

**2013 HOUSE JUDICIARY**

**HB 1260**

# 2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee  
Prairie Room, State Capitol

HB 1260  
January 22, 2012  
Job 17522

Conference Committee

*Kristie Helgeson*

## Explanation or reason for introduction of bill/resolution:

Jurisdiction for petitions to restore firearm rights.

## Minutes:

Testimony 1

**Chairman Koppelman:** Opens.

**Rep Karls:** Changes the language.

**Jackson Lofgren,** Assistant Morton County State's Attorney: Testimony 1. Supports HB 1260.

**Rep Hogan:** Do you know how often this happens?

**Jackson:** No I do not; the way the law is set up right now there is not a requirement to give other entities notice.

**Rep Pauer:** This makes sense; do you see any future problems with this?

**Jackson:** No, they still have the right to petition, it just files it within in the right county.

**Rep Boehning:** After convicted of a felony, what time period does he have to wait to get his permit back?

**Jackson:** This applies only to non- violent felony offenders, if violent they can't petition. Generally they can after 5 years after their probation.

**Chairman Koppelman:** Close.

**Rep Hogan:** Do Pass

**Rep Maragos:** Second.

**Yes:** 13

House Judiciary Committee  
HB 1260  
January 22, 2013  
Page 2

**No:** 0

**Absent:** 1

**Carried by:** Rep Maragos.

Date: 1-22-13  
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1260

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. Hogan Seconded By Rep. Maragos

Representatives	Yes	No	Representatives	Yes	No
Chairman Kim Koppelman	/		Rep. Lois Delmore	/	
Vice Chairman Lawrence Klemin	/		Rep. Ben Hanson	/	
Rep. Randy Boehning	/		Rep. Kathy Hogan	/	
Rep. Roger Brabandt	/				
Rep. Karen Karls	/				
Rep. William Kretschmar	/				
Rep. Diane Larson	/				
Rep. Andrew Maragos	/				
Rep. Gary Paur	/				
Rep. Vicky Steiner	/				
Rep. Nathan Toman	/				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. maragos

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

**REPORT OF STANDING COMMITTEE**

**HB 1260: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends DO PASS**  
(13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1260 was placed on the  
Eleventh order on the calendar.

**2013 SENATE JUDICIARY**

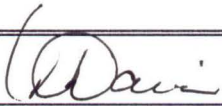
**HB 1260**

# 2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee  
Fort Lincoln Room, State Capitol

HB1260  
3/19/2013  
Job #20159

Conference Committee

Committee Clerk Signature 

**Minutes:**

*Attached testimony*

## Relating to jurisdiction for petitions to restore firearm rights

### Senator David Hogue - Chairman

Rep. Karen Karls - District 35 - See written testimony.

Aaron Birst - Association of Counties - In support of the bill - He reports this does not change the substantive law other jurisdictional issues.

Jackson Loftgren - Assistant Morton County States Attorney - Asks for a do pass - He said it is a housekeeping bill that asks for a petition to be filed in the county that makes more sense than the county it is currently filed in. It would be the county where the records involving the person's offense would be. Senator Hogue asks for information that is considered to get the firearm back. Mr. Loftgren replies currently if they look at many things such as if they completed probation, paid their fines, reputation in the community, etc. This bill relieves them in state court but not in the federal system. Senator Lyson said he wants it clear that this does not relieve them of felony convictions in FBI records and if you go into Canada and it is checked you will be returned. Senator Sitte asks if there is anything being done at the federal level to restore gun rights. Mr. Loftgren reiterates this only restores their ND rights not federal.

Opposition

Susan Beehler - resident of Mandan, ND - See written testimony (2)

Neutral - none


Close the hearing

# 2013 SENATE STANDING COMMITTEE MINUTES

**Senate Judiciary Committee**  
Fort Lincoln Room, State Capitol

HB1260  
3/25/2013  
Job #20445

Conference Committee

Committee Clerk Signature 

**Minutes:**

Vote

## **Senator David Hogue - Chairman**

Committee work

Senator Hogue explains the intent of the bill

Senator Grabinger moves a do pass  
Senator Berry seconded

Discussion

Senator Armstrong thinks this bill won't matter. His concern is that if you petition the county to get your gun rights back and they say yes you will still not get to carry a gun if you have a felony on your record. He goes on to say if the Feds ever change it this will make it a better law so will support this. Senator Lyson agrees and says anytime you have a felony with the federal government it is forever and you cannot carry a gun. Senator Armstrong says he likes the bill because it streamlines the process but dislikes the bill because it gives them false hope. The committee discusses federal crimes and not being able to get into Canada or being able to hunt. Senator Hogue says what the States do does matter even when Federal law enforcement does not enforce some things. Senator Grabinger thinks this may be the first step to get Feds to look into this.

Vote 6 yes, 1 no

Motion passes

Senator Sitte will carry



Date: 3/25/13  
 Roll Call Vote #: 1

**2013 SENATE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1260**

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 S. Grabinger Seconded By S. Berry

Senators	Yes	No	Senator	Yes	No
Chairman David Hogue	X		Senator Carolyn Nelson		X
Vice Chairman Margaret Sitte	X		Senator John Grabinger	X	
Senator Stanley Lyson	X				
Senator Spencer Berry	X				
Senator Kelly Armstrong	X				

Total (Yes) 6 No 1

Absent 0

Floor Assignment S. Sitte

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

**REPORT OF STANDING COMMITTEE**

**HB 1260: Judiciary Committee (Sen. Hogue, Chairman) recommends DO PASS**  
(6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). HB 1260 was placed on the  
Fourteenth order on the calendar.

**2013 TESTIMONY**

**HB 1260**

1-22-13  
/

Testimony to the  
HOUSE JUDICIARY  
Prepared by Jackson Lofgren

CONCERNING HOUSE BILL 1260

Chairman Koppelman and members of the committee, my name is Jackson Lofgren and I am a resident of District 35. Since 2008 I have been an Assistant Morton County State's Attorney. I am here today to support House Bill 1260.

During the last legislative session, Section 62.1-02-01.1 was added to the North Dakota Century Code. It became effective August 1, 2011, and provides a procedure for an individual to petition the district court in the district where the individual resides for the restoration of fire arms rights. In determining whether an individual's fire arms rights should be restored the district court is required to consider whether the individual completed all the requirements of the felony sentence resulting in the loss of fire arms rights as well as the individual's record and reputation.

Shortly after Section 62.1-02-01.1 became effective I had a conversation with a District Judge who had received a petition for the restoration of fire arms rights in Morton County. The Judge was concerned because the individual's criminal offenses occurred in Cass County and therefore the Judge had no familiarity with the individual and did not have direct access to the individual's criminal files. In most counties, court records for cases prior to 2011 are kept in paper files at the county courthouses. The Judge was also concerned because there was no requirement in Section 62.1-02-01.1 that notice be given to the state's attorney's office in the county where the felony occurred.

The amendment to Section 62.1-02-01.1 moves venue for the filing of the petition for restoration of fire arms rights to the county where the felony offense occurred. This places the petition with the Judge with the easiest access to the information necessary to determine whether fire arms rights should be restored. Further, requiring that notice be given to the state's attorney's office will allow the state's attorney's office to provide the district court with the individual's criminal record.

For the following reasons I ask that you support House Bill 1260.

Thank you.

**Rep. Karen Karls, District 35, Bismarck  
Senate Judiciary Committee  
Testimony on HB 1260  
March 19, 2013**

**Mr. Chairman and members of the committee:**

**For the record, my name is Rep. Karen Karls, District 35 in Bismarck.**

**I introduced HB 1260 at the request of the Association of Counties. It deals with the section of code which covers the process for petitioning a court for restoration of gun rights. Current law uses the language, "... may petition the district court in the district where the individual resides."**

**The Association reviewed this with all interested parties and asked for a change to, "district court in the county where the offense occurred." This presumes the petitioner still resides in ND; if not, the petition must be filed with the district court where the petitioner resides.**

**Mr. Chairman and members of the committee, Jackson Lofgren, assistant state's attorney from Morton County is present and can give you further details on the new language in the bill.**

**We ask for your favorable consideration of HB 1260 and I will stand for questions.**

Testimony HB1260

Good Morning Senator Hogue and members of the committee. My name is Susan Beehler, a Mandan resident, mom of 5 children and one grandbaby.

I have two questions why would a felon be allowed an hunting license if it requires a gun to hunt? Representative Cramer held a American Issues forum last month during the forum Walsh County State's Attorney Barbara Whalen brought up we have a loophole; a felon is allowed a hunting license even if his not allowed to possess a gun. Somewhere in our ND laws we need to close this loophole.

The next question is: How did a murder suspect in Bottineau County have access to a gun when it appears he was a convicted felon in 2004?

Once someone commits a felony we need to make it as difficult as possible for them to receive their weapons again. Public safety should be our state's priority when deciding if a felon should receive restoration of their firearm rights.

One of the arguments we heard when discussing property tax elimination was out-of-staters would come in and buy our land. Guns are also property, why should we ever restore an out of state felon their fire arm rights especially if they would not be able to have them restored in the state they committed the crime.

The out of state provision should be eliminated from this bill.

In North Dakota the most common weapon to be used to kill during a domestic violence incident is a firearm and in one case the court failed to check the box which may have contributed to a death. SURRENDER OF WEAPONS. The court failed to check the box prohibiting the offender from owning or possessing a weapon while on unsupervised probation for the previous domestic violence assault conviction and therefore the offender was not required to surrender his firearms. The fatal domestic violence incident occurred while offender was still on probation. The offender used one of his own firearms. <http://www.ag.state.nd.us/Reports/2012DVFR.pdf>

Susan Beehler Mandan ND 701 220-2297 suzybbuzz@gmail.com

# Why did a felon have a gun?

<http://www.kxnet.com/story/21135756/westhope-man-faces-murder-charge-after-shooting-man-with-a-rifle>

A Westhope man was shot and killed last week and another Westhope man is facing a murder charge. 48-year-old Timothy Mundt is charged with Class Double-A Felony Murder in the shooting that happened last week. He's accused of using a rifle to kill 40-year-old Jessie Kirk.

As of today, Sheriff's tape surrounds the home where the suspect, Tim Mundt, lives - just a half-block south of the Westhope School. Officials aren't releasing details about the killing, but neighbors and friends we talked with said Kirk was last seen the night of Tuesday, February 5th.

They tell us his body wasn't found until the night of Thursday, February 7th.

Chuck Palmer says he knew both Kirk and the suspect Timothy Mundt well and is shocked at what happened. Chuck Palmer, Westhope Resident, "It was terribly shocking. I had seen Jessie that Tuesday afternoon. I didn't speak to him but I had seen him and then I was working and heard they couldn't find him - I heard that Thursday afternoon and then to get the news, I was just dumbfounded, I couldn't believe it." Palmer said the Kirk family is a good-hearted group who do many things to help the community. And he says the victim in the murder, Jessie Kirk, was no exception. Chuck Palmer, Westhope Resident, "He did everything he could to help people and would expect very little in return. He was just a good, good hearted kid."

Timothy Mundt appeared in Northeast District Court Monday where Judge John McClintock set bond at 500-thousand dollars cash. Mundt is being held in the Bottineau County Jail, awaiting his initial appearance which is scheduled for February 22nd.

STATE OF NORTH DAKOTA VS. TIMOTHY CARL MUNDT

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Case Type: **Felony**  
Date Filed: **02/23/2004**  
Location: **- Bottineau County**  
Judicial Officer: **Ketterling, Lester**

### PARTY INFORMATION

**Defendant**

**Mundt, Timothy Carl**

**Attorneys**  
**William Robert Hartl**

*Retained*

701-776-5150 x0000(W)

**Plaintiff**

**State of North Dakota**

### CHARGE INFORMATION

**Charges: Mundt, Timothy Carl**  
1. EXTRADITION

**Statute**  
29-30.3-01

**Level**  
Felony C

**Date**  
02/27/2003

### EVENTS & ORDERS OF THE COURT

#### OTHER EVENTS AND HEARINGS

- 02/23/2004 **Converted Event Codes Doc ID# 1**  
*(FREE01) BENCH WARRANT FROM MT*
- 02/24/2004 **Initial Appearance (3:00 PM)** (Judicial Officer Ketterling, Lester)  
*UCIS Hrg Desc: COURT APPEARANCE*
- 02/25/2004 **Converted Event Codes Doc ID# 2**  
*(FREE01) ORDER SETTING BAIL & COMMITMENT*
- 03/02/2004 **Converted Event Codes Doc ID# 3**  
*(FREE01) APPLICATION FOR APPOINTED DEFENSE SERVICES*
- 03/02/2004 **Converted Event Codes Doc ID# 4**  
*(FREE01) WAIVER OF EXTRADITION*
- 03/02/2004 **Converted Event Codes Doc ID# 5**  
*(FREE01) ORDER OF EXTRADITION*
- 03/02/2004 **Hearing (7:00 AM)** (Judicial Officer Ketterling, Lester)  
*UCIS Hrg Desc: PULL FOR JUDGE*