

**2019 HOUSE JUDICIARY**

**HB 1109**

# 2019 HOUSE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Prairie Room, State Capitol

HB 1109  
1/9/2019  
30608

☐ Subcommittee  
☐ Conference Committee

|                                    |
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| Committee Clerk: DeLores D. Shimek |
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## Explanation or reason for introduction of bill/resolution:

A BILL relating to the crime of perjury.

## Minutes:

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**Chairman K. Koppelman:** Opened the hearing on HB 1109.

**Sen. Hogue:** Introduced the bill. (Attachment #1) Went over testimony. This bill gives equal dignity to unsworn documents if they are provided under penalty of perjury. (1:09-4:45)

**Chairman K. Koppelman:** The practical impact of this is these unsworn documents would be given equal weight as long as they are presented under the penalty of perjury. Who would the penalty apply?

**Sen. Hogue:** The person who declared that the information provided in the document is accurate. Both ND and SD are considering this act as well.

**Chairman K. Koppelman:** So it has been enacted in two states and introduced in two others plus the two Dakotas.

**Rep. Vetter:** If something is unsworn I do not understand the document and how would you be guilty of perjury?

**Sen. Hogue:** Unsworn testimony would be like a deposition in a law suit the court reporter will put you under oath and that is sworn testimony and it comes into court and it is a document now which could replace being present for court. Discussed driver's license information and you provide it under penalty of perjury. That is an example.

**Rep. Vetter:** On the driver's license my weight maybe different; can I be guilty of perjury. If you are given a form that says you need to be truthful and that could be perjury.

**Sen. Hogue:** I don't know if that is a good example because I do not know if that pertains to this.

**Rep. Hanson:** You are saying a document that is given as sworn document that is not given under oath but is given under penalty of perjury would have equal reliability of evidence?

**Sen. Hogue:** That is up to whoever is finding the facts. This is saying that document would be admissible. You could not exclude it on the basis that it not reliable.

**Chairman K. Koppelman:** If someone signs a document and is unsworn; the penalty would be perjury so it is a question of a written document or being there to swear physically that you are telling the truth.

**Rep. Rick Becker:** Why is oath of office excluded?

**Sen. Hogue:** You are there giving an oath.

**Tony Wieler, State Water Association of ND:** We support this bill.

Opposition: None

Hearing closed.

**Do Pass motion made by Representative Satrom: Seconded by Rep. Paur**

Discussion:

**Rep. Vetter:** Is this only for courts? What about a divorce court case? Could one spouse say they didn't and they did sign it; then are they guilty of perjury?

**Chairman K. Koppelman:** That would be true whether you are there or not.

**Rep. Magrum:** This is a way for the courts to get more reliable information and there is a penalty.

**Chairman K. Koppelman:** Yes that is right.

**Rep. Jones:** I was reading the end of the bill and it says it does not apply to deposition and oath of office. I find it interesting that D is for recording and real estate records; why would those be excluded?

**Chairman K. Koppelman:** You are already swearing and oath and if this becomes law it does not supplement the need for you as a legislator to swear the other of office when you are elected.

**Roll Call Vote: 14 Yes 0 No 0 Absent Carrier: Rep. Magrum**

Closed

**2019 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
HB 1109**

House 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 Representative Satrom Seconded By Rep. Paur

| Representatives     | Yes | No | Representatives        | Yes | No |
|---------------------|-----|----|------------------------|-----|----|
| Chairman Koppelman  | X   |    | Rep. Buffalo           | X   |    |
| Vice Chairman Karls | X   |    | Rep. Karla Rose Hanson | X   |    |
| Rep. Becker         | X   |    |                        |     |    |
| Rep. Terry Jones    | X   |    |                        |     |    |
| Rep. Magrum         | X   |    |                        |     |    |
| Rep. McWilliams     | X   |    |                        |     |    |
| Rep. B. Paulson     | X   |    |                        |     |    |
| Rep. Paur           | X   |    |                        |     |    |
| Rep. Roers Jones    | X   |    |                        |     |    |
| Rep. Satrom         | X   |    |                        |     |    |
| Rep. Simons         | X   |    |                        |     |    |
| Rep. Vetter         | X   |    |                        |     |    |
|                     |     |    |                        |     |    |
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Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Magrum

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

**REPORT OF STANDING COMMITTEE**

**HB 1109: Judiciary Committee (Rep. K. Koppelman, Chairman)** recommends **DO PASS**  
(14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1109 was placed on the  
Eleventh order on the calendar.

**2019 SENATE JUDICIARY COMMITTEE**

**HB 1109**

# 2019 SENATE STANDING COMMITTEE MINUTES

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

HB 1109  
2/13/2019  
#32666 (11:20)  
#32688 (00:09)

☐ Subcommittee  
☐ Conference Committee

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| Committee Clerk: Meghan Pegel |
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## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact chapter 31-15 of the North Dakota Century Code, relating to the Uniform Unsworn Domestic Declarations Act; and to amend and reenact subsection 4 of section 12.1-11-01 of the North Dakota Century Code, relating to the crime of perjury.

## Minutes:

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| 1 Attachment |
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**Chair Larson** opens the hearing on HB 1109. Senator Myrdal was absent.

## David Hogue, District 38 Senator, testifies in favor (see attachment #1)

**Senator Hogue:** This bill is recognition that documents provided to a court or an administrative agency when they are assigned by the author of the document under a penalty of perjury, they should have as much consideration as sworn testimony where you are administered an oath and you give testimony under oath. That's the intent. It's a supplement to a previous act that the Conference had proposed which was the Uniform Unsworn Foreign Declarations act. Courts and administrative agencies frequently have a need to access documents that are from a different country. This bill is recognition of the fact that we have a need for those documents in American, originated documents.

**Senator Luick:** What's the penalty for perjury and for multiple times? Does it increase?

**Senator Hogue:** I'm not sure. However, perjury is regarded as a very serious crime.

**Joseph Jensen, UND Law Intern, neutral party:** Perjury is a class C felony. As far as I can tell, it remains a class C felony no matter how many times you do it.

**(5:40) Tony Weiler, Executive Director for the State Bar Association, testifies in favor**

**Weiler:** As a tradition for us, we have a tendency to support uniform laws for the reason of the work that goes into drafting and vetting, the uniformity it creates for multiple states and the fact that our state legislatures get to adopt them in a form that they see fit. The “UDDA” harmonizes state and federal law in this case too because under federal law, they are already allowed to have an unsworn declaration. There are exceptions where you could not do an unsworn declaration under the act or under our state law, and that provides protection in certain situations. We support this and encourage a do pass.

**Vice Chairman Dwyer:** Please explain 31-15-06 at the end of this bill.

**Weiler:** It talks about the electronic signatures in Global and National Commerce Act, that it modifies, limits, or supersedes that. I’m not familiar with that act, but I can do some digging on that for the committee.

**Chair Larson** closes the hearing on HB 1109.

**Chair Larson:** Vice Chairman Dwyer, I assume you will follow up on finding the answer to your question on that.

**Senator Luick:** Moves for a Do Pass.

**Vice Chairman Dwyer:** Seconds.

**A Roll Call Vote was Taken:** 5 yeas, 0 nays, 1 absent. Motion carries.

**Vice Chairman Dwyer** will carry the bill.

(Job #32688) **Senator Myrdal** votes yes. Unanimous vote is recorded.



**2019 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1109**

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 Senator Luick Seconded By Vice Chairman Dwyer

| Senators         | Yes | No | Senators      | Yes | No |
|------------------|-----|----|---------------|-----|----|
| Chair Larson     | X   |    | Senator Bakke | X   |    |
| Vice Chair Dwyer | X   |    |               |     |    |
| Senator Luick    | X   |    |               |     |    |
| Senator Myrdal   | X   |    |               |     |    |
| Senator Osland   | X   |    |               |     |    |
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Total (Yes) 6 No 0

Absent 0

Floor Assignment Vice Chairman Dwyer

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

**REPORT OF STANDING COMMITTEE**

**HB 1109: Judiciary Committee (Sen. D. Larson, Chairman)** recommends **DO PASS**  
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1109 was placed on the  
Fourteenth order on the calendar.

**2019 TESTIMONY**

**HB 1109**

#1  
HB 1109  
1-9-19

1 TESTIMONY OF DAVID HOGUE IN SUPPORT OF HB 1109

2 House Judiciary Committee

3 January 9, 2019 9:40 am

4  
5  
6 Good morning Chairman Koppelman and members of the House Judiciary  
7 Committee. My name is David Hogue. I am a North Dakota state senator  
8 representing District 38.

9 I am before your committee to testify in support of House Bill 1109.

10 HB 1109 is a product of the National Conference of Commissioners of  
11 Uniform State Laws. HB 1109 is the Uniform Unsworn Declarations Act. It  
12 essentially is a rule of evidence that permits a party to offer documentary  
13 evidence that is given under penalty of perjury. Federal law contains a similar  
14 provision that unsworn statements, given under penalty of perjury, are admissible  
15 in court and administrative proceedings.

16 Chairman Koppelman and committee members, thank you for your  
17 consideration of this bill.

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HB 1109

1-9-19

2

A Uniform Act drafted by the Uniform Law Commission



The Uniform Unsworn Declarations Act (UUDA) permits the use of unsworn declarations made under p

## Microsoft Power BI



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#1  
HB 1109  
2.13.19

**TESTIMONY OF DAVID HOGUE IN SUPPORT OF HB 1109**

**Senate Judiciary Committee**

**February 13, 2019**

Good morning Madam Chair Larson and members of the Senate Judiciary Committee.

My name is David Hogue. I am a North Dakota state senator representing District 38. District 38 encompasses northwest Minot, a portion of the Minot Air Force Base, and Burlington, North Dakota. I am before your committee to testify in support of House Bill 1109.

HB 1109 is a product of the National Conference of Commissioners of Uniform State Laws. I know you are acquainted with the National Conference of Commissioners. The NCCUSL is a group of attorneys and judges who love to draft laws that would benefit all states by promoting uniformity of the law among the several states.

The Uniform Unsigned Declarations Act is essentially a rule of evidence. It permits certain documents to be introduced into evidence that would otherwise be excluded as hearsay or not meeting one of the exceptions to hearsay.

Madam Chair Larson and committee members, thank you for your consideration of this bill.