencies such as nursing homes, schools, day care, etc. In North Dakota, we must ensure that we adequately check on people who care for the people that cannot always speak for themselves.

Our experience in this criminal history background check being inadequate was very disturbing for us. A man we really trusted with our daughter and had been in our house several times - was arrested for murder after Christmas in Fargo. Had the investigation gone further back than 2002, his history of many arrests and time at the State Penitentiary would have been disclosed. This could have been disastrous for a group of mentally handicapped. In addition, this could be a problem for any agency that has to do background checks and is not getting the correct information.

We will be glad to visit with you at any time by phone 701-281-1819.

Joanne & Gregg Bale, 4770 - 10th Ave. SW, Fargo, 58103

AH #1

H.B. 1484

Chairman Traynor and members of the Senate Judiciary Committee

We are the parents of two severely retarded daughters at Friendship in Fargo. This bill is an excellent idea in light of some of the events we have gone through recently. The company hired to conduct background checks did not adequately compile necessary information. According to web sites, the database that they can use only goes back to 2002. In the case that we refer to here, this person's record at the State Penitentiary was not disclosed, as it should have been. By going back 7 years, you can get a much clearer picture of the person who will be serving these vulnerable people. This also is necessary for other agencies such as nursing homes, schools, day care, etc. In North Dakota, we must ensure that we adequately check on people who care for the people that cannot always speak for themselves.

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Joanne & Gregg Bale, 4770 - 10th Ave. SW, Fargo, 58103

Att #2

HB 1484

Proposed amendment to HB 1484:
Representative Scot Kelsh

Any entity offering criminal background checks for compensation, for the purpose of screening applicants seeking a position in which the applicant is responsible for providing care for a vulnerable person, must utilize the North Dakota Bureau of Criminal Investigation criminal history database in addition to any other compiled information.