

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2378

2007 SENATE JUDICIARY

SB 2378

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2378**

Senate Judiciary Committee

☐ Check here for Conference Committee

Hearing Date: February 5, 2007

Recorder Job Number: 2798 & 2807

Committee Clerk Signature

Maria L. Solby

Minutes: Relating to the authority of a federal law enforcement agent to make an arrest for a violation of state.

Job Number: 2798

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. Curtis Olafson, Dist. #10 Introduced the bill (meter 1:55) This bill makes good sense.

Rep. Rick Berg, Dist. #45 (meter 2:40) The genesis of this bill is the DEA personnel in charge of ND approached us with this idea. Due to the cooperation of the parties the bill gives the D.E.A. the same authority as the F.B.I. This is a good bill to help reduce crime.

Sen. Nelson asked if there were any other agents then FBI or DEA? There are other Federal Agents but we only want to open it up to these two. Spoke of the definition.

Sen. Fiebiger seemed concern (meter 5:30) in the change of offense. The question is the determination of the level of the crime at the time of the arrest. Reasonable grounds is broad and the additional language would make it broader.

Dan Ortega, DEA, (meter 7:01) I have been a special agent for 21 years, I was trained at the same academy as the FBI, approx. 90% of our training is the same. Our concern is that when

we are working out in a task force and are assistance is requested, we would have to keep our weapon holstered. Sometimes on a probation check they see a domestic incident occur and would like to have our assistance. In the 3 1/2 years I have been hear, I have never had the call to make an arrest. We do not look for this and this law would very seldom be used. This would open us up to liability issues we do not want to involve with.

Sen. Fiebiger asked other then a domestic; why else would you need to change the offence.

Mr. Ortega spoke of going in on an assist, due to hearing that there may be drugs present; we are out in our cars. If we get a call for assistance, this would allow us to help. He was asked (meter 11:00) how many agents in ND 5 DEA non-supervisor and 1 supervised and less then a dozen FBI agent.

Testimony in Opposition of the Bill:

None

Testimony Neutral to the Bill:

None

Senator David Nething, Chairman closed the hearing.

Job Number: 2807

Senator David Nething, Chairman opened the hearing.

Sen. Fiebiger made the motion to amend page 1, line 16 and replace felony with criminal and

Sen. Nelson seconded the amendment. All members were in favor and motion passes

Sen. Nelson made the motion to Do Pass SB 2378 as amended and **Sen. Lyson** seconded the motion.

Sen. Olafson asked **Sen. Lyson** what a Federal Marshalls role was. (meter 1:23) They usually serve warrants and do not do investigations. The committee discussed a case in Medina.

All members were in favor and the motion passes.

Carrier: **Sen. Lyson**

Senator David Nething, Chairman closed the hearing.

Date: 2-5-07

Roll Call Vote # 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2378

Senate _____ Judiciary _____ Committee _____

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Amendment to replace felony w/ Criminal

Motion Made By Sen. Fiebigger Seconded By Sen. Nelson

Senators	Yes	No	Senators	Yes	No
Sen. Nething	/		Sen. Fiebigger	/	
Sen. Lyson			Sen. Marcellais		
Sen. Olafson			Sen. Nelson		

Total Yes 6 No 0

Absent 0

Floor Assignment _____

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

Date: 2-5-07

Roll Call Vote # 2

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2378

Senate _____ Judiciary _____ Committee _____

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended

Motion Made By Sen. Nelson Seconded By Sen. Lyson

Senators	Yes	No	Senators	Yes	No
Sen. Nething	✓		Sen. Fiebiger	✓	
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

SB 2378: 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 2378 was placed on the Sixth order on the calendar.

Page 1, line 16, remove the overstrike over "~~felony~~"

Page 1, line 17, remove "criminal"

Renumber accordingly

2007 HOUSE JUDICIARY

SB 2378

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2378

House Judiciary Committee

☐ Check here for Conference Committee

Hearing Date: 3/13/07

Recorder Job Number: 4944

Committee Clerk Signature

Minutes:

Vice Chair Klemin: We will open the hearing on SB 2378.

Sen. Curtis Olafson: Sponsor, introduced the bill. It is so that DEA agents will have authority to make arrests when they see crime being committed, and they are out there in an element of society, where it appears that often happens, so it seems to me that having this kind of authority makes a lot of sense to me. I don't claim to be an expert in this area, and there are others here to provide some expert testimony.

Rep. Klemin: Thank you. Further testimony in support.

Dan Ortega, Special Agent, DEA: I have been an agent for 21 years. I have served in three domestic posts and one foreign post. Our duties here keep us in close contact with our local counterparts on a regular basis. We work very closely with our state and local counterparts. There are five DEA agents here in ND, they carry weapons. There are two here in Bismarck and three in Fargo. I work here in Bismarck. I work very closely with the Narcotics Task Force here in town. A lot of times we go out and conduct business as they do, surveillances, meeting with people under cover, help with arrests. In those situations, sometimes we may need to assist our counterparts in conducting an arrest, it's not covered by the Title 21 statute. So this really gives us the authority to provide support to our local counterparts. We think it is

important. We certainly don't want to be out in a situation with law enforcement and have to think about whether we are able to do this or back up the fellow law enforcement officers. This gives us a little bit more ability to act.

Rep. Klemin: What is Title 21?

Dan Ortega: It's the federal controlled substances act, it's everything that has to do with investigating cases of sale of illegal, narcotic controlled substances. It's a federal statute. We have jurisdiction throughout the United States to enforce those statutes.

Rep. Klemin: You would have authority to arrest for a violation of those statutes.

Dan Ortega: Yes.

Rep. Meyer: You referred to yourself as Special Agent. In reading this, would special agent no longer be applicable, would you just be a federal agent or what.

Dan Ortega: This bill addresses DEA in particular. There are other federal agents in the state, but my understanding is that this is meant to provide for DEA only. There are other federal agents that carry guns in law enforcement; they are called criminal investigators in the city.

Rep. Delmore: Is this opening it up then to other federal agents besides people such as yourself, as we've changed the special agent to federal agent.

Dan Ortega: I believe it says Drug Enforcement Administration in there, as well. Then that would be only special agents.

Rep. Delmore: The Federal Bureau Investigation or federal drug enforcement.

Dan Ortega: We have some DEA employees that are not gun carriers. They are support personnel, they are not included.

Rep. Delmore: Wouldn't that change the provisions for them as far as carrying a firearm.

Dan Ortega: For the ones that normally don't? I would probably say no, I can't see that they want to be in a position where they are making an arrest or needing weapons for the purpose of making an arrest. They are not side arm personnel; they are secretaries and office support personnel.

Rep. Griffin: Most other states allow the DEA agents to assist in arrests?

Dan Ortega: I don't know if all of them do, but I have worked in states that do allow them, yes.

Rep. Klemin: Other questions. Thank you. Further testimony in support. Testimony in opposition. We will close the hearing.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2378

House Judiciary Committee

☐ Check here for Conference Committee

Hearing Date: 3/14/07

Recorder Job Number: 5027

Committee Clerk Signature

Openrose

Minutes:

Chairman DeKrey: We will take a look at SB 2378. What are the committee's wishes.

Rep. Delmore: I move a Do Pass.

Rep. Kingsbury: Second.

13 YES 0 NO 1 ABSENT

DO PASS

CARRIER: Rep. DeKrey

Date: 3/14/07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2378

House JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Delmore 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) 13 No 0

Absent 1

Floor Assignment Rep. DeKrey

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

REPORT OF STANDING COMMITTEE (410)
March 14, 2007 10:48 a.m.

Module No: HR-48-5270
Carrier: DeKrey
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2378, as engrossed: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2378 was placed on the Fourteenth order on the calendar.