

2011 SENATE JUDICIARY

SCR 4017

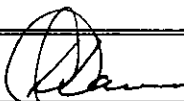
2011 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

SCR4017
2/7/11
Job #14118

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Study the feasibility and desirability of allowing school officials access to the otherwise confidential files and records of the juvenile court.

Minutes:

There is attached written testimony

Senator Nething - Chairman

Senator C. Nelson – Introduces the bill – see written testimony.

Senator Lyson – Asks if it wouldn't be better as a resolution than a study.

Senator Nelson – Replies we can't tell the juvenile courts what to do. She thinks there needs to be some study done. She mentions some kids who emancipated minors come to ND "school shopping" from Moorhead Mn. She says their juvenile record does not follow them to ND.

Senator Sitte – Wonders if we are not creating a situation where teachers may be prejudicial against innocent students. She asks if there is a more pro-active way to involve teachers in the current situation rather than looking at the child's past.

Senator Nelson – Said she doesn't have the answers but is very concerned.

Cynthia Wagner Goulet – Assistant General Counsel for ND University System – She is in support of this bill but does request that the scope of the requested study be enlarged to allow university officials the same sort of access to those confidential juvenile court records. She mentions they have the same issues on college campuses as they do at K-12 campuses.

Senator Lyson – Asks why we are waiting for a study. He thinks this should be a resolution and get something done. He thinks a study is another 2 years down the line before anything can be done.

Goulet – Said she appreciates those concerns but adds they are up against a long standing isolation, protection and immunity of juvenile court. If there is a study they would

have the information to persuade judiciary that this is an appropriate use of juvenile records.

Senator Lyson – Responds by saying the courts probably know what is going on and may act on it without a 2 year study to prolong this. He would like to see something done.

Senator Sitte – Asks what are the limited exceptions that would allow access to juvenile records now.

Goulet – States persons involved in probations, school officials currently K-12 have limited access for the purpose of monitoring compliance with the ND High School Activities Association, school officials of which a juvenile offender is currently attending. She relates where these can be found in the ND Century Code.

Senator Sorvaag – Asks if this information will be confidential when it gets to the schools.

Goulet – Said there would be limited access. Intent is for this not to be disseminated among staff. There needs to be a gate keeper.

Opposition

Neutral

Close 4017

Discussion

Senator Nething asks the intern to get an amendment ready for Goulet to look at.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

SCR4017
2/16/11
Job #14604

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Study the feasibility and desirability of allowing school officials access to the otherwise confidential files and records of the juvenile court.

Minutes:

Senator Nething – Chairman

Senator Nelson said as sponsor of the bill she has no problem with Higher Ed coming on. She said the use would be limited by them but there are students coming to college now at very early ages with the dual enrollments.

Senator Nelson moves the amendment

Senator Sorvaag seconds

Verbal vote – all yes

Senator Olafson moves a do pass as amended

Senator Nelson seconds

Discussion

Senator Sitte says she is still concerned with the confidentiality. Senator Nething said it should be brought out in the study.

Roll call vote – 6 yes, 0 no

Motion carries

Senator Nelson will carry

Proposed Amendments to SCR 4017

Page 1, after line 14, insert "WHEREAS, officials of higher education institutions also have restricted access to juvenile court records of incoming and enrolled students; and"

Page 1, line 15, after "about" insert "incoming and"

Page 1, line 16, after "offenders" insert "or who are students with juvenile court records"

Page 1, line 17, after "offenders" insert "or to students with juvenile court records"

Page 1, line 18, after "offenders" insert "or the students with juvenile court records"

Page 1, line 22, after "officials" insert ", including officials of higher education institutions,"

Date: 2/14/11
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 4017

Senate Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Nelson Seconded By Senator Sorvaag

Senators	Yes	No	Senators	Yes	No
Dave Nething - Chairman			Carolyn Nelson		
Curtis Olafson - V. Chairman					
Stanley Lyson					
Margaret Sitte					
Ronald Sorvaag					

Total (Yes) _____ No _____

Absent _____

Floor Assignment Senator

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

Verbal yes

Date: 2/16/11
Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 4017

Senate Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Olafson Seconded By Senator Nelson

Senators	Yes	No	Senators	Yes	No
Dave Nething - Chairman	X		Carolyn Nelson	X	
Curtis Olafson - V. Chairman	X				
Stanley Lyson	X				
Margaret Sitte	X				
Ronald Sorvaag	X				

Total (Yes) 6 No 0

Absent _____

Floor Assignment Senator Nelson

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

REPORT OF STANDING COMMITTEE

SCR 4017: 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). SCR 4017 was placed on the Sixth order on the calendar.

Page 1, line 2, after "officials" insert ", including officials of higher education institutions,"

Page 1, after line 14, insert:

"**WHEREAS**, officials of higher education institutions also have restricted access to juvenile court records of incoming and enrolled students; and"

Page 1, line 15, after "about" insert "incoming and"

Page 1, line 16, after "offenders" insert "or who are students with juvenile court records"

Page 1, line 17, after "offenders" insert "or to students with juvenile court records"

Page 1, line 18, after "offenders" insert "or the students with juvenile court records"

Page 1, line 22, after "officials" insert ", including officials of higher education institutions,"

Renumber accordingly

2011 HOUSE JUDICIARY

SCR 4017

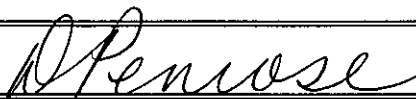
2011 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

SCR 4017
March 21, 2011
15745

☐ Conference Committee

Committee Clerk Signature



Minutes:

Chairman DeKrey: We will open the hearing on SCR 4017.

Sen. Carolyn Nelson: Sponsor, support (see attached 1).

Rep. Delmore: I, certainly as a public school teacher understand the concerns and where he's going with this. Is there a problem we could look at with "profiling"; where certain individuals might be singled out. I'm not saying they would, but it would be one of the things that I would look at in this bill that might concern me. When you pick and choose, Andy looks a little suspicious, Kathy not so much. How do we go about deciding who's records we want. They are kept confidential for a very good reason. I see both sides of the issue. Do you see that as something that could be a conflict with the bill.

Sen. Carolyn Nelson: That is one of the reasons we're bringing a bill, because we were afraid that there might be a problem with "profiling". You'll notice that there is a study resolution to study the entire juvenile court section of the Code, because it hasn't been studied for a while. Maybe the two of these things could be wound together and see if there isn't something that we can do that will help provide the safety and security of our kids and teachers.

Chairman DeKrey: Rep. Delmore actually thought that Kathy looked suspicious and Andy was okay.

Rep. Klemin: What would the school officials do with this information if they were allowed access to it. What would they do with it.

Sen. Carolyn Nelson: I'm not sure what they would do, except that they would be aware if a kid has been in trouble and he happens to be a student that likes to pick fights or do extreme bullying or do something that might be dangerous to the students, you certainly want to know about that. Some of these kids that are school shopping, we have had some of them. They are 16 years old, they've been kind of kicked out of the house by their parents and they are coming into Fargo/West Fargo

looking to see if they want to go to South, North, Woodrow, West Fargo, West Fargo Community School, Shanley, Oak Grove; where do I want to go, where can I get the best deal. Now they are telling us that it is where they will accept their credits from the other school. Maybe they are also looking to find out where can I best start a new gang, or where can I do something that I really shouldn't be doing. I wish that Asst. Superintendent Wolff were here, because he is the one that has been given that responsibility from the Fargo School District.

Rep. Klemin: Do the schools have the ability to say, you're a troublemaker, you can't come to this school.

Sen. Carolyn Nelson: I don't think so, but I think they need to be aware for the safety of their other students that that student is there.

Chairman DeKrey: In fact, I think if you kick them out of school, you're required by law to educate them at home.

Sen. Carolyn Nelson: I think you're right. That's why we have alternative schools in some towns for kids who need another direction.

Rep. Onstad: Would this cover a situation, that is quite frequent on the reservation, in gangs and so on; they will have a restraining order between two students and yet maybe only the principal knows about it, but because of privacy issues, they feel that they can't go and tell the teacher which seems really odd. I don't know if this would cover something like that.

Sen. Carolyn Nelson: I think that is what they are trying to get at. The principal will indeed know and I would guess that the information would also be given to the counselor that's responsible for those students; but the FERPA laws say no. You've got to be really careful. That's why I said I'm not Lowell Wolff, because I don't understand how he could be the security officer for the schools and deputy sheriff and not have some sleepless nights, because of some of the things that he's perhaps seen in one of those jobs.

Chairman DeKrey: Thank you. Further testimony in support. Testimony in opposition. We will close the hearing. Let's take a look at SCR 4017.

Rep. Delmore: I move a Do Pass and be placed on the Consent calendar.

Rep. Hogan: Second the motion.

12 YES 0 NO 2 ABSENT DO PASS AND PLACE ON CONSENT CALENDAR

CARRIER: Rep. Hogan

Date: 3/21/11
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 4017

House JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Delmore Seconded By Rep. Hogan

Representatives	Yes	No	Representatives	Yes	No
Ch. DeKrey	✓		Rep. Delmore	✓	
Rep. Klemin	✓		Rep. Guggisberg	✓	
Rep. Beadle	✓		Rep. Hogan	✓	
Rep. Boehning			Rep. Onstad	✓	
Rep. Brabandt	✓				
Rep. Kingsbury	✓				
Rep. Koppelman					
Rep. Kretschmar	✓				
Rep. Maragos	✓				
Rep. Steiner					

Total (Yes) 12 No 0

Absent 2

Floor Assignment Rep. Hogan

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

Placed on the Consent Calendar.

REPORT OF STANDING COMMITTEE

SCR 4017, as engrossed: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SCR 4017 was placed on the Tenth order on the calendar.

2011 TESTIMONY

SCR 4017



NORTH DAKOTA SENATE

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



Senator Carolyn Nelson
District 21
1 Second Street South #5-402
Fargo, ND 58103-1959
Residence: 701-235-5161
cnelson@nd.gov

~~Assistant Minority Leader~~

COMMITTEES:

Judiciary
Government and Veterans Affairs

SCR 4017 was requested by the Fargo School District.

After Columbine, school districts became more aware of threats within or around the schools. The Red Lake incident heightened the concerns. Some schools now have police assigned to their school for the safety of the students and staff; they may also have emergency response teams.

No matter what plan is in place, the greatest preventative tool is information.

The idea behind this resolution is that schools could be safer if information between the juvenile court system and the school system could be more open. There is some communication now. The question was asked, could there be improvement made in NDCC 27-20-51-2a? This provision allows principals and other school officials to request, on a case to case basis, information from the juvenile courts.

But here's the problem, a school district could have a large influx of students into their system each year. We have kids "shopping" for new schools. Some may be emancipated minors. Some may have prior records; others may just be regular transfer students. How does the principal know what kid has a prior juvenile record? He/she certainly can't have them all checked. And there is also the concern about confidentiality and FERPA.

We had a situation in Fargo where 4 kids attacked a pizza delivery person. The schools knew of no prior records although it turned out at least one of the kids had had a prior skirmish with the law. The current situation is not in the best interest of students, both the offender and the other students. We need to keep all the students and the staff teaching them safe. This resolution seeks to find a balance between confidentiality and safety.

Please read the testimony of Lowell Wolff, Assistant to the Superintendent for the Fargo Public Schools and also a Deputy Sheriff for Cass County. He is well aware of the confidentiality problems but also is charged with safety and security in the Fargo Public Schools.

Mr. Chairman and members of the Committee,

Please accept my comments in support of SCR 4017. While I had hoped to present this to you in person, scheduling conflicts did not allow for the trip.

My name is Lowell Wolff, Assistant to the Superintendent for Fargo Public Schools. I was assigned the responsibility for security and emergency response for our district in 2005 and have since become a Deputy Sheriff for Cass County. In this assignment I work with seven Fargo Police officers assigned to our schools as School resource Officers. The greatest preventative tool we have is information. We have anonymous tip lines, we have a Text-A-Tip program that enable students to text one of the School Resource Officers at any time. If a student behavior could result in violence, we convene a Threat Assessment Team that collects information about the student from as many sources as possible and then builds an immediate response.

I believe our schools could be safer if information between the juvenile court system and the school system were more open. This is not a criticism of the juvenile courts we work with. We have an excellent relationship with them and meet quarterly to share new trends and patterns we are seeing in schools and debriefing cases that did not go as we had hoped. One example of possible improvement is NDCC 27-20-51-2a.

This provision allows principals and other school officials to request, on a case by case basis, information from the juvenile courts. The challenge is that roughly 10% (1,000) of our students are new to us during the year. A given percent of new students may have a juvenile record, but how is the principal to guess which ones? To make the request for every student would certainly be an excessive burden to the court. In the case of student sex offenders from other states, it may take weeks or even months to reclassify them. In the meantime, we are "flying blind" not knowing who may be a threat to student safety. Changes to that provision could greatly enhance school safety if the courts were permitted to proactively share information about a student under certain conditions.

Please know that I do value confidentiality. As a school administrator, I must abide by FERPA – Family Educational Rights and Privacy Act. As a Deputy Sheriff, I may have access to law enforcement information that cannot be shared with school officials. So I do understand the need to protect information about juveniles.

I would respectfully request the study look at the juvenile courts informing school officials and giving them access to otherwise confidential files and records of the juvenile courts when such information could serve to

- protect the offender while in school, or
- protect other students from the offender in the schools, or
- the nature of the juvenile offense is such that his/her presence could jeopardize a safe and healthy learning environment, or
- failure to share such information could result in the disruption of the educational process.

My motivation is simple: to keep students, both the offender and the students sitting beside him/her, safe. To find the balance between confidentiality and the safety of others is not as simple. For that reason, I speak in support of SCR 4017 – to study these matters in more detail. Thank you for your time and attention to this matter and for your dedication to our State.

Lowell Wolff, APR, WolffL@fargo.k12.nd.us or WolffL@casscountynynd.gov, 701-446-1044 or 701-730-8164



NORTH DAKOTA SENATE

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



Senator Carolyn Nelson
District 21
1 Second Street South #5-402
Fargo, ND 58103-1959
Residence: 701-235-5161
cnelson@nd.gov

COMMITTEES:
Judiciary
Government and Veterans Affairs

SCR 4017 was requested by the Fargo School District.

After Columbine, school districts became more aware of threats within or around the schools. The Red Lake incident heightened the concerns. Some schools now have police assigned to their school for the safety of the students and staff; they may also have emergency response teams.

No matter what plan is in place, the greatest preventative tool is information.

The idea behind this resolution is that schools could be safer if information between the juvenile court system and the school system could be more open. There is some communication now. The question was asked "could there be improvement made in NDCC 27-20-51-2a?" This provision allows principals and other school officials to request, on a case by case basis, information from the juvenile courts.

But here's the problem, a school district could have a large influx of students into their system each year. We have kids "shopping" for new schools. Some may be emancipated minors. Some may have prior records; others may just be regular transfer students. How does the principal know what kid has a prior juvenile record? He/she certainly can't have them all checked. And there is also the concern about confidentiality and FERPA.

We had a situation in Fargo where 4 kids attacked a pizza delivery person. The schools knew of no prior records although it turned out at least one of the kids had had a prior skirmish with the law. The current situation is not in the best interest of students, both the offender and the other students. We need to keep all the students and the staff teaching them safe. This resolution seeks to find a balance between confidentiality and safety.

I am also handing out the testimony of Lowell Wolff, Assistant to the Superintendent for the Fargo Public Schools and also a Deputy Sheriff for Cass County. He is well aware of the confidentiality problems but also is charged with safety and security in the Fargo Public Schools.

The resolution was amended in the Senate to include our institutions of Higher Education.

Mr. Chairman and members of the Committee,

Please accept my comments in support of SCR 4017. While I had hoped to present this to you in person, scheduling conflicts did not allow for the trip.

My name is Lowell Wolff, Assistant to the Superintendent for Fargo Public Schools. I was assigned the responsibility for security and emergency response for our district in 2005 and have since become a Deputy Sheriff for Cass County. In this assignment I work with seven Fargo Police officers assigned to our schools as School resource Officers. The greatest preventative tool we have is information. We have anonymous tip lines, we have a Text-A-Tip program that enable students to text one of the School Resource Officers at any time. If a student behavior could result in violence, we convene a Threat Assessment Team that collects information about the student from as many sources as possible and then builds an immediate response. I believe our schools could be safer if information between the juvenile court system and the school system were more open. This is not a criticism of the juvenile courts we work with. We have an excellent relationship with them and meet quarterly to share new trends and patterns we are seeing in schools and debriefing cases that did not go as we had hoped. One example of possible improvement is NDCC 27-20-51-2a.

This provision allows principals and other school officials to request, on a case by case basis, information from the juvenile courts. The challenge is that roughly 10% (1,000) of our students are new to us during the year. A given percent of new students may have a juvenile record, but how is the principal to guess which ones? To make the request for every student would certainly be an excessive burden to the court. In the case of student sex offenders from other states, it may take weeks or even months to reclassify them. In the meantime, we are "flying blind" not knowing who may be a threat to student safety. Changes to that provision could greatly enhance school safety if the courts were permitted to proactively share information about a student under certain conditions.

Please know that I do value confidentiality. As a school administrator, I must abide by FERPA – Family Educational Rights and Privacy Act. As a Deputy Sheriff, I may have access to law enforcement information that cannot be shared with school officials. So I do understand the need to protect information about juveniles.

I would respectfully request the study look at the juvenile courts informing school officials and giving them access to otherwise confidential files and records of the juvenile courts when such information could serve to

- protect the offender while in school, or
- protect other students from the offender in the schools, or
- the nature of the juvenile offense is such that his/her presence could jeopardize a safe and healthy learning environment, or
- failure to share such information could result in the disruption of the educational process.

My motivation is simple: to keep students, both the offender and the students sitting beside him/her, safe.

To find the balance between confidentiality and the safety of others is not as simple. For that reason, I speak in support of SCR 4017 – to study these matters in more detail. Thank you for your time and attention to this matter and for your dedication to our State.

WolffL@fargo.k12.nd.us or WolffL@casscountynynd.gov 701-446-1044 or 701-730-8164