2023 HOUSE JUDICIARY

HB 1087

2023 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Room JW327B, State Capitol

HB 1087
1/4/2023

Judgment of summary disposition and dismissal

Chairman Klemin opened the hearing on HB 1038 at 2:51 PM. Members present: Chairman Klemin, Vice Chairman Karls, Rep. Bahl, Rep. Christensen, Rep. Cory, Rep. Henderson, Rep. Rios, Rep. S. Roers Jones, Rep. Satrom, Rep. VanWinkle, Rep. Vetter, Rep. Schneider; Absent Rep.S. Olson

Discussion Topics:

- Summary judgment
- Application in district court
- Appeals to Supreme Court
- Post conviction

Sara Behrens: Staff attorney, State Court Administrator's Office: Testimony #12347

Hearing closed at 2:54 PM

Rep. Christensen moved a Do Pass;
Seconded by Rep. Shannon Roers Jones

Representatives	Vote
Representative Lawrence R. Klemin	Y
Representative Karen Karls	Y
Representative Landon Bahl	Y
Representative Cole Christensen	Y
Representative Claire Cory	Y
Representative Donna Henderson	Y
Representative SuAnn Olson	A
Representative Nico Rios	Y
Representative Shannon Roers Jones	Y
Representative Bernie Satrom	Y
Representative Mary Schneider	Y
Representative Lori VanWinkle	Y
Representative Steve Vetter	Y

Roll call vote: 12 Yes 0 No 1 Absent
Motion carried Carrier: Rep. Cory

Closed 2:59 PM.

Delores Shimek, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1087: Judiciary Committee (Rep. Klemin, Chairman) recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1087 was placed on the Eleventh order on the calendar.

2023 SENATE JUDICIARY

HB 1087

2023 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Peace Garden Room, State Capitol

HB 1087
2/20/2023

A bill relating to summary disposition; relating to summary disposition and dismissal.

11:30 AM Chairman Larson opened the meeting.

Chairman Larson and Senators Myrdal, Luick, Estenson, Sickler, Paulson and Braunberger are present.

Discussion Topics:

- Judgements
- Evidentiary hearings
- Court procedures

11:30 AM Sally Holewa, State Court Administrator, introduced the bill.

11:33 AM Chairman Larson closed the public hearing.

11:33 AM Senator Sickler moved to Do Pass the bill. Motion seconded by Senator Myrdal.

11:34 AM Roll call vote is taken.

Senators	Vote
Senator Diane Larson	Y
Senator Bob Paulson	Y
Senator Jonathan Sickler	Y
Senator Ryan Braunberger	Y
Senator Judy Estenson	Y
Senator Larry Luick	Y
Senator Janne Myrdal	Y

Motion passes 7-0-0.

Senator Estenson will carry the bill.

This bill does not affect workforce development.

11:34 AM Chairman Larson closed the meeting.

Rick Schuchard, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1087: Judiciary Committee (Sen. Larson, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1087 was placed on the Fourteenth order on the calendar. This bill does not affect workforce development.

TESTIMONY

HB 1087

House Bill 1087
House Judiciary Committee
Testimony Presented by Sara Behrens
January 4, 2022

Good afternoon Chairman Klemin, members of the committee. My name is Sara Behrens and I am a staff attorney with the State Court Administrator's Office. I am here today in support of House Bill 1087. Currently, section 29-32.1-09 is titled summary disposition and intermingles summary disposition and summary dismissal of an application for post-conviction relief in one statute. Combining the two concepts into a single statute makes it more difficult to understand. HB 1087 simply splits the statute into two: section 29-32.1-09 would cover summary dismissal which occurs when the court, on its own motion, determines the application is meritless prior to the state responding. The court, on its own motion, may also dismiss any claim that postconviction counsel is ineffective as that is not a claim allowed under chapter 29-32.1.

A new section to chapter 29-32.1 would cover summary disposition which occurs on a motion by either party that the application, pleadings, any previous proceeding, discovery, or other matters show that there is no genuine issue of material fact and the party is entitled to judgment as a matter of law. This provision is akin to summary judgment under Rule 56 of the North Dakota Rules of Civil Procedure. If any issues of material fact remain, the court can hold an evidentiary hearing on just those issues. The wording is not changed from the current statute, but is only moved to a new section.

Thank you for your consideration and we urge a do pass.