

2019 HOUSE HUMAN SERVICES

HCR 3038

2019 HOUSE STANDING COMMITTEE MINUTES

Human Service Committee
Fort Union Room, State Capitol

HB 3038
2/6/2019
32290

- Subcommittee
 Conference Committee

Committee Clerk Signature Nicole Klamann

Explanation or reason for introduction of bill/resolution:

A concurrent resolution urging ND courts to refrain from referencing the US supreme Court decision in Roe V. Wade, or it's holding in any decision or order

Minutes:

2

Chairman Weisz: opened hearing

Representative Jeff Hoverson, District 3: Introduction, See **attachment 1**. Roe V Wade is not a law and this bill would inhibit ND courts from referencing the US supreme Court decision in Roe V. Wade.

Chairman Weisz: Further Support? Seeing none, Any opposition?

Opposition: None

Meeting closed.

Testimony received outside meeting

Carel Two-Eagle, citizen: Not present to provide verbal testimony, written received see **attachment 2**

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Minutes:

Chairman Weisz: Opened meeting

Representative Todd Porter: I certainly appreciate the position of the bill sponsor, however in our form of government with 3 distinct branches, with one being the judicial branch, I do not know how we could make this even possible. I can't disagree with the statement but it's the law.

I move a Do Not Pass

Representative Bill Devlin: Second

Rep. Devlin: Rep. Porter hit the nail right on the head. The judicial power of the state is vested in the courts, they are the constitutional protective branch of government. Not Article 4 or 5 allow ND Legislature to do this. Congress has to change that on a National Level.

Representative Chuck Damschen: I think this is something a lot of us would like to do, but we do not have the authority.

Representative Kathy Skroch: In principal, the statements made during testimony were accurate. I will vote against the motion, simply in support of the principal.

Representative Bill Tveit: In principal I want to support the thoughts behind this and agree with Representative Skroch. I am going to have to vote no.

Rep. Devlin: I would like the fellow members to think this through a bit. If the legislative members could actually dictate what courses ND supreme court could reference, what happens when a different group of legislators takes control? They may have completely

House Human Services Committee

HCR 3038

2/6/19

Page 2

opposite views than you or I. The legislature should not and must not have this authority, I urge you to vote for Do Not Pass on this resolution.

Roll Call Vote: Yes 11 No 2 Absent 1
Motion carries, Do Not Pass

Rep. Devlin: carrier

Date: 2-6-19
 Roll Call Vote #: 1

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 3038**

House Human Services 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 Rep. Porter Seconded By Rep. Devlin

Representatives	Yes	No	Representatives	Yes	No
Robin Weisz - Chairman	X		Gretchen Dobervich	X	
Karen M. Rohr - Vice Chairman	X		Mary Schneider	X	
Dick Anderson	X				
Chuck Damschen	X				
Bill Devlin	X				
Clayton Fegley	X				
Dwight Kiefert					
Todd Porter	X				
Matthew Ruby	X				
Bill Tveit		X			
Greg Westlind	X				
Kathy Skroch		X			

Total (Yes) 11 No 2

Absent 1

Floor Assignment Rep. Devlin

If the vote is on an amendment, briefly indicate intent:
Motion Carries - Do Not Pass

REPORT OF STANDING COMMITTEE

HCR 3038: Human Services Committee (Rep. Weisz, Chairman) recommends **DO NOT PASS** (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HCR 3038 was placed on the Eleventh order on the calendar.

2019 TESTIMONY

HCR 3038

HCR 3038 Roe V Wade Resolution

#1
HCR 3038
2/6/19
pg. 1

Chairman Weisz and committee. For the record, my name is Jeff Hoverson, representative District 3:

Roe V Wade has hurt women and executed over 60 million beautiful babies since 1973. Perhaps it is time to consider aborting Roe V Wade.

New York and Virginia have revealed just how far Roe V Wade is willing to go in our society. Consider this from the New York Post by Rich Lowry - July 6, 2018:

Over the years, the decision's laughable constitutional inadequacy has been widely recognized. Shortly after it came down, Harvard Law School professor John Hart Ely, a supporter of legalized abortion, wrote that "Roe is bad because it is bad constitutional law, or rather because it is not constitutional law and gives almost no sense of an obligation to try to be."

"Justice Blackmun's opinion provides essentially no reasoning in support of its holding," a former Blackmun clerk, Edward Lazarus, has written. "And in the almost 30 years since Roe's announcement, no one has produced a convincing defense of Roe on its own terms."

That's because none is possible. The court in Roe purported to find the constitutional right to abortion in the 14th Amendment, which says that no state can "deprive any person of life, liberty, or property, without due process of law."

This passage has no obvious or even subtle connection to legalized abortion (in fact, abortion laws were being tightened in the 19th century when the amendment passed). No matter. According to Blackmun, abortion is so central to liberty that no restriction on it can stand constitutional scrutiny.

He is at pains to deny that unborn children are "persons in the whole sense." As evidence, he points to clauses in the Constitution about persons that don't have "prenatal application," e.g., the requirement that persons must be 35 or older to run for president. This is too stupid for words. Just because clauses like this refer to adults doesn't mean that minors, or unborn children, don't have rights.

9th Amendment

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

10th Amendment

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Article One of US Constitution

All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

#1
HCR 2038
2/6/19
Pg. 2

Article One - Section 8 of the US Constitution

List of enumerated powers of the federal constitution[\[edit\]](#)

The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

To borrow on the credit of the United States;

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

To establish a uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

To establish Post Offices and Post Roads;

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

To constitute Tribunals inferior to the supreme Court;

To define and punish Piracies and Felonies committed on the high Seas, and Offenses against the Law of Nations;

To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

To provide and maintain a Navy;

To make Rules for the Government and Regulation of the land and naval Forces;

To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;
And

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

— Article I, Section 8 of the United States Constitution

#2
HCR 3038
2/6/19
Pg. 1

TESTIMONY ON HCR 3038 - CAREL TWO-EAGLE - FEBRUARY 6, 2019

Hello Chairman and members of the Committee. For the record, my name is Carel Two-Eagle, and I stand in strong opposition to HCR 3038.

It is not the place of the legislative branch of government, whether state or federal, to try to tell the courts how to decide cases, or what case history any or all of them can use to decide the cases that come before them. Our government is a three-part one, with equal powers, but differing abilities and responsibilities. This is the definition of “equivalent” – “equal in value”.

HCR 3038 steps outside the boundaries of the US Constitution in its attempt to oversee the activities of any court in this state, in any way, by any means.

HCR 3038 is offensive to anyone who believes in representative democracy.

HCR 3038 is offensive to any intelligent individual who actually reads the Constitution of the United States.

This HCR, 3038, should never have seen the light of day. It is heinous. It is an attempt to undermine the US Constitution. It is anti-American. Recommend DO NOT PASS on HCR 3038.

Thank you for hearing me in a good way now. I am always available to answer any questions.