

2009 HOUSE JUDICIARY

HB 1333

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1333

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 2/2/09

Recorder Job Number: 8360, 8361

Committee Clerk Signature

Minutes:

Chairman DeKrey: We will open the hearing on HB 1333.

Aaron Birst, ND Association of Counties, State's Attorneys: Support (attachment).

Rep. Delmore: You believe this is a protection for the juvenile instead of going to adult court.

Aaron Birst: Yes. The two ways you could have done it was to have a civil forfeiture proceeding that you go to adult court and try to close the hearing somehow, but that doesn't make sense to have juveniles on the adult side, so then we thought we should have the juvenile court matters handled through juvenile side. The intent of this bill is to keep the act alive, but keep it in juvenile court for continuity of record.

Chairman DeKrey: Thank you. Further testimony in support. Testimony in opposition. We will close the hearing. What are the committee's wishes in regard to HB 1333?

Rep. Delmore: I move a Do Pass.

Rep. Wolf: Second.

12 YES 0 NO 1 ABSENT

DO PASS

CARRIER: Rep. Wolf

Date: 2/2/09
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1333

HOUSE JUDICIARY COMMITTEE

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DP DNP DP AS AMEND DNP AS AMEND

Motion Made By Rep. Delmore Seconded By Rep. Wolf

Representatives	Yes	No	Representatives	Yes	No
Ch. DeKrey	✓		Rep. Delmore	✓	
Rep. Klemin	✓		Rep. Griffin	✓	
Rep. Boehning	✓		Rep. Vig	✓	
Rep. Dahl	✓		Rep. Wolf	✓	
Rep. Hatlestad	✓		Rep. Zaiser		
Rep. Kingsbury	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				

Total (Yes) 12 No 0

Absent 1

Floor Carrier: Rep. Wolf

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

REPORT OF STANDING COMMITTEE

HB 1333: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS
(12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1333 was placed on the
Eleventh order on the calendar.

2009 SENATE JUDICIARY

HB 1333

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB1333

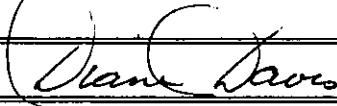
Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: 3/11/09

Recorder Job Number: 10666

Committee Clerk Signature



Minutes: **Senator Nething, Chairman**

Relating to the jurisdiction of the juvenile court.

Representative Chris Griffin – District 19 – Introduces the bill and explains the intent of the bill. This bill clarifies in civil forfeitures that arrive when a child is alleged to possess forfeitable property would be handled in juvenile court according to the procedure set out for adult court.

Senator Nething – Asks, what kind of forfeitable property are we talking about?

Rep. Griffin– Replies, examples are cash for drug dealings or cash from prostitution.

Senator Fiebiger – Asks, if the juvenile courts are comfortable with this?

Rep. Griffin – Said he has not heard of any problems.

Senator Nething – Asks, if this will follow the adult forfeiture proceedings.

Aaron Birst – Association of Counties – He hands out written testimony for Renata Olafson Selzer, Assistant Cass County State's Attorney. In support of this bill. He does make note of a correction needed in the bill and proposes an amendment.

Close the hearing 1333.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB1333

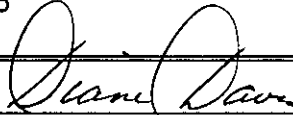
Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: 3/11/09

Recorder Job Number: 10668

Committee Clerk Signature



Minutes: **Senator Nething, Chairman**

Committee work

Discussion on the proposed amendment.

Senator Olafson moves the amendment

Senator Lyson seconds

Verbal vote – all yes

Senator Olafson moves do pass as amended

Senator Lyson seconds

Vote – 6-0

Senator Olafson will carry

Date: 3/11
Roll Call Vote #: 1
1333
amendment

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

Senate JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended

Motion Made By Sen. Olafson Seconded By Sen. Fiebiger

Senators	Yes	No	Senators	Yes	No
Sen. Dave Nething – Chairman	/		Sen. Tom Fiebiger	/	
Sen. Curtis Olafson – V. Chair.	/		Sen. Carolyn Nelson	/	
Sen. Stanley W. Lyson	/		Sen. Mac Schneider	/	

Total (Yes) _____ (N) _____

Absent _____

Floor Assignment Sen.

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

Verbal yes

Date: 3/11/09
 Roll Call Vote #: 2
1333

**2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO.**

Senate JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended

Motion Made By Sen. Olafson Seconded By Sen. Lyson

Senators	Yes	No	Senators	Yes	No
Sen. Dave Nething - Chairman	X		Sen. Tom Fiebiger	X	
Sen. Curtis Olafson - V. Chair.	X		Sen. Carolyn Nelson	X	
Sen. Stanley W. Lyson	X		Sen. Mac Schneider	X	

Total (Yes) 6 (N) 0

Absent _____

Floor Assignment Sen. Olafson

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

REPORT OF STANDING COMMITTEE

HB 1333: 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). HB 1333 was placed on the Sixth order on the calendar.

Page 1, line 6, after "under" insert "chapter 19-03.1 or"

Renumber accordingly

2009 TESTIMONY

HB 1333

Testimony to the
HOUSE JUDICIARY
Prepared February 2, 2009 by Aaron Birst
Legal Counsel - North Dakota Association of Counties

CONCERNING HOUSE BILL 1333

Chairman DeKrey and members of the Committee, the State's Attorneys through the North Dakota Association of Counties is here today to support House Bill 1333.

The crux of this bill is to clarify where civil forfeiture proceedings should take place when the property subject to forfeiture is possessed by a juvenile. Although, civil forfeiture proceedings against juveniles are very rare, when the issue arises it can create some difficulties on how to handle such a case. Under current law, it is unclear whether the juvenile court should handle the case or whether the District court should handle the case. In some cases, the juvenile court addresses the forfeiture in its disposition orders and in others, prosecutors have filed forfeiture proceedings in District court and requested the file be listed as restricted.

The juvenile court is authorized to order a delinquent child to make monetary restitution under NDCC 27-20-31. That provision certainly applies if the juvenile damaged property or stole property from a victim but it still leaves silent what a court should do when the juvenile is found to have possessed significant amounts of money that may have been received from illegal activity such as drug dealing or prostitution. This bill would clarify the process and make clear such cases should remain in the juvenile court with all the protections afforded the juvenile offender.

For the following reasons I ask that you support House Bill 1333.

Thank you.

House Bill 1333

Testimony of Renata Olafson Selzer

Mr. Chairman and members of the Senate Judiciary Committee:

My name is Renata Olafson Selzer, and I am an Assistant Cass County State's Attorney. I handle juvenile delinquency cases and drug cases in adult court. I am unable to attend the hearing on House Bill 1333, but I would like to submit this written testimony and ask for your support of the bill.

House Bill 1333 would place civil forfeiture cases in the jurisdiction of the juvenile court when a child is alleged to have possessed forfeitable property. Currently, the North Dakota Century Code does not provide for the filing of civil forfeiture cases in juvenile court. Although these cases arise infrequently, our office has handled civil forfeiture cases involving forfeitable property that has been seized from a child. Because the juvenile court does not presently have jurisdiction over such cases, the cases must be filed in adult court.

The problem with filing the cases in adult court is that juvenile court proceedings are generally confidential and closed to the public. See N.D.C.C. § 27-20-24 (providing that except for contempt proceedings and certain transfer hearings, the general public must be excluded from hearings in juvenile court); N.D.C.C. § 27-20-51 (providing that, with a few exceptions, all juvenile court files and records are closed to the public). Steps are taken to maintain the confidentiality of the child's identity when civil forfeiture cases are filed in adult court. For example, the child's initials are used, rather than the child's full name, in court documents. However, I believe it would make more sense for these cases to be heard in juvenile court, where the court records and proceedings are closed to the public. House Bill 1333 would eliminate some confusion in the law because it sets forth a specific procedure for filing these cases.

I would support an amendment of the bill which would include in the jurisdiction of the juvenile court civil forfeiture cases arising under Chapter 19-03.1 of the North Dakota Century Code. It is my understanding that Representative Chris Griffin will present this amendment at the hearing.

I respectfully ask for your do-pass recommendation on House Bill 1333.