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ROLL NUMBER

DESCRIPTION

3056

2007 HOUSE JUDICIARY

HCR 3056

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HCR 3056

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 2/21/07

Recorder Job Number: 3533, 3543

Committee Clerk Signature

W. Penrose

Minutes:

Chairman DeKrey: We will open the hearing on HCR 3056.

Rep. Nancy Johnson: Sponsor of the bill (see attached testimony).

Rep. Koppelman: You talk about model legislation, but the resolution seems to call for a study. Is model legislation out there that you could present to this study. Is that the idea.

Rep. Nancy Johnson: Yes I have model legislation. I thought about trying to put together a bill, but it talked about medical examiners and coroners and those are different in other states, and I thought it was something that was too large of a topic to take in a legislative session. But we do have the model legislation. We talked about this at the conference in Philadelphia, the DOJ went back and made some corrections and revisions and then put it forth again. There is a starting point, so it wouldn't be like starting new.

Rep. Koppelman: You talked about different states cooperating and the difficulties of that. Would our enacting legislation here solve that problem, as long as other states had similar legislation or is it something that need an interstate compact in order to require cooperation.

Rep. Nancy Johnson: I'm not sure of the number of states that have enacted this, there are several that have. Once it gets into that database, that system, it would be able to be disseminated to get to other states. There was talk about doing it as a federal thing, but that

really hasn't happened. The federal has set up the database, but they are kind of letting each state, at their prerogative, decide what they want to do within their state, because each state is different, some have a medical examiner and some have a coroner system and so to do one thing, there was some resistance from all the states, but if the state could put theirs together, but still tap into the federal systems that need to do the collaboration, it would work better. That's what their suggestion was and at the conference it was mentioned that the federal is kind of slow in moving on this, states seem to be able to respond more rapidly. In 2005, just shortly before this conference, FL enacted that legislation and John Walsh was one of our speakers and he was at the FL legislature when they signed their bill into law. That's what they are working toward, that every state needs to be ownership and working together with other states.

Rep. Charging: What do we do now for missing persons.

Rep. Nancy Johnson: Right now I think it goes to law enforcement, and I'm not really up to speed on it, and that's why I wanted to bring it to a study resolution, so those kinds of questions could be answered.

Chairman DeKrey: Thank you. Further testimony in support.

Tom Trenbeath, AG's office: We are in support of this bill. The law of missing persons in this state is scant at best. It relates to service personnel under the federal missing persons act, that's in chapter 31 of our code. The presumption of death after 7 years for inheritance purposes, that's also in chapter 31. Certain school enrollment review authority, has the Amber alert system under chapter 54. It is diverse, it is non-cohesive and it's incomplete. At the beginning of this session, Rep. N. Johnson, having taken notice of this situation and having secured a copy of proposed nationwide legislation, presented a copy of that model language to the AG's office to see if it might fit ND's needs. Our conclusion was that it might. We

suggested that as time was short and a detailed analysis of the problem and this proposed solution was somewhat involved, a legislative study might be the phase to begin. We are in support of this resolution and the AG urges your favorable consideration of that.

Chairman DeKrey: Thank you. Further testimony in support.

Bonnie Palacek, ND Council on Abused women's Services: We are in support of this. There was a similar resolution two years ago in the session and it was not chosen for study, but at that time, I think the Dru Sjoden was even clearer in our minds, but to a program that we have through our office, Living On, which works with domestic violence family members, of homicide survivors, we came to know several families in which there was a missing person and the kinds of scenarios that Rep. Johnson outlined were very real. Right now here in ND, going on that is very useful, is the fact that we could look at the core guidelines, even though at this point, all states don't have the same kind of legislation, but create a protocol so that family members who are experiencing this agony of having missing members, would know what is the process. What do I have the right to ask of law enforcement. Part of one case that we looked at which was right in ND, was a family wanting to bring in mounted horse team to look and search. They had all the arrangements for this group to come from another state, they got to the community and then were told that this wasn't appropriate protocol, we don't have any way to accommodate this. Those kinds of things go on right here in ND and it would be extremely, not only if we could look at the model legislation because we all have children and loved ones in different parts of the country, but also to be able to start to do something in ND for our citizens.

Chairman DeKrey: Thank you. Further testimony in support. 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 HCR 3056.

Rep. Meyer: I move a Do Pass.

Rep. Kingsbury: Second.

12 YES 0 NO 2 ABSENT DO PASS/CONSENT CALENDAR CARRIER: Rep. Wolf

Date: 2-21-07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 3056

House JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Meyer Seconded By Rep. Kingsbury

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Rep. Delmore	✓	
Rep. Klemin	✓		Rep. Griffin	✓	
Rep. Boehning	✓		Rep. Meyer	✓	
Rep. Charging	✓		Rep. Onstad	✓	
Rep. Dahl	✓		Rep. Wolf	✓	
Rep. Heller	✓				
Rep. Kingsbury	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				

Total (Yes) 12 No 0

Absent 2

Floor Assignment Rep. Wolf

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

Consent Calendar.

REPORT OF STANDING COMMITTEE (410)
February 21, 2007 12:07 p.m.

Module No: HR-33-3591
Carrier: Wolf
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HCR 3056: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HCR 3056 was placed on the Tenth order on the calendar.

2007 SENATE JUDICIARY

HCR 3056

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HCR 3056

Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: March 7, 2007

Recorder Job Number: 4592

Committee Clerk Signature *Mona Holby*

Minutes: Relating to study the search for and identification of missing persons

Senator David Nething, Chairman called the Judiciary committee to order. All Senators were present except for Sen. Olafson. The hearing opened with the following:

Testimony in Favor of the Bill:

Rep. Nancy Johnson, Dist. #37 Introduced the bill and reviewed the bill – Att. #1

Bonnie Polechek, ND Council for Abused Women (meter 6:08) testified in support of the bill. She spoke to legislation last session and cited the Dru Sjodin example. ND has between 30-40 open missing people's cases and spoke of the "Living On" program in their organization, stating that families need information. Ms. Polechek stated there is no protocol for the families of the missing person; ie, a brochure saying what information you can get and what you can't get due to on going investigations.

Re. Nancy Johnson, (meter 9:00) stated that the **Tom Trenbeath**, Attorney General Office is in support of the resolution.

Testimony Against the bill:

None

Testimony Neutral to the bill:

None

Senator David Nething, Chairman closed the hearing.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HCR 3056

Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: March 12, 2007

Recorder Job Number: 4894

Committee Clerk Signature *Maria Lolley*

Minutes: Relating to study the search for and identification of missing persons.

Senator David Nething, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following committee work:

Sen. Lyson reviewed the bill for the committee, speaking of an incident he experienced.

Sen. Lyson made the motion to Do Pass HCR 3056 and **Sen. Marcellais** seconded the motion. All members were in favor and the motion passes.

Carrier: **Sen. Lyson**

Senator David Nething, Chairman closed the hearing.

Date: 3-12-07
 Roll Call Vote # 10F1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 3056

Senate _____ Judiciary _____ Committee _____

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Sen. Lyson Seconded By Sen. Marcellais

Senators	Yes	No	Senators	Yes	No
Sen. Nething	✓		Sen. Fiebigler	✓	
Sen. Lyson	✓		Sen. Marcellais	✓	
Sen. Olafson	✓		Sen. Nelson	✓	

Total Yes 6 No 0

Absent 0

Floor Assignment Sen. Lyson

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

REPORT OF STANDING COMMITTEE (410)
March 12, 2007 1:53 p.m.

Module No: SR-46-4994
Carrier: Lyson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HCR 3056: Judiciary Committee (Sen. Nething, Chairman) recommends DO PASS
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3056 was placed on the
Fourteenth order on the calendar.

2007 TESTIMONY

HCR 3056

HCR 3056
House Judiciary Committee
February 21, 2007

*Some
given
to Senate*

Chairman DeKrey and members of the House Judiciary committee, HCR 3056 addresses the issues of missing persons and identifying human remains, two very serious and unpleasant concerns. Although this is not a common occurrence in North Dakota, for the families involved, one occurrence is one too many.

After the 2005 session I was invited to participate in a Department of Justice conference on Missing Persons and Identifying Human Remains. Attendees at the conference included representatives from the DOJ, the FBI, state legislators, law enforcement, forensic experts, medical examiners, state AG's offices, parents of missing children, organizations representing victims of crimes and violence, FEMA, DA offices, state bureaus of investigation, the National Governors Association, counties, coroners, and forensic odontologists.

The conference was designed to review and improve model legislation on these two issues. Historically, there has been an inability to maximize resources and share information among entities charged with identifying remains and entities conducting investigations. The meeting began the process of developing a national strategy to foster and enable collaboration across geographic jurisdictions and individual fields of expertise. There is a need for state legislation because there is no federal law covering these topics. Subsequently, each state has enacted its own law. This does not help the process when every state has different requirements or no requirements at all for collecting or sharing data. The conference was to encourage each state to enact similar legislation; so that the information stored and the processes are similar and can be accessed from other states.

Let me give you a couple of examples of the need.

1) My son goes missing. Dickinson, Minneapolis, Fort Lauderdale.
Who will look, who will take ownership? 24 hour wait

2) 3-year old boy is abducted. Blonde hair, blue eyes, 36" tall, wearing blue jeans, red & white striped t-shirt, blue tennies.

If not found in a short amount of time, hair color could change, clothes could change, dress maybe.

Then imagine bones are found in New Mexico 5 years later. How are we going to match those bones to this 3 year old boy?

This model legislation would identify how to collect information for missing persons reports (tattoos, surgeries, broken bones, dental work) and also DNA samples for future reference. It addresses how law enforcement should collect information, how to

identify high risk cases and how to ensure prompt dissemination of information to other law enforcement agencies.

In 2000 the FBI Laboratory Division initiated the National Missing Person DNA Database program for the identification of missing and unidentified persons using the National DNA Index System (NDIS) of the FBI's Combined DNA Index System (CODIS). From the information I received at the meeting in Philadelphia, there are federal dollars available to assist states in setting up these systems.

It is important to assist the families of missing persons. I can only imagine how horrible the angst, the pain, the uncertainty and the loss must be.

This morning I ask for your favorable support of this resolution and urge you to encourage Legislative Council members chosen at the end of the session to include it in our Interim work.