

MICROFILM DIVIDER

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



ROLL NUMBER

DESCRIPTION

2259

2007 SENATE JUDICIARY

SB 2259

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2259**

Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: January 24, 2007

Recorder Job Number: 1800 & 1838

Committee Clerk Signature *Mona L. Solley*

Minutes: Relating to registration requirements for sexual offenders and offenders against children.

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

Testimony In Support of Bill:

Sen. Dever, Dist. #32 Introduced the bill It is an honor when the A.G. office asks you to support a bill. Gave a brief description of the bill and spoke of a committee he was on and his experience. (meter :20) and deferred questions to the experts.

Rep. Craig Headland, Dist. #29 (meter 2:12) Spoke in support of the bill. It is Important to protect the kids.

Rep. Blair Thorson, Dist #44 (meter 2:40) Spoke in support of the bill.

Jonathan Byers, Asst. Attorney General (meter 3:15) Reviewed bill – Att #1a, Referred to an amendment – Att. #1b and referred to Federal law and ND compliance of– Att. #1c.

Sen. Fiebiger (meter 7:59) spoke of the three "tier" set-up and the Adam Wash Act that requires 15 years as a minimum sentence.

Testimony in Opposition of the Bill:

None

Testimony Neutral to the Bill:

John Val Emter, Citizen (meter 8:53) He review law. He represents the people of ND. Spoke of attorney's role and referred to Dru Shadeen.

Senator David Nething, Chairman closed the hearing.

Job Number: 1838

Senator David Nething, Chairman reopened the hearing.

Sen. Nething reviewed (meter 3:50) Attorney Generals Amendment submitted by John Byers to make us compliant with the Federal Regulation or Adam Walsh Act"

Sen. Nelson made the motion to Do Pass Amendment Att. #1b and **Sen. Marcellais** seconded the motion. All members were in favor and the motion passes.

Sen. Nelson made the motion to Do Pass SB 2259 as Amended and **Sen. Marcellais** seconded the motion. All members were in favor and the motion passes.

Carrier: Sen. Nelson

Senator David Nething, Chairman closed the hearing.

FISCAL NOTE

Requested by Legislative Council

02/07/2007

Amendment to: SB 2259

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.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$22,923	\$0	\$44,006
Expenditures	\$0	\$0	\$21,086	\$22,923	\$105,656	\$44,006
Appropriations	\$0	\$0	\$21,086	\$22,923	\$105,656	\$44,006

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB 2259 will require the Field Services Div. to hire a Parole Officer III to handle the additional offenders placed on probation under this proposed bill. The division feels it will not need the additional PO III until January 1, 2009. The legislation will result in an additional 68 sex offenders.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 9 of the bill requires those who violate the sex offender registration law would be guilty of a class C felony. It is assumed that all of the offenders would be placed on probation. This is projected to increase the sex offender probation population by the end of the 07-09 biennium by 68 offenders.

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.*

It is assumed that the increased offender count using a 60% collection rate will provide additional supervision fee revenue of \$22,923 in the 07-09 biennium and \$44,006 in the 09-11 biennium.

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.*

The increased sex offender population would require the division to hire another PO III Sex Offender specialist on January 1, 2009. The division would expend \$44,009 in salary and operating during the 07-09 biennium. During the 09-11 biennium, the division will expend \$149,662 for salary and operating. This will require 1 additional FTE if this legislation is enacted.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

The 07-09 biennial appropriation would require \$21,086 in general funds and \$22,923 in special funds. During the 09-11 biennium it would require \$105,656 in general funds and \$44,006 in special funds. These amounts are not in the current DOCR appropriation bill.

Name:	Charles R. Placek	Agency:	ND DOCR
Phone Number:	701-328-6198	Date Prepared:	02/22/2007

REPORT OF STANDING COMMITTEE

SB 2259: Judiciary Committee (Sen. Nething, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2259 was placed on the Sixth order on the calendar.

Page 1, line 1, after the third comma insert "7,"

Page 1, line 5, after the third comma insert "7,"

Page 4, after line 8, insert:

"7. Registration consists of a written statement signed by the individual, giving the information required by the attorney general, and the fingerprints and photograph of the individual. An individual who is not required to provide a sample of blood and other body fluids under section 31-13-03 or by the individual's state or court of conviction or adjudication shall submit a sample of blood and other body fluids for inclusion in a centralized data base of DNA identification records under section 31-13-05. The collection, submission, testing and analysis of, and records produced from, samples of blood and other body fluids, are subject to chapter 31-13. Evidence of the DNA profile comparison is admissible in accordance with section 31-13-02. A report of the DNA analysis certified by the state crime laboratory is admissible in accordance with section 31-13-05. A district court shall order an individual who refuses to submit a sample of blood or other body fluids for registration purposes to show cause at a specified time and place why the individual should not be required to submit the sample required under this subsection. Within three days after registration, the registering law enforcement agency shall forward the statement, fingerprints, and photograph to the attorney general and shall submit the sample of the individual's blood and body fluids to the state crime laboratory. If an individual required to register pursuant to this section has a change in name, school, or address, that individual shall inform in writing, at least ten days before the change, the law enforcement agency with whom that individual last registered of the individual's new name, school, residence address, or employment address. The law enforcement agency, within three days after receipt of the information, shall forward it to the attorney general. The attorney general shall forward the appropriate registration data to the law enforcement agency having local jurisdiction of the new place of residence, school, or employment. Upon a change of address, the individual required to register shall also register within ~~ten~~three days at the law enforcement agency having local jurisdiction of the new place of residence, school, or employment. The individual registering under this section shall periodically confirm the information required under this subsection in a manner and at an interval determined by the attorney general. A law enforcement agency that has previously registered an offender may omit the fingerprint portion of the registration if that agency has a set of fingerprints on file for that individual and is personally familiar with and can visually identify the offender. These provisions also apply in any other state that requires registration."

Renumber accordingly

2007 HOUSE JUDICIARY

SB 2259

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2259

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 3/5/07

Recorder Job Number: 4313

Committee Clerk Signature

Penrose

Minutes:

Chairman DeKrey: We will open the hearing on SB 2259.

Sen. Dick Dever: Sponsor, support this bill.

Chairman DeKrey: Thank you. Further testimony in support

Rep. Blair Thoreson: Sponsor, support this bill.

Chairman DeKrey: Thank you. Further testimony in support

Rep. Craig Headland: Sponsor, support this bill.

Chairman DeKrey: Thank you. Further testimony in support.

Jonathan Byers, AG's Office: (see attached testimony).

Chairman DeKrey: What about the fiscal note.

Jonathan Byers: This will put more offenders on supervision, because of the stiffer penalties that are now being put in place, so there will be fees and staff that are required to implement.

Chairman DeKrey: Will you lose federal funds if we don't pass this out.

Jonathan Byers: If we don't pass this act, we will lose the ability to get the Edward Byrne funds, which is usually 10% that they threaten us with there. The Edward Byrne Memorial

Funds are much lower than they used to be. ND used to be awarded \$2-4 million dollars a biennium and it's much less than that, but there is still a financial loss there. As I indicated the

other teeth to this is that not only would we lose access to the Byrne funds, we don't get these grant programs that we might access under the Act, as well. It would be about \$55,000. The other grant programs under the Adam Walsh Act that we might be eligible for might be much more substantial to that, a couple of million dollars.

Rep. Kretschmar: Would this bring us into compliance with the Adam Walsh Act.

Jonathan Byers: We'll be able to make that last line on the handout instead of saying "pending" it will say "compliant" if passed.

Rep. Wolf: I'm looking at the original bill, and the engrossed bill, is the reason for the engrossed version, because of the funding.

Jonathan Byers: When I drafted this the first time, I missed that one word change. The whole paragraph is for that one word change.

Chairman DeKrey: Thank you. Further testimony in support. Testimony in opposition, or neutral. We will close the hearing.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2259

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 3/5/07

Recorder Job Number: 4375

Committee Clerk Signature

W Penrose

Minutes:

Chairman DeKrey: We will take a look at HB 2259. What are the committee's wishes.

Rep. Delmore: I move a Do Pass and be rereferred to Appropriations.

Rep. Wolf: Second.

12 YES 0 NO 2 ABSENT

DO PASS AND BE REREFERRED TO APPROPRIATIONS

CARRIER: Rep. Delmore

Date: 3/5/07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2259

House JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass / Rereferred to Approps

Motion Made By Rep. Delmore Seconded By Rep. Wolf

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. Delmore

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

REPORT OF STANDING COMMITTEE

SB 2259, as engrossed: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2259 was rereferred to the Appropriations Committee.

2007 HOUSE APPROPRIATIONS

SB 2259

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2259

House Appropriations Committee

Check here for Conference Committee

Hearing Date: 3-9-07

Recorder Job Number: 4774

Committee Clerk Signature



Minutes:

Chairman Svedjan opened the hearing on SB 2259 coming from the judiciary committee and dealing with registration requirements for sexual offenders.

Rep DeKrey: This bill is bring the state of ND into compliance with the Adam Walsh protection and safety act. If we don't do this, we will lose \$55,000 of the \$550,000 grant. We get substantial other money from private foundations and sources that are contingent upon being in compliance with the federal law. That would cost us \$2M. The dept of corrections does not have this in their budget.

Rep Bellew: Can't we use these grant funds to fund this program?

Rep DeKrey: The grant funds that we get are contingent that our law is compatible with the federal law. They notify the AG's office as to what we need in law. The private funds are also being in compliance with the federal act.

Rep Nelson: I see that it does ramp up some expenditures in the next biennium. Is that because of higher anticipated utilization or is it because some other will decrease?

Rep DeKrey: Nobody knows. There is somewhat of an anticipation though that these funds will continue to decrease.

Chairman Svedjan: In the fiscal note itself it indicates that the division feels it would not need an additional parole officer until 2009. So that's impacted one biennium compared to the next.

Rep Pollert: Did I hear you say that it would bring forward \$2M in the next biennium?

Rep DeKrey: That's what we were told in committee was that other programs that they would have access to would bring in up to \$2M.

Rep Kline made a Do Pass motion

Seconded by Rep Thoreson

(yes) 22 (no) 0 (absentf) 2

Carrier: Rep Delmore

Date: 3/4/07
 Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2259

House Appropriations Full Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Klein Seconded By Thoreson

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan	✓				
Vice Chairman Kempenich	✓				
Representative Wald	✓		Representative Aarsvold	✓	
Representative Monson	✓		Representative Gulleason	✓	
Representative Hawken	✓				
Representative Klein	✓				
Representative Martinson	✓				
Representative Carlson	✓		Representative Glassheim	✓	
Representative Carlisle	✓		Representative Kroeber	✓	
Representative Skarphol	✓		Representative Williams	✓	
Representative Thoreson	✓				
Representative Pollert	✓		Representative Ekstrom	✓	
Representative Bellew	✓		Representative Kerzman	✓	
Representative Kreidt	✓		Representative Metcalf	✓	
Representative Nelson	✓				
Representative Wieland	✓				

Total (Yes) 22 No 0

Absent 2

Floor Assignment Rep. Delmore

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

REPORT OF STANDING COMMITTEE (410)
March 9, 2007 2:29 p.m.

Module No: HR-45-4893
Carrier: Delmore
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2259, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman)
recommends **DO PASS** (22 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING).
Engrossed SB 2259 was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

SB 2259

Att #1a
1-24-07

SENATE BILL 2259 TESTIMONY
SENATE JUDICIARY COMMITTEE
JANUARY 24TH, 2007
FORT LINCOLN ROOM

By Jonathan Byers, Assistant Attorney General

Mr. Chairman and Members of the Committee:

Same given to House

My name is Jonathan Byers and I appear on behalf of the Attorney General. I wish to testify in favor of Senate Bill 2259.

Since the 53rd Legislative Assembly passed the first sex offender registration legislation in 1991, it's been something of a chess match between this Legislature doing what's right, and Congress telling us what's required. I have attached a chart highlighting North Dakota's compliance with previous Acts of Congress regarding offender registration and community notification.

The latest of these Acts is the Adam Walsh Child Protection and Safety Act of 2006. Like its predecessors, the Adam Walsh Act sets forth various specific provisions that state offender registries are supposed to comply with. The penalty for noncompliance is the loss of Edward Byrne Memorial Fund dollars and the inability to qualify for other grant programs outlined in the Adam Walsh Act.

After reading the 82-page Adam Walsh Act (the Act) I identified at least a half dozen changes that we need to make to be compliant. Four of those require a statutory amendment. First, the Act requires that we mandate registration for offenders convicted in tribal courts and foreign countries. There are amendments on page one, two, and four to accomplish that.

The second provision we need to amend is to reduce the time that an offender has to register from ten to three days. On page two of the bill, you will note that an offender will now be required to register within three days of coming into a county in which the offender resides or is temporarily domiciled. I have also attached an amendment to the bill reducing the time that an offender has to re-register upon moving to a new county from ten to three days.

The third amendment required by the Adam Walsh Act is to provide for a felony level offense for any violation of the registration requirements. Page five of the bill eliminates the misdemeanor conviction for a first offense and makes any violation a class C felony.

The last statutory change we need to be compliant is to lengthen the amount of time that some offenders are required to register. Under current law, offenders either register for 10 years or for life. The Adam Walsh Act specifies a three-tier length of registration tied to an offender's assigned risk level. On page four of House Bill 2259, you will see the creation of three tiers of registration length: 15 years for low risk offenders, 25 years for moderate risk offenders, and lifetime registration for high risk offenders.

This legislation will require offenders to register quicker, register longer, and will penalize them more severely when they don't. The Attorney General asks for a do pass. I would be happy to answer any questions.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2259

Page 4, after line 8, insert:

- "7. Registration consists of a written statement signed by the individual, giving the information required by the attorney general, and the fingerprints and photograph of the individual. An individual who is not required to provide a sample of blood and other body fluids under section 31-13-03 or by the individual's state or court of conviction or adjudication shall submit a sample of blood and other body fluids for inclusion in a centralized data base of DNA identification records under section 31-13-05. The collection, submission, testing and analysis of, and records produced from, samples of blood and other body fluids, are subject to chapter 31-13. Evidence of the DNA profile comparison is admissible in accordance with section 31-13-02. A report of the DNA analysis certified by the state crime laboratory is admissible in accordance with section 31-13-05. A district court shall order an individual who refuses to submit a sample of blood or other body fluids for registration purposes to show cause at a specified time and place why the individual should not be required to submit the sample required under this subsection. Within three days after registration, the registering law enforcement agency shall forward the statement, fingerprints, and photograph to the attorney general and shall submit the sample of the individual's blood and body fluids to the state crime laboratory. If an individual required to register pursuant to this section has a change in name, school, or address, that individual shall inform in writing, at least ten days before the change, the law enforcement agency with whom that individual last registered of the individual's new name, school, residence address, or employment address. The law enforcement agency, within three days after receipt of the information, shall forward it to the attorney general. The attorney general shall forward the appropriate registration data to the law enforcement agency having local jurisdiction of the new place of residence, school, or employment. Upon a change of address, the individual required to register shall also register within ~~ten~~ three days at the law enforcement agency having local jurisdiction of the new place of residence, school, or employment. The individual registering under this section shall periodically confirm the information required under this subsection in a manner and at an interval determined by the attorney general. A law enforcement agency that has previously registered an offender may omit the fingerprint portion of the registration if that agency has a set of fingerprints on file for that individual and is personally familiar with and can visually identify the offender. These provisions also apply in any other state that requires registration."

Renumber accordingly

HH #1c

**REGISTRATION & NOTIFICATION ACTS
PASSED BY CONGRESS**

YEAR	ACT OF CONGRESS	NORTH DAKOTA COMPLIANCE
1994	Jacob Wetterling Act	YES
1996	Megan's Law amendment	YES
1996	Pam Lychner Act	YES
1998	CJSA amendments	YES
2000	Campus Sex Crimes Prevention Act	YES
2006	Adam Walsh Child Protection and Safety Act	pending