

**2015 HOUSE JUDICIARY**

**HB 1407**

# 2015 HOUSE STANDING COMMITTEE MINUTES

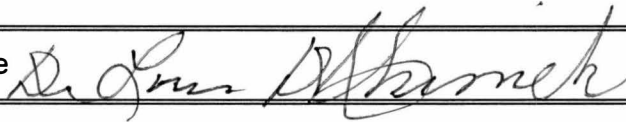
House Judiciary Committee  
Prairie Room, State Capitol

HB 1407  
2/3/2015  
23088

☐ Subcommittee

☐ Conference Committee

Committee Clerk Signature



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

Relating to the registration of sex offenders and offenders against children who are homeless domiciled; and to provide a penalty.

## Minutes:

Testimony 1,2,3,4

**Chairman K. Koppelman:** Opened the hearing with testimony in support.

**Rep. Blair Thoreson:** Introduce the bill. Went over the bill changes. (1:30-3:14)

**Rep. Lois Delmore:** Are there other states doing this? It might be combustion for law enforcement as well.

**Rep. Thoreson:** I can check that and get back to the committee or someone else would have that information.

**Rep. Lois Delmore:** Do we know about how many people would be affected by this?

**Rep. Thoreson:** I just don't have that information.

**Rep. D. Larson:** It seems funny to say homeless domicile? Seems like domicile would be where you would live.

**Rep. Thoreson:** That is the issue here right now. There isn't anything covering persons that would fall into this category? If you read the definition it is somebody who is physically present in the state, but does not have a permanent address in any location. It creates a situation where they would be domicile in ND, but not have an address like you and I would have assigned to them.

**Chairman K. Koppelman:** Most bills begin with definitions.

**Rep. L. Klemin:** Change in line 28?

**Chairman K. Koppelman:** Legislative Counsel does amend for these purposes.

**Ryan Younggren, Cass County State's Attorney:** (See Testimony #1) (7:00-10:30)

**Rep. Mary Johnson:** Does this also assist you in the cases where the person comes from outside the jurisdiction into Cass County?

**Ryan Younggren:** Yes it does cover us where we have a lot of homeless people.

**Rep. Mary Johnson:** People that come from other jurisdictions; do they have to notify the officials in that jurisdiction where they are going and then you guys get notice?

**Ryan Younggren:** They do have to notify us by law. But when they come from another state that would have to be their state and their jurisdiction that would require that, but we would and we do.

**Rep. G. Paur:** What is the law across the river?

**Ryan Younggren:** I don't know the answer to that in Minnesota.

**Rep. Lois Delmore:** Do you know how many cases like this are out there?

**Ryan Younggren:** I will defer that to Detective Voigtschild. It is more concern to me that it is ripe for abuse. Folks at the pen talk and they let each other know that I got away with this by simply registering as homeless why wouldn't every other person in the pen and jail do this. That was my concern.

**Rep. P. Anderson:** What happens if this homeless domicile person doesn't show up in three days?

**Ryan Younggren:** If they don't show up in three days Det. Voigtschild can talk to you about his exact procedures and how he does this.

**Rep. Brabandt:** Have you visited with other attorneys across the state at all?

**Ryan Younggren:** We have had some conversations about this. I certainly don't see any opposition from anyone. Once this gets out they are going to start doing this allot more.

**Rep. D. Larson:** We heard HCR3012 and there was some discussion to just adding that to this bill and doing a study? Would you be objectionable to that?

**Ryan Younggren:** That is a great idea. This just gives us the immediate stop gap we need to deal with our homeless folks. This is going on right now.

**Rep. Mary Johnson:** An example of this is where a homeless individual is a sex offender and he can stay with a girlfriend and he is around schools so I can completely understand the need for this. Should this bill have an emergency clause?

**Ryan Younggren:** I was hoping I could get it covered under our existing law.

**Chairman K. Koppelman:** You have talked about the people who might use it for a loop hole?

**Ryan Younggren:** This is our way to address it. Very difficult problem and this would give us a solution for now.

**Detective Mark Voigtschild, Fargo Police Department:** (19:18-22:10) I represent the Fargo Police Department. My work is to deal with violent sex offenders so I have been dealing with this for some time. In 2011 we had 168 registered offenders in Fargo. We are getting more of them that are homeless. When warmer weather comes around we get more of them. The current law does not provide much for anyone who is homeless. Under the current law it is hard to track them. This would require them to register every three days so that would allow law enforcement to keep contact with the sex offenders and let the public know. (Said he would furnish testimony later)

**Rep. Lois Delmore:** Is it sometimes hard for sex offenders to find a place to live? I would like those statistics that you mentioned.

**Detective Voigtschild:** I think it has become harder and I work with them and the homeless shelter in town.

**Rep. Mary Johnson:** Does homeless affect the risk?

**Detective Voigtschild:** I can find that out for you. There are some experts that would have some information for you.

**Rep. Mary Johnson:** It seems like a vicious circle.

**Detective Voigtschild:** I think it definitely adds some stress to them.

**Chairman K. Koppelman:** Do you treat the various levels of sex offender's differently in terms of your monitoring and registration?

**Detective Voigtschild:** We do have our patrol officers who do assist. I focus on the moderate and high level. Every offender gets checked on three times a year. I do roughly 70 checks a month now where I am going to these peoples homes.

**Chairman K. Koppelman:** Have you seen a lot of reoccurrence with people who have to be rearrested etc.

**Detective Voigtschild:** I can find that out for you.

**Rep. G. Paur:** How do you track the two people living in cars? How would this bill apply to them?

**Detective Voigtschild:** Now they have been calling the police department and they have gone out and check on them.

**Rep. G. Paur:** This law wouldn't address that?

**Detective Voigtschild:** This would.

**Rep. Brabandt:** We have offenders against children and sex offenders who have different time frames for registration. How does that differ?

**Detective Voigtschild:** Your offenders against children like child neglect; those people are assigned a level. They would be required to register for 15 years. Sex offenders would be low, moderate to high risk.

**Chairman K. Koppelman:** HCR 3012 yesterday will deal with that whole issue of the varying timeframes we have in law right now.

**Dan Donlin, Chief of Police of Bismarck Police Department:** I am in full support of this bill. In the definition I have a couple concerns. The temporary domicile fit the definition of homeless domicile because it means to not have a permanent address. I think we should look at defining a homeless emergency shelter and homeless shelter. I someone goes and stays at the Ruth Meyers House so I would like to see that added to the bill.

**Rep. Lois Delmore:** How many cities would have a homeless emergency shelter?

**Dan Donlin:** I am not sure.

**Jaclyn Hall, Ruth Meiers:** (See testimony #2) (31:31-36:17)

**Vice Chairman Karls:** You track all clients under HUD?

**Jaclyn Hall:** If someone comes into our facility we track them on a statewide data base. We also track any referral services we receive whether or not they are getting housing or education so every night someone is in my facility they are tracked on that data base.

**Rep. L. Klemin:** On the three day registration what would you propose as an alternative? Not to have to register at all?

**Jaclyn Hall:** I think if someone if staying at an emergency shelter and they are signing in every night that they are staying I think they should be considered temporary or given an exception to that shelter. We work with law enforcement

**Rep. L. Klemin:** If we look at temporary domicile it talks about being at a location more than 10 consecutive days.

**Jaclyn Hall:** Under the new homeless domicile they could come and stay with me one day and leave two days and come back the third day as well. We just want to make sure it

is clear. Whether you classify a homeless shelter as homeless domicile or temporary we don't know right now where we set.

**Rep. L. Klemin:** You are suggesting that an emergency shelter like you have where we would have to revise the definition to temporarily domicile to include your situation.

**Rep. G. Paur:** If we put an exemption for you then the police will not be able to track because they will not know if they have been in your facility for seven days or if they have been gone for six of those days.

**Jaclyn Hall:** Law enforcement can call us at any time so we do communicate with law enforcement all the time. If you move us to every three days I truly believe that will have a negative impact on any transition those individuals are having getting back into the community.

**Rep. G. Paur:** You said under your current practices if they are gone three days you contact the police?

**Jaclyn Hall:** It is not three days currently. I will monitor the sex offender register once a week or every two weeks and if that individual who is registering on this list is registering our location and they haven't been at our facility then we contact law enforcement.

**Chairman K. Koppelman:** Is it the case as Rep. Klemin asked if someone is there one night; gone the next for a couple of days and back for two days; is that how it works. Or does someone stay with you for a while for this transiting you are talking about?

**Jaclyn Hall:** Normally they stay with us as long as they need to. Right now under the law we don't know where we fit.

**Chairman K. Koppelman:** The answer is if they are there fewer than 10 days they are cauterized under homeless domicile, but once they are staying with you for 10 consecutive days then they would be cauterized as temporary domiciled. Is that a problem?

**Jaclyn Hall:** We just want clarity.

**Rep. K. Wallman:** Would it be helpful if there was a provision that said that a facility like yours would be required to contact law enforcement if someone who is temporarily domiciled were to be somewhere else for three nights? That seems to me to be the problem.

**Jaclyn Hall:** Currently we aren't notified. They do self-disclosing that they are a sex offender. Once they are registered us as their place of residence I think they should be considered temporarily domiciled and not fall under the homeless domicile. Because they are telling the law this is where they are residing. Then it is our obligation to work with law enforcement to ensure they are still there.

**Rep. G. Paur:** Would it be reasonable if we gave you an exemption no matter how long your clients stayed there that you just automatically notify the police.

**Jaclyn Hall:** I think that would truly affect law enforcement. We are the only homeless shelter and we get impacted a lot. They may stop notifying us they are sex offenders. HUD allows them to stay with us 90 days.

**Rep. D. Larson:** I am wondering for the purpose of registration under this section an emergency homeless shelter falls under the category of temporary domicile. Then you would at least be put somewhere. You are saying in your testimony is that it is currently working what you are doing in Bismarck. Currently they go to the police department and they say I am going to stay here; work in Mandan; go to school; and then they register at all three places where they are going to be.

**Jaclyn Hall:** I would appreciate that.

**Chairman K. Koppelman:** The purpose of this bill is to get a handle on homeless and people who might be using homeless status falsely as a loop hole to get out of registration. If the bill passed would it really be a problem to say they are classified for a night or two so would it be a problem to say that they are classified whether they are in your shelter or in their car or the park for they are classified as homeless domicile and they need to register every three days. Once they are in your shelter for ten days then they are temporarily domiciled. That would be an incentive to do exactly what you are talking about.

**Jaclyn Hall:** I think clarity is what we want; especially for the offender.

**Chairman K. Koppelman:** If we just said anyone that comes there they would be classified as temporarily domicile whereas under the law anywhere else they live in the state they would have to be there 10 days before they meet that qualification. Doesn't that then create an incentive for people to come and stay with you for a day to get out of the registration every three days?

**Jaclyn Hall:** Any individual who wants to work outside the law will figure out a way to do it. By saying an emergency shelter like ours is considered temporarily domicile that just give full clarity if they come in. We have a responsibility as well to make sure those individuals are safe.

**Chairman K. Koppelman:** At least that requires a little bit of effort whereas people are finding out there is a gray area here with homelessness so I am going to become homeless and I don't have to register.

**Chief Dan Donlin:** The scenario you just explained is workable. If they go to a homeless shelter they do register with us. If I am a sex offender I can register and stay at your house and then disappear for a couple of days and they don't have to register so that is where they are staying. A shelter is really no different than any other place. When we know and they have registered we are good.

**Rep. G. Paur:** What is this exemption they are looking for?

**Chief Donlin:** That they don't have to come in every three days and register.

**Rep. Mary Johnson:** Coming in and registering is the problem because they run the risk of losing their job. There is no method for the police to go to them. You are getting at the inconvenience.

**Chief Donlin:** When they go to Ruth Meiers they do have to register with us as a sex offender.

**Rep. Mary Johnson:** So you think the temporary domicile will work?

**Chief Donlin:** It is just insuring if they are staying at her facility for three days then they have to register there like anywhere else. If I go from one facility to another it is on that person to have to register. Then they would not have to come in every three days because they have already registered they are there.

**Chairman K. Koppelman:** Is a hotel considered a temporary domicile?

**Chief Donlin:** Yes they would have to register as a sex offender with us anyway when they go to her facility.

**Chairman K. Koppelman:** The statute also talks about a residence and it isn't defined. Temporary domicile covers short of a residence; staying or being physically present in the state for more than 30 days in a calendar year or a location for longer than 10 consecutive days. We could amend that to say or having registered as living at a homeless shelter. How would that work?

**Chief Donlin:** If they were gone for 3 days then she would notify us.

**Chairman K. Koppelman:** Could the two of you get us an amendment?

Opposition:

**Dr. Lisa Peterson, Clinical Director, ND Dept. of Corrections and Rehabilitation:** (See Testimony #3) The assumption is if you raise the level fewer people will register. (59:41-1:05:40)

**Rep. D. Larson:** In general sex offenders you say have a lower rate of sexual recidivism are you thinking this is a waste of time for us to be following after them and having them register and keeping track of them?

**Dr. Peterson:** That is true. They do demonstrate higher rates sexually recidivism at higher rates. They do demonstrate higher rates of probation violations and other crimes that are not sexual in nature. We don't know what has caused that so I don't think we want to do away with the registration. We are in a situation where our correctional resources are extremely stretched.

**Rep. D. Larson:** We are hearing a lot this session about we are locking too many people who are not violent and they are just breaking the law with drugs and alcohol and they



should be in prison and now here is another category of people you are saying don't need to be monitored as much. I did not think sex offenders would be in that group.

**Dr. Peterson:** The fact is there are some categories of sex offenders who present a very low risk for every committing a new sex offense.

**Chairman K. Koppelman:** Are they the low level risk sex offenders you are talking about?

**Dr. Peterson:** Yes so the low risk sex offenders are lower than compared to the average sex offender.

**Chairman K. Koppelman:** Could one of the reasons that recidivism is lower is because that sex offenders know they are being monitored?

**Dr. Peterson:** Yes that could be a factor. We don't know. We request the committee seek a fiscal note.

**Chairman K. Koppelman:** Is it your opinion that the registration factor should be longer or what?

**Dr. Peterson:** No I have no opinion on that.

**Barb Breiland, Manager, Sex Offender Unit for Parole and Probation, ND Dept. of Corrections and Rehabilitation:** (See testimony #4)(1:11:16-1:18:22)

**Rep. L. Klemin:** It sounds like what you are saying is if a person has been placed in a transitional facility by the Dept. of Corrections & Rehabilitation that they should be there to be temporarily domiciled under this definition.

**Barb Breiland:** The offenders that we supervise that do need to register; not all need to register; the officer is very aggressive in making sure that person does register.

**Rep. L. Klemin:** If we add something to the temporary domicile that would include these transitional facilities of the Dept. of Corrections & Rehabilitation and those persons would not be considered homeless domiciled.

**Barb Breiland:** Yes that could work. I am only here today to bring that to your attention that we do have a little glitch here.

**Chairman K. Koppelman:** We did pass another HCR that does focus on this.

Neutral:

**Kendall Vetter, Bismarck Police Department:** I think the homeless domicile needs to be clarified more. I don't believe they should have to come in and register every three days if they have a homeless domicile. All the other points have been made.

**Chairman K. Koppelman:** If we would clarify the definition of temporary domicile to include some of these things we have talked about; the DOCR facilities; the homeless shelters etc. do you think that would be important or just deal with what the bill says about homelessness and leave it alone?

**Kendall Vetter:** I don't think they need to be included in the temporary domicile. Where the temporary domicile comes into effect with the offenders are people from other states such as SD that are coming up to ND and working on these construction companies and staying at hotels or apartments and have been up here from 10-30 days at a time. It is not their permanent address. They are still registered in SD.

**Chairman K. Koppelman:** Where would those people fit?

**Kendall Vetter:** Those people would fit into the temporary domicile.

**Chairman K. Koppelman:** By creating this definition in law for homeless domiciled there are people right now that you are not really worried about. Do we broaden the definition of temporary domicile to make sure that their description is covered somewhere or do we leave them in limbo and allow you in law enforcement sort it out?

**Kendall Vetter:** I think if they are coming into those emergency shelters we already are covering that in what the previous law states.

**Rep. D. Larson:** You believe it might be easier for us to more strictly define the homeless portion of it so that is a little bit clearer what homeless domicile is.

**Kendall Vetter:** Yes. Defining an emergency shelter it would be beneficial. I think the offender's need to be monitored. It is not helping the people at emergency shelters that are trying to make money to get that deposit to find a permanent housing.

**Jonathan Byers, OGC:** - I am against the bill: We have been registering homeless for over 20 years now and I am not sure the right fix is to put additional burden on law enforcement. When a homeless offender comes into register; we do have a system right now that is working. I think this bill would muddy the waters. We have two categories right now; the people who have a register here and we have a category called temporary domicile that lived somewhere else and are temporaries with relatives here. Now creating this category would say by this definition say they don't have a residence somewhere else.

**Rep. Mary Johnson:** If a judge intervenes and they don't have to register then we have a real problem.

**Jonathan Byers:** One of the problems might have been one of the police officer accepted the word homeless as in the resident block on the form and they should have been more precise on what do you mean and where are you going to be living. We already have two cases in ND by our Supreme Court that say our homeless people have to register.

**Rep. Mary Johnson:** Is this an appealable?

**Mr. Younggren:** I have to have grounds to appeal something. The facts don't help my case.

**Chairman K. Koppelman:** Maybe the definition in the bill is lacking to accomplish this. If we were to pass this bill and say something like it means not to reside or be temporarily

**Jonathan Byers:** The committee could come up with something better than it is, but there are always other situations that come up

Hearing closed.

# 2015 HOUSE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Prairie Room, State Capitol

HB 1407  
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## Minutes:

Proposed amendment #1

**Chairman K. Koppelman** opened the meeting on HB 1407. Decided we need to put something in statue on this since we have nothing. This is the one that dealt with homeless folks and the prosecutors in Fargo particularly were struggling with this. There was one judge that did make a ruling basically saying that since they are not listed in the statue they don't have to register. The retort to that was well there are Supreme Court decisions and they should know how this works etc. If a judge looks at the law and makes a ruling based on the law it is pretty hard to fault that. Mr. Byers who testified on behalf of recommended the adoption of this amendment. (See proposed amendment #1)

**Moved by Rep. Maragos to adopt the amendment; Seconded by Rep. Lois Delmore:**

**Rep. P. Anderson:** I know campers aren't permanent residence, but we have a lot of people living in the state in campers so they would all be considered homeless?

**Chairman K. Koppelman:** I think they are trying to get at homeless domicile is problem language and that is what the bill had. If they say they are living in a camper; I am sleeping in my car; I have a tent pitched or whatever it is on the corner of 8<sup>th</sup> and vine and the cop goes by and they are there that is their registered address. So the unintended consequence of the original language of the bill is it would require all kinds of repeated registrations etc. Law enforcement is fine under that scenario if they knew they are there and they can verify they are there. It doesn't create a different class for campers. I think it says if you are a sex offender who must register and you are living in a camper you fit into this designation.

**Rep. L. Klemin:** I think we should take out camper here. Anyone who has been in northwest ND knows there are all kinds of campers up there that people are definitely not homeless. Also what is a camper? I think this is an inappropriate term to be used in here.

**Chairman K. Koppelman:** If we did remove the word camper and there were someone who was in a camper, but not at a camp site paying a rental fee etc. but just driving around

like they would in a vehicle would they fall through the cracks then and not be classified anywhere?

**Rep. K. Wallman:** It does say for the purpose of this section so when the state of ND tries to determine who many people are homeless in the state they don't go to this? I don't know if it would make everyone in a camper homeless.

**Rep. Lois Delmore:** Maybe some of it is related to permanent residence is where you get mail etc. Maybe that is why they did camper because it isn't permanent.

**Voice vote carried.**

**Motion made to further amend by Rep. L. Klemin: Seconded by Rep. Brabandt:  
By deleting the words or camper from the amended bill.**

**Voice vote: Motion Failed.**

**Chairman K. Koppelman:** I think Rep. Wallman is right. I don't think this would necessarily upset any status in terms of people that live in campers. This only deals with sex offenders.

**Do Pass As Amended Motion Made by Rep. Maragos; Seconded by Rep. Lois Delmore:**

**Rep. D. Larson:** I will probably be voting for this bill but I do think it would be good to just mention that Jonathan Byers from the AG's office was against the bill because he said that they are asking the question wrong. They should say will where are you going to lay your head tonight because that is where you are going to be staying and so we know where to go find you. He was opposed to the bill.

**Chairman K. Koppelman:** Just to remind you it was Mr. Byers who later wrote the amendment which is now the bill before us. It is probably good to have something in law with the word homeless and some definition of it.

**Rep. Mary Johnson:** I am confused on the amended bill where it is going to insert 3? If the court has not ordered an individual to register in this state but then you require that individual who has not been order to register to register?

**Chairman K. Koppelman:** The court can order and if they meet this definition they must register. This is who has to register and the court can also say so. On page 3, line 28 that 9 and line 30 make sure they are accurate for renumbering.

**Rep. L. Klemin:** That subsection 2 is changed in the amendment we adopted so it is by renumbering accordingly.

**Rep. Mary Johnson:** (mike not on) Should we add an emergency clause?

**Rep. Maragos withdraw his earlier motion; Seconded Rep. Lois Delmore withdraw**

**Amendment moved by Rep. Mary Johnson: Seconded by Rep. D. Larson:  
To add the emergency clause.**

**Voice vote carried.**

**Do Pass As Amended Motion Made by Rep. Maragos; Seconded by Rep. Lois  
Delmore:**

**Roll Call Vote: 13 Yes 0 No 0 Absent Carrier: Rep. Lois Delmore:**

## PROPOSED AMENDMENTS TO HOUSE BILL NO. 1407

Page 1, line 1, after "2," insert "3,"

Page 1, line 3, remove "domiciled"

Page 1, line 5, after "2," insert "3,"

Page 1, replace lines 18 and 19 with "For the purposes of this section, a "homeless" individual is one who is physically present in this state, but is living in a park, under a bridge, on the streets, in a vehicle or camper, or is otherwise without a traditional dwelling, and also those who reside in the state but do not maintain a permanent address. This term does not include those who are temporarily domiciled or individuals residing in public or private shelters that provide temporary living accommodations."

Page 2, line 21, remove "domiciled"

Page 2, line 24, remove "domiciled"

Page 3, after line 27, insert:

3. If a court has not ordered an individual to register in this state, an individual who resides, is homeless, or is temporarily domiciled in this state shall register if the individual:
  - a. Is incarcerated or is on probation or parole after July 31, 1995, for a crime against a child described in section 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 if the individual was not the parent of the victim, or as a sexual offender;
  - b. Has pled guilty or nolo contendere to, or been adjudicated for or found guilty of, an offense in a court of this state for which registration is mandatory under this section or an offense from another court in the United States, a tribal court, or court of another country equivalent to those offenses set forth in this section; or
  - c. Has pled guilty or nolo contendere to, or has been found guilty of, a crime against a child or as a sexual offender for which registration is mandatory under this section if the conviction occurred after July 31, 1985.

Page 3, line 29, remove "domiciled"

Page 3, line 30, replace "subsection 1" with "subsections 2 and 3"

Renumber accordingly

February 10, 2015

*Handwritten signature and date:*  
2/10/15

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1407

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 12.1-32-15 of the North Dakota Century Code, relating to the registration of sex offenders and offenders against children who are homeless; to provide a penalty; and to declare an emergency.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 12.1-32-15 of the North Dakota Century Code is amended and reenacted as follows:

**12.1-32-15. Offenders against children and sexual offenders - Sexually violent predators - Registration requirement - Penalty.**

1. As used in this section:

- a. "A crime against a child" means a violation of chapter 12.1-16, section 12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04, subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01, 12.1-18-02, 12.1-18-05, chapter 12.1-29, or subdivision a of subsection 1 or subsection 2 of section 14-09-22, labor trafficking in violation of chapter 12.1-40, or an equivalent offense from another court in the United States, a tribal court, or court of another country, in which the victim is a minor or is otherwise of the age required for the act to be a crime or an attempt or conspiracy to commit these offenses.
- b. "Department" means the department of corrections and rehabilitation.
- c. "Homeless" means an individual who is physically present in this state, but is living in a park, under a bridge, on the streets, in a vehicle or camper, or is otherwise without a traditional dwelling, and also one who resides in this state but does not maintain a permanent address. The term does not include individuals who are temporarily domiciled or individuals residing in public or private shelters that provide temporary living accommodations.
- d. "Mental abnormality" means a congenital or acquired condition of an individual that affects the emotional or volitional capacity of the individual in a manner that predisposes that individual to the commission of criminal sexual acts to a degree that makes the individual a menace to the health and safety of other individuals.
- ~~d.~~e. "Predatory" means an act directed at a stranger or at an individual with whom a relationship has been established or promoted for the primary purpose of victimization.
- e-f. "Sexual offender" means a person who has pled guilty to or been found guilty, including juvenile delinquent adjudications, of a violation



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of section 12.1-20-03, 12.1-20-03.1, 12.1-20-04, 12.1-20-05, 12.1-20-05.1, 12.1-20-06, 12.1-20-06.1, 12.1-20-07 except for subdivision a, 12.1-20-11, 12.1-20-12.1, or 12.1-20-12.2, chapter 12.1-27.2, or subsection 2 of section 12.1-22-03.1, sex trafficking in violation of chapter 12.1-40, or an equivalent offense from another court in the United States, a tribal court, or court of another country, or an attempt or conspiracy to commit these offenses.

- f.g. "Sexually dangerous individual" means an individual who meets the definition specified in section 25-03.3-01.
- g.h. "Temporarily domiciled" means staying or being physically present in this state for more than thirty days in a calendar year or at a location for longer than ten consecutive days, attending school for longer than ten days, or maintaining employment in the jurisdiction for longer than ten days, regardless of the state of the residence.
2. The court shall impose, in addition to any penalty provided by law, a requirement that the individual register, within three days of coming into a county in which the individual resides, is homeless, or within the period identified in this section that the individual becomes temporarily domiciled. The individual must register with the chief of police of the city or the sheriff of the county if the individual resides, attends school, or is employed in an area other than a city. A homeless individual shall register every three days with the sheriff or chief of police of the jurisdiction in which the individual is physically present. The court shall require an individual to register by stating this requirement on the court records, if that individual:
- a. Has pled guilty or nolo contendere to, or been found guilty as a felonious sexual offender or an attempted felonious sexual offender, including juvenile delinquent adjudications of equivalent offenses unless the offense is listed in subdivision c.
  - b. Has pled guilty or nolo contendere to, or been found guilty as a sexual offender for, a misdemeanor or attempted misdemeanor. The court may deviate from requiring an individual to register if the court first finds the individual is no more than three years older than the victim if the victim is a minor, the individual has not previously been convicted as a sexual offender or of a crime against a child, and the individual did not exhibit mental abnormality or predatory conduct in the commission of the offense.
  - c. Is a juvenile found delinquent under subdivision d of subsection 1 of section 12.1-20-03, subdivision a of subsection 2 of section 12.1-20-03, or as a sexual offender for a misdemeanor. The court may deviate from requiring the juvenile to register if the court first finds the juvenile has not previously been convicted as a sexual offender or for a crime against a child, and the juvenile did not exhibit mental abnormality or predatory conduct in the commission of the offense.
  - d. Has pled guilty or nolo contendere to, or been found guilty of, a crime against a child or an attempted crime against a child, including juvenile delinquent adjudications of equivalent offenses. Except if the offense is described in section 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 and the person is not the parent of the victim, the court may deviate from requiring an individual to register if the court first

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finds the individual has not previously been convicted as a sexual offender or for a crime against a child, and the individual did not exhibit mental abnormality or predatory conduct in the commission of the offense.

- e. Has pled guilty or nolo contendere, been found guilty, or been adjudicated delinquent of any crime against another individual which is not otherwise specified in this section if the court determines that registration is warranted by the nature of the crime and therefore orders registration for the individual. If the court orders an individual to register as an offender under this section, the individual shall comply with all of the registration requirements in this chapter.
- 3. If a court has not ordered an individual to register in this state, an individual who resides, is homeless, or is temporarily domiciled in this state shall register if the individual:
    - a. Is incarcerated or is on probation or parole after July 31, 1995, for a crime against a child described in section 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 if the individual was not the parent of the victim, or as a sexual offender;
    - b. Has pled guilty or nolo contendere to, or been adjudicated for or found guilty of, an offense in a court of this state for which registration is mandatory under this section or an offense from another court in the United States, a tribal court, or court of another country equivalent to those offenses set forth in this section; or
    - c. Has pled guilty or nolo contendere to, or has been found guilty of, a crime against a child or as a sexual offender for which registration is mandatory under this section if the conviction occurred after July 31, 1985.
  - 4. In its consideration of mental abnormality or predatory conduct, the court shall consider the age of the offender, the age of the victim, the difference in ages of the victim and offender, the circumstances and motive of the crime, the relationship of the victim and offender, and the mental state of the offender. The court may order an offender to be evaluated by a qualified counselor, psychologist, or physician before sentencing. Except as provided under subdivision e of subsection 2, the court shall state on the record in open court its affirmative finding for not requiring an offender to register.
  - 5. When an individual is required to register under this section, the official in charge of a facility or institution where the individual required to register is confined, or the department, shall, before the discharge, parole, or release of that individual, inform the individual of the duty to register pursuant to this section. The official or the department shall require the individual to read and sign a form as required by the attorney general, stating that the duty of the individual to register has been explained to that individual. The official in charge of the place of confinement, or the department, shall obtain the address where the individual expects to reside, attend school, or work upon discharge, parole, or release and shall report the address to the attorney general. The official in charge of the place of confinement, or the department, shall give three copies of the form to the individual and shall

send three copies to the attorney general no later than forty-five days before the scheduled release of that individual. The attorney general shall forward one copy to the law enforcement agency having jurisdiction where the individual expects to reside, attend school, or work upon discharge, parole, or release, one copy to the prosecutor who prosecuted the individual, and one copy to the court in which the individual was prosecuted. All forms must be transmitted and received by the law enforcement agency, prosecutor, and court thirty days before the discharge, parole, or release of the individual.

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6. An individual who is required to register pursuant to this section who is released on probation or discharged upon payment of a fine must, before the release or discharge, be informed of the duty to register under this section by the court in which that individual is convicted. The court shall require the individual to read and sign a form as required by the attorney general, stating that the duty of the individual to register under this section has been explained to that individual. The court shall obtain the address where the individual expects to reside, attend school, or work upon release or discharge and shall report the address to the attorney general within three days. The court shall give one copy of the form to the individual and shall send two copies to the attorney general. The attorney general shall forward one copy to the appropriate law enforcement agency having jurisdiction where the individual expects to reside, attend school, or work upon discharge, parole, or release.
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 database 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 under this section has a change in vehicle or computer online identity, the individual shall inform in writing, within three days after the change, the law enforcement agency with which that individual last registered of the individual's new vehicle or computer online identity. If an individual required to register pursuant to this section has a change in name, school, or residence or employment address, that individual shall inform in writing, at least ten days before the change, the law enforcement agency with which that individual last registered of the individual's new name, school, residence address, or employment address. A change in school or employment address includes

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the termination of school or employment for which an individual required to register under this section shall inform in writing within five days of the termination the law enforcement agency with which the individual last registered. 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 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.

8. An individual required to register under this section shall comply with the registration requirement for the longer of the following periods:
  - a. A period of fifteen years after the date of sentence or order deferring or suspending sentence upon a plea or finding of guilt or after release from incarceration, whichever is later;
  - b. A period of twenty-five years after the date of sentence or order deferring or suspending sentence upon a plea or finding of guilt or after release from incarceration, whichever is later, if the offender is assigned a moderate risk by the attorney general as provided in subsection 12; or
  - c. For the life of the individual, if that individual:
    - (1) On two or more occasions has pled guilty or nolo contendere to, or been found guilty of a crime against a child or as a sexual offender. If all qualifying offenses are misdemeanors, this lifetime provision does not apply unless a qualifying offense was committed after August 1, 1999;
    - (2) Pleads guilty or nolo contendere to, or is found guilty of, an offense committed after August 1, 1999, which is described in subdivision a of subsection 1 of section 12.1-20-03, section 12.1-20-03.1, or subdivision d of subsection 1 of section 12.1-20-03 if the person is an adult and the victim is under age twelve, or section 12.1-18-01 if that individual is an adult other than a parent of the victim, or an equivalent offense from another court in the United States, a tribal court, or court of another country; or
    - (3) Is assigned a high risk by the attorney general as provided in subsection 12.
9. An individual required to register under this section who violates this section is guilty of a class C felony. The failure of a homeless individual to register as required in subsections 2 and 3 is prima facie evidence of a

violation of this section. The clerk of court shall forward all warrants issued for a violation of this section to the county sheriff, who shall enter all such warrants into the national crime information center wanted person file. A court may not relieve an individual, other than a juvenile, who violates this section from serving a term of at least ninety days in jail and completing probation of one year.

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10. When an individual is released on parole or probation and is required to register pursuant to this section, but fails to do so within the time prescribed, the court shall order the probation, or the parole board shall order the parole, of the individual revoked.
11. If an individual required to register pursuant to this section is temporarily sent outside the facility or institution where that individual is confined under conviction or sentence, the local law enforcement agency having jurisdiction over the place where that individual is being sent must be notified within a reasonable time period before that individual is released from the facility or institution. This subsection does not apply to any individual temporarily released under guard from the facility or institution in which that individual is confined.
12. The attorney general, with the assistance of the department and the juvenile courts, shall develop guidelines for the risk assessment of sexual offenders who are required to register, with a low-risk, moderate-risk, or high-risk level being assigned to each offender as follows:
  - a. The department shall conduct a risk assessment of sexual offenders who are incarcerated in institutions under the control of the department and sexual offenders who are on supervised probation. The department, in a timely manner, shall provide the attorney general any information, including the offender's level of risk and supporting documentation, concerning individuals required to be registered under this section who are about to be released or placed into the community.
  - b. The attorney general shall conduct a risk assessment of sexual offenders who are not under the custody or supervision of the department. The attorney general may adopt a law enforcement agency's previous assignment of risk level for an individual if the assessment was conducted in a manner substantially similar to the guidelines developed under this subsection.
  - c. The juvenile courts or the agency having legal custody of a juvenile shall conduct a risk assessment of juvenile sexual offenders who are required to register under this section. The juvenile courts or the agency having legal custody of a juvenile shall provide the attorney general any information, including the offender's level of risk and supporting documentation, concerning juveniles required to register and who are about to be released or placed into the community.
  - d. The attorney general shall notify the offender of the risk level assigned to that offender. An offender may request a review of that determination with the attorney general's sexual offender risk assessment committee and may present any information that the offender believes may lower the assigned risk level.

13. Relevant and necessary conviction and registration information must be disclosed to the public by a law enforcement agency if the individual is a moderate or high risk and the agency determines that disclosure of the conviction and registration information is necessary for public protection. The attorney general shall develop guidelines for public disclosure of offender registration information. Public disclosure may include internet access if the offender:

- a. Is required to register for a lifetime under subsection 8;
- b. Has been determined to be a high risk to the public by the department, the attorney general, or the courts, according to guidelines developed by those agencies; or
- c. Has been determined to be a high risk to the public by an agency of another state or the federal government.

If the offender has been determined to be a moderate risk, public disclosure must include, at a minimum, notification of the offense to the victim registered under chapter 12.1-34 and to any agency, civic organization, or group of persons who have characteristics similar to those of a victim of the offender. Upon request, law enforcement agencies may release conviction and registration information regarding low-risk, moderate-risk, or high-risk offenders.

14. A state officer, law enforcement agency, or public school district or governing body of a nonpublic school or any appointee, officer, or employee of those entities is not subject to civil or criminal liability for making risk determinations, allowing a sexual offender to attend a school function under section 12.1-20-25, or for disclosing or for failing to disclose information as permitted by this section.
15. If a juvenile is adjudicated delinquent and required or ordered to register as a sexual offender or as an offender against a child under this section, the juvenile shall comply with the registration requirements in this section. Notwithstanding any other provision of law, a law enforcement agency shall register a juvenile offender in the same manner as adult offenders and may release any relevant and necessary information on file to other law enforcement agencies, the department of human services, or the public if disclosure is necessary to protect public health or safety. The law enforcement agency shall release any relevant and necessary information on file to the superintendent or principal of the school the juvenile attends. The school administration shall notify others in similar positions if the juvenile transfers to another learning institution in or outside the state.
16. If an individual has been required to register as a sexual offender or an offender against a child under section 12.1-32-15 or 27-20-52.1 before August 1, 1999, the individual may petition the court to be removed from the offender list if registration is no longer mandatory for that individual. In considering the petition, the court shall comply with the requirements of this section.
17. A sexual offender who is currently assigned a moderate or high-risk level by the attorney general may not use a state park of this state as a residence or residential address to comply with the registration

requirements of this section. Before arriving at a state park for overnight lodging or camping, a sexual offender who is assigned a moderate or high-risk level by the attorney general shall notify a parks and recreation department law enforcement officer at the state park where the sexual offender will be staying.

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**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

Date: 2-10-15  
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1407

House JUDICIARY Committee

☐ Subcommittee ☐ Conference Committee

Amendment LC# or Description: Proposed amendment 2-10-15

Recommendation: ☒ Adopt Amendment  
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☐ As Amended ☐ Rerefer to Appropriations  
Other Actions: ☐ Reconsider ☐

Motion Made By Rep Maragos Seconded By Rep Delmore

Representative	Yes	No	Representative	Yes	No
Chairman K. Koppelman			Rep. Pamela Anderson		
Vice Chairman Karls			Rep. Delmore		
Rep. Brabandt			Rep. K. Wallman		
Rep. Hawken					
Rep. Mary Johnson					
Rep. Klemin					
Rep. Kretschmar					
Rep. D. Larson					
Rep. Maragos					
Rep. Paur					

VOICE  
VOTE  
CARRIED

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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



Date: 2-10-15  
Roll Call Vote #: 2

2015 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1407

House JUDICIARY Committee

☐ Subcommittee ☐ Conference Committee

Amendment LC# or Description: \_\_\_\_\_

Recommendation: ☐ Adopt Amendment  
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☐ As Amended ☐ Rerefer to Appropriations  
Other Actions: ☐ Reconsider ☒ Further Amend

Motion Made By Rep. Klemin Seconded By Rep. Brabandt

Representative	Yes	No	Representative	Yes	No
Chairman K. Koppelman		✓	Rep. Pamela Anderson		✓
Vice Chairman Karls		✓	Rep. Delmore		✓
Rep. Brabandt	✓		Rep. K. Wallman		✓
Rep. Hawken		✓			
Rep. Mary Johnson		✓			
Rep. Klemin	✓				
Rep. Kretschmar	✓				
Rep. D. Larson		✓			
Rep. Maragos	✓				
Rep. Paur	✓				

Total (Yes) 5 No 8

Absent 0

Floor Assignment "Failed"

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

Delete "camper"

Date: 2/7/0  
Roll Call Vote #:

**2015 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO.**

House **JUDICIARY** Committee

☐ Subcommittee ☐ Conference Committee

Amendment LC# or Description: \_\_\_\_\_

Recommendation: ☒ Adopt Amendment

☐ Do Pass    ☐ Do Not Pass    ☐ Without Committee Recommendation

☐ As Amended    ☐ Rerefer to Appropriations

Other Actions: ☐ Reconsider    ☐

Motion Made By M. Johnson Seconded By R. Larson

[illegible]

Total (Yes) 1 No 0

Absent

## Floor Assignment

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

# EM Clause

Date: 2-10-15  
Roll Call Vote #: 4

2015 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO.

House JUDICIARY Committee

☐ Subcommittee ☐ Conference Committee

Amendment LC# or Description: \_\_\_\_\_

Recommendation: ☒ Adopt Amendment

☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation

☒ As Amended ☐ Rerefer to Appropriations

Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By Rep Maragos Seconded By Rep Delmore

Representative	Yes	No	Representative	Yes	No
Chairman K. Koppelman	✓		Rep. Pamela Anderson	✓	
Vice Chairman Karls	✓		Rep. Delmore	✓	
Rep. Brabandt	✓		Rep. K. Wallman	✓	
Rep. Hawken	✓				
Rep. Mary Johnson	✓				
Rep. Klemin	✓				
Rep. Kretschmar	✓				
Rep. D. Larson	✓				
Rep. Maragos	✓				
Rep. Paur	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Rep. Delmore

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

**REPORT OF STANDING COMMITTEE**

**HB 1407: Judiciary Committee (Rep. K. Koppelman, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1407 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 12.1-32-15 of the North Dakota Century Code, relating to the registration of sex offenders and offenders against children who are homeless; to provide a penalty; and to declare an emergency.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 12.1-32-15 of the North Dakota Century Code is amended and reenacted as follows:

**12.1-32-15. Offenders against children and sexual offenders - Sexually violent predators - Registration requirement - Penalty.**

1. As used in this section:
  - a. "A crime against a child" means a violation of chapter 12.1-16, section 12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04, subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01, 12.1-18-02, 12.1-18-05, chapter 12.1-29, or subdivision a of subsection 1 or subsection 2 of section 14-09-22, labor trafficking in violation of chapter 12.1-40, or an equivalent offense from another court in the United States, a tribal court, or court of another country, in which the victim is a minor or is otherwise of the age required for the act to be a crime or an attempt or conspiracy to commit these offenses.
  - b. "Department" means the department of corrections and rehabilitation.
  - c. "Homeless" means an individual who is physically present in this state, but is living in a park, under a bridge, on the streets, in a vehicle or camper, or is otherwise without a traditional dwelling, and also one who resides in this state but does not maintain a permanent address. The term does not include individuals who are temporarily domiciled or individuals residing in public or private shelters that provide temporary living accommodations.
  - d. "Mental abnormality" means a congenital or acquired condition of an individual that affects the emotional or volitional capacity of the individual in a manner that predisposes that individual to the commission of criminal sexual acts to a degree that makes the individual a menace to the health and safety of other individuals.
  - ~~d-e.~~ "Predatory" means an act directed at a stranger or at an individual with whom a relationship has been established or promoted for the primary purpose of victimization.
  - e-f. "Sexual offender" means a person who has pled guilty to or been found guilty, including juvenile delinquent adjudications, of a violation of section 12.1-20-03, 12.1-20-03.1, 12.1-20-04, 12.1-20-05, 12.1-20-05.1, 12.1-20-06, 12.1-20-06.1, 12.1-20-07 except for subdivision a, 12.1-20-11, 12.1-20-12.1, or 12.1-20-12.2, chapter 12.1-27.2, or subsection 2 of section 12.1-22-03.1, sex trafficking in violation of chapter 12.1-40, or an equivalent offense from another

court in the United States, a tribal court, or court of another country, or an attempt or conspiracy to commit these offenses.

f-g. "Sexually dangerous individual" means an individual who meets the definition specified in section 25-03.3-01.

g-h. "Temporarily domiciled" means staying or being physically present in this state for more than thirty days in a calendar year or at a location for longer than ten consecutive days, attending school for longer than ten days, or maintaining employment in the jurisdiction for longer than ten days, regardless of the state of the residence.

2. The court shall impose, in addition to any penalty provided by law, a requirement that the individual register, within three days of coming into a county in which the individual resides, is homeless, or within the period identified in this section that the individual becomes temporarily domiciled. The individual must register with the chief of police of the city or the sheriff of the county if the individual resides, attends school, or is employed in an area other than a city. A homeless individual shall register every three days with the sheriff or chief of police of the jurisdiction in which the individual is physically present. The court shall require an individual to register by stating this requirement on the court records, if that individual:
  - a. Has pled guilty or nolo contendere to, or been found guilty as a felonious sexual offender or an attempted felonious sexual offender, including juvenile delinquent adjudications of equivalent offenses unless the offense is listed in subdivision c.
  - b. Has pled guilty or nolo contendere to, or been found guilty as a sexual offender for, a misdemeanor or attempted misdemeanor. The court may deviate from requiring an individual to register if the court first finds the individual is no more than three years older than the victim if the victim is a minor, the individual has not previously been convicted as a sexual offender or of a crime against a child, and the individual did not exhibit mental abnormality or predatory conduct in the commission of the offense.
  - c. Is a juvenile found delinquent under subdivision d of subsection 1 of section 12.1-20-03, subdivision a of subsection 2 of section 12.1-20-03, or as a sexual offender for a misdemeanor. The court may deviate from requiring the juvenile to register if the court first finds the juvenile has not previously been convicted as a sexual offender or for a crime against a child, and the juvenile did not exhibit mental abnormality or predatory conduct in the commission of the offense.
  - d. Has pled guilty or nolo contendere to, or been found guilty of, a crime against a child or an attempted crime against a child, including juvenile delinquent adjudications of equivalent offenses. Except if the offense is described in section 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 and the person is not the parent of the victim, the court may deviate from requiring an individual to register if the court first finds the individual has not previously been convicted as a sexual offender or for a crime against a child, and the individual did not exhibit mental abnormality or predatory conduct in the commission of the offense.
  - e. Has pled guilty or nolo contendere, been found guilty, or been adjudicated delinquent of any crime against another individual which is not otherwise specified in this section if the court determines that

registration is warranted by the nature of the crime and therefore orders registration for the individual. If the court orders an individual to register as an offender under this section, the individual shall comply with all of the registration requirements in this chapter.

3. If a court has not ordered an individual to register in this state, an individual who resides is homeless, or is temporarily domiciled in this state shall register if the individual:
  - a. Is incarcerated or is on probation or parole after July 31, 1995, for a crime against a child described in section 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 if the individual was not the parent of the victim, or as a sexual offender;
  - b. Has pled guilty or nolo contendere to, or been adjudicated for or found guilty of, an offense in a court of this state for which registration is mandatory under this section or an offense from another court in the United States, a tribal court, or court of another country equivalent to those offenses set forth in this section; or
  - c. Has pled guilty or nolo contendere to, or has been found guilty of, a crime against a child or as a sexual offender for which registration is mandatory under this section if the conviction occurred after July 31, 1985.
4. In its consideration of mental abnormality or predatory conduct, the court shall consider the age of the offender, the age of the victim, the difference in ages of the victim and offender, the circumstances and motive of the crime, the relationship of the victim and offender, and the mental state of the offender. The court may order an offender to be evaluated by a qualified counselor, psychologist, or physician before sentencing. Except as provided under subdivision e of subsection 2, the court shall state on the record in open court its affirmative finding for not requiring an offender to register.
5. When an individual is required to register under this section, the official in charge of a facility or institution where the individual required to register is confined, or the department, shall, before the discharge, parole, or release of that individual, inform the individual of the duty to register pursuant to this section. The official or the department shall require the individual to read and sign a form as required by the attorney general, stating that the duty of the individual to register has been explained to that individual. The official in charge of the place of confinement, or the department, shall obtain the address where the individual expects to reside, attend school, or work upon discharge, parole, or release and shall report the address to the attorney general. The official in charge of the place of confinement, or the department, shall give three copies of the form to the individual and shall send three copies to the attorney general no later than forty-five days before the scheduled release of that individual. The attorney general shall forward one copy to the law enforcement agency having jurisdiction where the individual expects to reside, attend school, or work upon discharge, parole, or release, one copy to the prosecutor who prosecuted the individual, and one copy to the court in which the individual was prosecuted. All forms must be transmitted and received by the law enforcement agency, prosecutor, and court thirty days before the discharge, parole, or release of the individual.
6. An individual who is required to register pursuant to this section who is released on probation or discharged upon payment of a fine must, before the release or discharge, be informed of the duty to register under this section by the court in which that individual is convicted. The court shall

require the individual to read and sign a form as required by the attorney general, stating that the duty of the individual to register under this section has been explained to that individual. The court shall obtain the address where the individual expects to reside, attend school, or work upon release or discharge and shall report the address to the attorney general within three days. The court shall give one copy of the form to the individual and shall send two copies to the attorney general. The attorney general shall forward one copy to the appropriate law enforcement agency having jurisdiction where the individual expects to reside, attend school, or work upon discharge, parole, or release.

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 database 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 under this section has a change in vehicle or computer online identity, the individual shall inform in writing, within three days after the change, the law enforcement agency with which that individual last registered of the individual's new vehicle or computer online identity. If an individual required to register pursuant to this section has a change in name, school, or residence or employment address, that individual shall inform in writing, at least ten days before the change, the law enforcement agency with which that individual last registered of the individual's new name, school, residence address, or employment address. A change in school or employment address includes the termination of school or employment for which an individual required to register under this section shall inform in writing within five days of the termination the law enforcement agency with which the individual last registered. 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 three days at the law enforcement agency having local jurisdiction of the new place of residence, school, or employment. The individual registering under this subsection 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.

8. An individual required to register under this section shall comply with the registration requirement for the longer of the following periods:
  - a. A period of fifteen years after the date of sentence or order deferring or suspending sentence upon a plea or finding of guilt or after release from incarceration, whichever is later;
  - b. A period of twenty-five years after the date of sentence or order deferring or suspending sentence upon a plea or finding of guilt or after release from incarceration, whichever is later, if the offender is assigned a moderate risk by the attorney general as provided in subsection 12; or
  - c. For the life of the individual, if that individual:
    - (1) On two or more occasions has pled guilty or nolo contendere to, or been found guilty of a crime against a child or as a sexual offender. If all qualifying offenses are misdemeanors, this lifetime provision does not apply unless a qualifying offense was committed after August 1, 1999;
    - (2) Pleads guilty or nolo contendere to, or is found guilty of, an offense committed after August 1, 1999, which is described in subdivision a of subsection 1 of section 12.1-20-03, section 12.1-20-03.1, or subdivision d of subsection 1 of section 12.1-20-03 if the person is an adult and the victim is under age twelve, or section 12.1-18-01 if that individual is an adult other than a parent of the victim, or an equivalent offense from another court in the United States, a tribal court, or court of another country; or
    - (3) Is assigned a high risk by the attorney general as provided in subsection 12.
9. An individual required to register under this section who violates this section is guilty of a class C felony. The failure of a homeless individual to register as required in subsections 2 and 3 is prima facie evidence of a violation of this section. The clerk of court shall forward all warrants issued for a violation of this section to the county sheriff, who shall enter all such warrants into the national crime information center wanted person file. A court may not relieve an individual, other than a juvenile, who violates this section from serving a term of at least ninety days in jail and completing probation of one year.
10. When an individual is released on parole or probation and is required to register pursuant to this section, but fails to do so within the time prescribed, the court shall order the probation, or the parole board shall order the parole, of the individual revoked.
11. If an individual required to register pursuant to this section is temporarily sent outside the facility or institution where that individual is confined under conviction or sentence, the local law enforcement agency having jurisdiction over the place where that individual is being sent must be notified within a reasonable time period before that individual is released from the facility or institution. This subsection does not apply to any individual temporarily released under guard from the facility or institution in which that individual is confined.
12. The attorney general, with the assistance of the department and the juvenile courts, shall develop guidelines for the risk assessment of sexual



offenders who are required to register, with a low-risk, moderate-risk, or high-risk level being assigned to each offender as follows:

- a. The department shall conduct a risk assessment of sexual offenders who are incarcerated in institutions under the control of the department and sexual offenders who are on supervised probation. The department, in a timely manner, shall provide the attorney general any information, including the offender's level of risk and supporting documentation, concerning individuals required to be registered under this section who are about to be released or placed into the community.
  - b. The attorney general shall conduct a risk assessment of sexual offenders who are not under the custody or supervision of the department. The attorney general may adopt a law enforcement agency's previous assignment of risk level for an individual if the assessment was conducted in a manner substantially similar to the guidelines developed under this subsection.
  - c. The juvenile courts or the agency having legal custody of a juvenile shall conduct a risk assessment of juvenile sexual offenders who are required to register under this section. The juvenile courts or the agency having legal custody of a juvenile shall provide the attorney general any information, including the offender's level of risk and supporting documentation, concerning juveniles required to register and who are about to be released or placed into the community.
  - d. The attorney general shall notify the offender of the risk level assigned to that offender. An offender may request a review of that determination with the attorney general's sexual offender risk assessment committee and may present any information that the offender believes may lower the assigned risk level.
13. Relevant and necessary conviction and registration information must be disclosed to the public by a law enforcement agency if the individual is a moderate or high risk and the agency determines that disclosure of the conviction and registration information is necessary for public protection. The attorney general shall develop guidelines for public disclosure of offender registration information. Public disclosure may include internet access if the offender:
- a. Is required to register for a lifetime under subsection 8;
  - b. Has been determined to be a high risk to the public by the department, the attorney general, or the courts, according to guidelines developed by those agencies; or
  - c. Has been determined to be a high risk to the public by an agency of another state or the federal government.

If the offender has been determined to be a moderate risk, public disclosure must include, at a minimum, notification of the offense to the victim registered under chapter 12.1-34 and to any agency, civic organization, or group of persons who have characteristics similar to those of a victim of the offender. Upon request, law enforcement agencies may release conviction and registration information regarding low-risk, moderate-risk, or high-risk offenders.

14. A state officer, law enforcement agency, or public school district or governing body of a nonpublic school or any appointee, officer, or employee of those entities is not subject to civil or criminal liability for

making risk determinations, allowing a sexual offender to attend a school function under section 12.1-20-25, or for disclosing or for failing to disclose information as permitted by this section.

15. If a juvenile is adjudicated delinquent and required or ordered to register as a sexual offender or as an offender against a child under this section, the juvenile shall comply with the registration requirements in this section. Notwithstanding any other provision of law, a law enforcement agency shall register a juvenile offender in the same manner as adult offenders and may release any relevant and necessary information on file to other law enforcement agencies, the department of human services, or the public if disclosure is necessary to protect public health or safety. The law enforcement agency shall release any relevant and necessary information on file to the superintendent or principal of the school the juvenile attends. The school administration shall notify others in similar positions if the juvenile transfers to another learning institution in or outside the state.
16. If an individual has been required to register as a sexual offender or an offender against a child under section 12.1-32-15 or 27-20-52.1 before August 1, 1999, the individual may petition the court to be removed from the offender list if registration is no longer mandatory for that individual. In considering the petition, the court shall comply with the requirements of this section.
17. A sexual offender who is currently assigned a moderate or high-risk level by the attorney general may not use a state park of this state as a residence or residential address to comply with the registration requirements of this section. Before arriving at a state park for overnight lodging or camping, a sexual offender who is assigned a moderate or high-risk level by the attorney general shall notify a parks and recreation department law enforcement officer at the state park where the sexual offender will be staying.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

**2015 SENATE JUDICIARY**

**HB 1407**

# 2015 SENATE STANDING COMMITTEE MINUTES

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

HB 1407  
3/17/2015  
24991

☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature

*Katie Oliver*

**Minutes:**

1

Representative Blair Thoreson: District 44 in Fargo. I was in discussion with our city about an issue that has arisen with offenders who were being released from custody and not registering, there was not a definition of how they were supposed to be handled.

Representative Thoreson then explained the changes in the bill from introduction to its current form.

Senator Casper: As I was reading the definition of homeless in the bill and I was wondering why we don't do a limiting definition? Can you elaborate a little bit more as to why the AG's office thought it was more appropriate to lay it out this way?

Representative Thoreson: If I recall correctly there was an issue with it being a broad definition.

Chairman Hogue: What the bill does is you want individuals who are preexisting sexual offenders who also happen to be homeless to register with the local sheriff?

Representative Thoreson: That is correct, I know that there has been a situation where people get released from custody and they were not registering.

Senator Nelson: Concerning the public and private shelters, often times there are children at these shelters and if that is the case the offenders shouldn't be there in the first place.

Representative Thoreson: I know at least in the case of the person that I have discussed this with I believe that this bill does not specifically address that.

Kendal Vetter: Bismarck Police Department. Most of my duties include registering sex offenders in Bismarck, I am testifying in support of this bill. The biggest thing from the first version to this version was the homeless domicile there were some issues with that. We do have registered offenders that are homeless because they cannot get a job and secure housing based upon their status of being a registered offender. By requiring them to come in every 3 days we have a way to track homeless offenders.

Senator Armstrong: How many different lengths of registration requirements are there in the Code right now?

Kendal Vetter: Most of it is 3 days, the only one that is not is when they have a termination in employment or a termination in school in that case they have 5 days to notify us but if they are changing addresses they have 3 days so that is pretty consistent with everything else.

Jackie Hall: Director of Ruth Meyers. For us we have 2 facilities, one houses all male as an overnight emergency shelter our family shelter and our men's residential shelter does not allow sex offenders in that facility. That was one of the questions that we had which is the reason for the amendment, it wasn't clear for us in our shelters whether or not someone who is homeless is able to register every 3 days or every 7 days. When people enter into our facility they go through direct case management so what is going to cause a huge strain so if they are in one of our facilities they are considered temporarily domiciled.

Barb Breiland: Program Manager, Sex Offender Unit for Parole and Probation, North Dakota Department of Corrections and Rehabilitation. See attachment #1. (14:37-22:14)

Senator Armstrong: They have trouble keeping track of the various registrations. Can you walk through the timelines for those? Is there a way to simplify it where there is one timeline for everything?

Barb Breiland: When we get someone on probation, through the court system, released into our supervision they have 3 days to register. I know that the law reads that if they know they are going to be moving that they have 10 days to let law enforcement know that they are moving. We are concerned with the 3 days, from sentencing, release, probation.

Senator Luick: Are there female offenders?

Barb Breiland: Yes there are female sex offenders but the vast majority is male; female offenders have the same rules to follow as male.

Senator Luick: Do you have a ratio of male to female offenders? Is it 90% to 10%?

Barb Breiland: I do not believe it is that high, I believe it is 98% and 2%.

Ken Sorenson: Criminal Division, Attorney General Office.

Chairman Hogue: The duty to report is consistent throughout the timelines for the various offenders. Is 3 days uniform?

Ken Sorenson: Typically it is 3 days that is the most common. We have some other ones that have the 10 days.

Senator Armstrong: I think that this gets litigated quite a bit across the state doesn't it?

Ken Sorenson: We have had quite a bit of litigation in this area. The courts are generally following the language of the statute even if it is a lengthy one.

Senator Armstrong: Is there any merit to making them more consistent across the statute?

Ken Sorenson: For most of the registration requirements we have 3 days after change, a pretty consistent requirement.

There was no further testimony and Chairman Hogue then closed the public hearing on HB 1407.

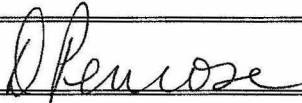
# 2015 SENATE STANDING COMMITTEE MINUTES

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

HB 1407  
3/25/2015  
25423

☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature



## Minutes:

Ch. Hogue: Let's take a look at HB 1407. This bill deals with the requirement of registration for sexual offenders who are also homeless. If you recall, we had some discussion about the consistencies, but I think there was support for this bill.

Sen. Armstrong: I move a Do Pass on HB 1407.

Sen. Casper: Second the motion.

Sen. Armstrong: Sen. Casper carried the resolution on the floor today which I think will be a study resolution relating to the language of which the AG's office and the concerns I was getting from local enforcement and state's attorneys were all of the issues that are going to be studied in that study. I think this bill is important. I think from Mr. Birst's testimony that is the reason that this bill is here, even though they are doing the study. It's becoming an issue in western ND and I am assuming it could be an issue everywhere, but I just notice it in western ND. The study will address some of those things.

Sen. Nelson: On page 2, line 2, would that cover the kid that bounces around from classmate to classmate since he is living in a private home.

Sen. Armstrong: It would only cover him if he is a sex offender.

**6 YES 0 NO 0 ABSENT**

**DO PASS**

**CARRIER: Sen. Luick**

Date: 3/25/15

Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE  
ROLL CALL VOTE

BILL/RESOLUTION NO. 1407

Senate

**JUDICIARY**

Committee

☐ Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation: ☐ Adopt Amendment

☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation

☐ As Amended ☐ Rerefer to Appropriations

☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By Sen. Armstrong Seconded By Sen. Casper

Senators	Yes	No	Senators	Yes	No
Chairman Hogue	✓		Sen. Grabinger	✓	
Sen. Armstrong	✓		Sen. C. Nelson	✓	
Sen. Casper	✓				
Sen. Luick	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Luick



**REPORT OF STANDING COMMITTEE**

**HB 1407, as engrossed: Judiciary Committee (Sen. Hogue, Chairman) recommends DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1407 was placed on the Fourteenth order on the calendar.

**2015 TESTIMONY**

**HB 1407**



#1  
HB 1407  
2-3-15

February 2, 2015

## State's Attorney

Birch P. Burdick

Greetings.

### Assistant State's Attorneys:

Mark R. Boening  
Tracy J. Peters  
Leah J. Viste  
Reid A. Brady  
Kara Schmitz Olson  
Gary E. Euren  
Kimberlee J. Hegvik  
Cherie L. Clark  
Tristan J. Van de Streek  
Ryan J. Younggren  
Renata J. Selzer  
Tanya Johnson Martinez

My name is Ryan Younggren and I am a prosecutor at the Cass County State's Attorney's office. I offer my support for House Bill No. 1407.

Fargo Police Detective Mark Voightschild and I prosecuted a registered sex offender this past year who was able to avoid responsibility for registration under North Dakota law simply by claiming to be homeless. This person had registered an address with Fargo Police, was evicted from this residence for non-payment of rent and then subsequently registered as "homeless". He was then placed on a GPS monitor, cut off the monitor and went on the run from law enforcement and probation. The District Court judge found that under N.D.C.C. § 12.1-32-15, a homeless person has no legal requirement to report to law enforcement. This individual maintained his registration status with Fargo Police as "homeless" and was exonerated from any responsibility to communicate with police, unless law enforcement found out his residence or other registration information by happenstance.

### Victim/Witness Coordinators:

Brenda Olson-Wray  
Debbie Tibiatowski  
Lori Lawson

House Bill 1407 defines "Homeless domiciled" and requires such individuals to reregister every three days with the law enforcement agency in which the individual is physically present. This measure enables law enforcement to do their job of monitoring such individuals and informs the public of such person's presence in their jurisdiction. Oftentimes, we hear that such a person is "staying with friends" or otherwise moving from place to place. The three day requirement gives officers and the public a chance to monitor such person's presence and movements. It also encourages such individuals to establish a residence so they don't have to keep appearing at the police department every three days.

### Check Division/ Restitution:

Josi Schultz  
Charlotte Eversvik

I respectfully ask you for your support of HB No. 1407 to address this and other similar abuses of the sex offender registration laws in North Dakota.

Box 2806  
211 Ninth Street South  
Fargo, North Dakota 58108

Sincerely,

Ryan J. Younggren  
Assistant Cass County State's Attorney

PH: 701-241-5850  
Fax: 701-241-5838

/



**RUTH  
MEIERS**

"Inspiring Lives. Renewing Hope."

#2  
HB 1407  
2-3-15  
1100 E Boulevard Ave.

Bismarck, ND 58502

P: 701-222-2108

F: 701-222-4101

[www.ruthmeiers.org](http://www.ruthmeiers.org)

Sixty-fourth Legislative assembly of North Dakota  
House Bill No. 1407

Chairman Koppleman and members of the House Judiciary Committee, my name is Jaclyn Hall and I am the Executive Director of Ruth Meiers Hospitality House in Bismarck, ND. I am here this morning testifying in support of HB 1407, although I have a few questions and concerns about what these changes would do to my organization.

Ruth Meiers Hospitality House is a homeless and transitional housing facility in Bismarck, ND. Last year over 42,000 nights of shelter were provided to men, women and children in our community. We provide shelter and permanent housing to male sex offenders at our 23<sup>rd</sup> St. location in Bismarck.

In the Bismarck community, about 250 individuals are registered as a sex offender or an offender against children. Each night, Ruth Meiers may support about three to five individuals in our Emergency Shelter. The change in this law would require sex offenders to register every three days, which I believe will hold an individual more accountable to law enforcement.

Currently under the law, a client living in my homeless shelter is not required to stay in my facility every night. As the Executive Director of Ruth Meiers, this has always been a concern of mine because if this individual is registering under the law they must be held compliant – as with any other parole or probation condition. This change will have a positive impact towards this concern. With that being said, I have a few questions:

1. As an emergency homeless shelter providing overnight services – where would our facility be considered? Would our clients fall under the homeless domiciled or temporary domiciled category? There is also no definition on what is considered permanently domiciled either.
2. Currently, sex offenders need to come into the police station and physically sign off on their location. If they work in Mandan, are homeless in their vehicle in Lincoln and attend college in Bismarck they need to keep all three locations updated. Doing this every three days could risk the individual not registering at all.
3. Our facility provides supportive services to individuals to get back on their feet. We provide health, education and reemployment training as benefits to our program. A majority of our clients walk or ride a bicycle to work or appointments. By registering every three days, this may hinder their recovery and create havoc on their ability to work or attend classes.

Creating more clarity in the law is important to not only the offender and law enforcement, but also to the organizations and businesses that support recovery. I believe making minor changes and supporting House Concurrent Resolution 3012 to study this code is a great step in creating that clarity.

Thank you again for granting me the time to address your committee. I would be willing to answer any questions if you have them.

#3  
HB1407  
2-3-15

**House Judiciary Committee**  
**Representative Kim Koppelman, Chairman**

**Lisa Peterson, PhD**  
**Clinical Director**  
**North Dakota Department of Corrections and Rehabilitation**  
**Presenting Neutral Testimony on House Bill 1407**  
**Tuesday, February 3, 2015**

Good morning Chairman Koppelman and members of the House Judiciary Committee. My name is Dr. Lisa Peterson. I am a licensed psychologist and Clinical Director of the Department of Corrections and Rehabilitation. I am here on behalf of the Department of Corrections and Rehabilitation to provide neutral testimony on House Bill 1407 to review the possible fiscal impact of this bill and suggest a potential modification to the language.

As homeless offenders who do not comply with registration requirements are guilty of a Class C Felony and eligible for incarceration, as well as mandated to a term of one year supervised probation, this bill has the potential to have significant fiscal impact. Given that sex offenders, in general, have low rates of sexual recidivism, the fiscal impact may outweigh the benefit of requiring more frequent registration for some sex offenders. There are studies that have suggested that registries do not have the intended effect of reducing sexual recidivism that you may want to review when weighing the fiscal pros and cons of this bill (Ackerman, Sacks, & Greenberg, 2011; Argan, 2011; Levenson, Latourneau, Armstrong, & Zgoba, 2009; Minnesota Department of Corrections, 2010; Zgoba, Veysey, & Dalessandro, 2009).

I had recent e-mail correspondence with Dr. Jill Levenson, a nationally recognized expert in the area of sex offender monitoring, who gave me permission to share her thoughts today. She described similar legislation in Florida requiring transient sex offenders to register every 30 days that has had a major fiscal impact on the state in terms of law enforcement, court, and incarceration costs. She also urged legislators to consider ways to reduce homelessness among sex offenders by developing sustainable housing options, as well as increasing reintegration services.

As of January 28, 2015 there were 41 sex offenders on supervision who could be considered "homeless domiciled". They were living in the DOCR sex offender trailer, at halfway houses, with friends, at shelters, etc. Only one staff member reported that one offender on her caseload was homeless and had stopped reporting address changes. Further, staff from the Bureau of Criminal Investigation indicates that of the 1,920 registered sexual offenders and offenders against children in North Dakota, 30 are considered delinquent in their registration requirements

(1.6%). Staff further reported no method of determining how many registered sexual offenders would be considered homeless.

One issue with the language of the bill is that it is unclear how "homeless domiciled" is defined, as there is no definition of "permanent address". Under the current statute, offenders are required to register within a certain amount of time after releasing from incarceration or to a probation sentence and then prior to or shortly after any changes in residence, workplace, and so on, depending on the nature of the change. The DOCR recommends inclusion of a definition of "permanent address" in order to provide clarity in terms of what length of time residing at a location constitutes "permanent" and also requests that the committee seek a fiscal note from the DOCR that could shed further light on the expected financial impact of this bill.

Thank you for allowing me to provide these comments and I will be happy to respond to any questions.

3

3

House Judiciary Committee  
Representative Kim Koppelman, Chairman

Barb Breiland  
Program Manager, Sex Offender Unit for Parole and Probation  
North Dakota Department of Corrections and Rehabilitation  
Presenting Testimony on House Bill 1407  
Tuesday, February 3, 2015

HF-4  
HB 1407  
2-3-15  
PJ1

Good morning Chairman Koppelman and members of the House Judiciary Committee. My name is Barb Breiland, Program Manager of the Sex Offender Unit. I am here on behalf of the Department of Corrections and Rehabilitation to provide testimony on House Bill 1407.

Since 1991 North Dakota has required the registration of sex offenders and offenses categorized under Abuse and/or Neglect of a Child. That law has changed over time and become more exacting—not only do the offenders need to register their addresses, employment and/or school attending but if they change their name, vehicle information, or online address the offender must notify law enforcement within 3 days of that change. Not only are we requiring notification of more information, but our length of registration has also changed. Registration used to be for 10 years, regardless of crime or risk level. However, over time, the length of registration has changed so they now need to register for 15 years if low risk, 25 years for moderate risk, and lifetime for high risk and/or those with multiple sex offender convictions. Registration requirements for those offenders charged with Abuse and/or Neglect of a Child need to register for 15 years.

Parole & Probation currently has 9 Sex Offender Specialists and 8 Sex Offender Specialist Liaisons supervising approximately 430 sex offenders. The 430 does not include those offenders against children that are also required to register. Some of those charged with Abuse and Neglect of a Child also have elements of sexual offending, but because of the charging doctrine, are not considered to be sex offenders. The total number of registered sex offenders in our State as of January 27, 2015 was 1,920. Of the 430 sex offenders supervised by Parole & Probation, 41 are considered “homeless

# 4  
HB1407  
2-3-15  
pg 2

domiciled" in that they have no permanent residence. I need to clarify these numbers and tell you that not all the 41 sex offenders are living under bridges or sleeping in a car parked in the WalMart parking lot or on the corner of whatever street and whatever avenue in your town. The great majority of these sex offenders have been placed by the Department of Corrections at Centre's 1/2-way and/or 3/4-way house (Bismarck, Fargo, and Grand Forks), the trailer parked on the grounds of the Penitentiary or My Father's House (Jamestown and Fargo).

Offenders living at any of these places mentioned are living there temporarily—their placement is short-termed, usually until they can get a job and have money to pay for the deposit and rent on an apartment or possibly needing to complete some type of treatment. These offenders report regularly to their probation officer and usually attend sex offender treatment and/or chemical dependency treatment. We have had occasions when a sex offender **has** been genuinely homeless, stopped reporting to his probation officer and absconded. In those cases, the officer would prepare a petition to revoke the offender's probation. At that point, the offender is usually charged with Failure to Register. Failure to Register is a Class C Felony and punishable for up to 5 years. Jail/prison terms are graduated for the number of FTR the offender has accumulated.

Registration is a tool used to basically keep track of known registered sex offenders. Recent research does not indicate sex offender registration can be credited for lowering recidivism rates. At times being able to check out a registration site and being able to pinpoint a specific address as being the residence of a known sex offender can inspire what could be a false sense of security. By knowing where the sex offender lives, we can avoid that neighborhood and tell our children not to go anywhere near a particular address. However, knowing a sex offender's address does not free our children from ever being sexually abused, since over 90% of sexual offenders are known by their victims. Those sex offenders can be living next door—or in the same house—as the child. Awareness is more than just knowing a sex offender's address via the registration process. This knowledge is caught and taught in our homes by observant and responsive adults.



I do have some concerns about House Bill 1407 in that the definition of "homeless domiciled" is not totally clear. Would "homeless domiciled" also include those sex offenders currently "residing" in the half-way and  $\frac{3}{4}$  houses, our trailer at the Penitentiary, and My Father's House. If the proposed bill would include our offenders housed at these locations, then that would place a burden on the offenders to register every three days with local law enforcement. It would be unnecessarily cumbersome to expect those offenders to register every three days since they are closely monitored by our highly trained probation officers. It would also mean unnecessary work for parole/probation officers, law enforcement responsible for registration and, in my opinion, increase the number of offenders charged with Failure to Register. It would seem that the intent of House Bill 1407 should be re-examined, clarify the term "homeless domiciled", and determine if the bill would justify the potential outcome. With Parole and Probation only supervising about 22% of those currently on the state registry, it would appear that providing knowledge and enforcement of this bill to those not currently supervised could be more than challenging.

Thank you for your patience in allowing me to present testimony on House Bill 1407. If you have any questions or comments, I'll be more than happy to respond.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1407

H1  
HB 1407  
2-10-15  
#1

Page 1, line 1, after "2," insert "3,"

Page 1, line 3, remove "domiciled"

Page 1, line 5, after "2," insert "3,"

Page 1, replace lines 18 and 19 with "For the purposes of this section, a "homeless" individual is one who is physically present in this state, but is living in a park, under a bridge, on the streets, in a vehicle or camper, or is otherwise without a traditional dwelling, and also those who reside in the state but do not maintain a permanent address. This term does not include those who are temporarily domiciled or individuals residing in public or private shelters that provide temporary living accommodations."

Page 2, line 21, remove "domiciled"

Page 2, line 24, remove "domiciled"

Page 3, after line 27, insert:

3. If a court has not ordered an individual to register in this state, an individual who resides, is homeless, or is temporarily domiciled in this state shall register if the individual:
  - a. Is incarcerated or is on probation or parole after July 31, 1995, for a crime against a child described in section 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 if the individual was not the parent of the victim, or as a sexual offender;
  - b. Has pled guilty or nolo contendere to, or been adjudicated for or found guilty of, an offense in a court of this state for which registration is mandatory under this section or an offense from another court in the United States, a tribal court, or court of another country equivalent to those offenses set forth in this section; or
  - c. Has pled guilty or nolo contendere to, or has been found guilty of, a crime against a child or as a sexual offender for which registration is mandatory under this section if the conviction occurred after July 31, 1985.

Page 3, line 29, remove "domiciled"

Page 3, line 30, replace "subsection 1" with "subsections 2 and 3"

Renumber accordingly

1-1

Senate Judiciary Committee  
Senator David Hogue, Chairman

Barb Breiland  
Program Manager, Sex Offender Unit for Parole and Probation  
North Dakota Department of Corrections and Rehabilitation  
Presenting Testimony on House Bill 1407  
Tuesday, March 17, 2015

Good morning, Chairman Hogue and members of the Senate Judiciary Committee. My name is Barb Breiland and I'm Program Manager of the Sex Offender Unit for Parole & Probation. I am here on behalf of the Department of Corrections and Rehabilitation to provide testimony on House Bill 1407.

Since 1991 North Dakota has required the registration of sex offenders and offenses categorized under Abuse and/or Neglect of a Child. The registration law has changed over time and become more exacting—not only do the offenders need to register their addresses, employment and/or school they are attending but if they change their name, vehicle information, or online address, the offender must notify law enforcement within 3 days of that change. Not only are we requiring notification of more information, but our length of registration has also changed over the years. Registration used to be for 10 years, regardless of crime or risk level. However, over time, the length of registration has changed from the 10 years previously ordered to years based on risk levels and number of sex offenses. Low risk sex offenders now register for 15 years, moderate risk for 25 years and lifetime registration for high risk and/or those with multiple sex offender convictions.

Registration is not the only thing that has changed over the years. With our increasing numbers on supervised probation, Parole and Probation has increased the number of officers supervising sex offenders. We now have 9 Sex Offender Specialists and 8 Sex Offender Specialist Liaisons supervising approximately 430 sex offenders. The 430 does not include those Offenders Against Children that are also required to register (as of March 16, 2015, 156 registered with ND AG's Office). Some of those charged with Abuse and Neglect of a Child have elements of sexual offending, but because of the charging document, are not labeled as sex offenders. Some offenders may have had reductions in the severity of their offenses as part of a plea agreement. The total number of registered sex offenders in our State as of yesterday March 16, 2015 our number was 1901, down from the 1,920 reported last month. There are also 175 sex offenders currently incarcerated that are not registered and included in the 1901. Of the 430 sex offenders supervised by Parole & Probation, 41 would have been considered "homeless" domiciled in the original bill in that they had no permanent residence. As in my previous testimony, I thought it important to clarify that not all the 41 sex offenders were living under bridges or possibly

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sleeping in their car parked in the WalMart parking lot or on the corner of whatever street and or avenue in our towns. The great majority of the 41 sex offenders had been placed by the Department of Corrections at Centre's ½ - way and/or ¾ -way house (Bismarck, Fargo, and Grand Forks), the trailer parked on the grounds of the Penitentiary or living in My Father's House in Jamestown or Fargo.

Offenders living at any of these places mentioned are living there temporarily—their placement is short-term, usually until they can get a job and have money to pay for the deposit and rent on an apartment or possibly they were in the position of needing to complete some type of treatment. These offenders report regularly to their probation officer and usually attend sex offender treatment and/or chemical dependency treatment. We have had occasions when a sex offender has been genuinely homeless, stopped reporting to his probation officer and absconded. In those cases, the officer prepares a petition to revoke the offender's probation. At that point, the offender is usually charged with Failure to Register. Failure to Register is a Class C Felony and punishable for up to 5 years in prison. Jail/prison terms or probation are usually graduated for the number of FTRs the offender has accumulated.

Registration is a tool used to basically keep track of known registered sex offenders. We can get on the Attorney General's web site and find out the numbers and locations of sex offenders living in our neighbor, town, or state.

Recent research does not indicate sex offender registration can be credited for lowering recidivism rates. At times being able to check out a registration site and being able to pin point a specific address on a known sex offender can inspire what could be a false sense of security. By knowing where the sex offender lives, we can avoid that neighborhood and tell our children not to go anywhere near a particular address. However, knowing a sex offender's address does not free our children from ever being sexually abused since well over 90% of victims know the sexual offender. Those sex offenders can be living next door—or in the same house—as the child. He can be a neighbor, brother, uncle, grandfather, teacher, or their own father. Awareness is more than just knowing a sex offender's address via the registration process. The dangers of preventing child sexual abuse is most often caught and taught in our homes by observant and responsible adults.

I did have some concerns about House Bill 1407 in that the definition of "homeless domiciled" was not totally clear. We were wondering if "homeless domiciled" also included those sex offenders currently a "resident" in Centre's facilities, our trailer at the Penitentiary, and My Father's Houses. If the proposed bill had included our offenders housed at these locations, then that would have placed a burden on the offenders to register every three days with local law enforcement. It would have been unnecessarily cumbersome for the offenders to register every three days since they are closely monitored by our highly trained

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specialists and liaisons. It would also have brought unnecessary work for the officers supervising these sex offenders, law enforcement responsible for registration and it would, in my opinion, increase the number of offenders charged with Failure to Register. After our testimony before the House Judiciary Committee, it appears they have responded positively to our suggestions made at that time. In HB 1407, the way it now reads provides some leeway in that 'homeless' does not include individuals who are "temporarily domiciled or individuals residing in public or private shelters that provide temporary living accommodations." That Committee has allowed for exemptions in this amended legislation.

With Parole and Probation only supervising about 22% of those currently on the state registry (as of 1/27/15 there were 1,920 sex offenders registered in ND), it would appear that providing knowledge and enforcement of this bill to those not currently supervised could be challenging. We appreciate the changes made to 1407 and support the passing of the amended HB 1407.

Thank you for allowing me to present testimony on House Bill 1407. If you have any questions or comments, I'll be more than happy to respond.