2023 HOUSE JUDICIARY

HB 1410

2023 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Room JW327B, State Capitol

HB 1410
1/31/2023

Relating to prosecution and punishment for the offense of official oppression by the intrusive touching of persons seeking access to passenger aircraft transportation; and to provide a penalty.

Chairman Klemin opened the hearing on HB 1410 at 10:30 A.M. Members present: Chairman Klemin, Vice Chairman Karls, Rep. Bahl, Rep. Christensen, Rep. Cory, Rep. Henderson, Rep. S. Olson, Rep. Rios, Rep. S. Roers Jones, Rep. Satrom, Rep. Schneider, Rep. VanWinkle, Rep. Vetter

Discussion Topics:

- TSA PreCheck
- Pat down procedures
- Fourth amendment
- TSA policies
- Public concerns

Rep. Hoverson: Introduced the bill. Testimony # 18136.

Hearing closed at 10:48 AM.

Representative Vetter moved to amend HB 1410 to strike the word 'or' on line 24 page 1 and remove lines 1 and 2 on page 2.

Representative Christensen seconded. Roll Call vote:

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

Motion failed 6-7-0.

Representative Roers Jones moved a Do Not Pass on HB 1410.

Representative Bahl seconded the motion.

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

Motion failed 6-6-1.

Additional written testimony:

Stephanie Dassinger Engebretson, Deputy Director for ND League of Cities. #18139

Chairman Klemin: will revisit this bill later today. Adjourned at 11:03.

DeLores Shimek, Committee Clerk

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HB 1410
1/31/2023

Relating to prosecution and punishment for the offense of official oppression by the intrusive touching of persons seeking access to passenger aircraft transportation; and to provide a penalty.

Chairman Klemin opened the hearing on HB 1410 at 11:20 A.M. Members present: Chairman Klemin, Vice Chairman Karls, Rep. Bahl, Rep. Christensen, Rep. Cory, Rep. Henderson, Rep. S. Olson, Rep. Rios, Rep. S. Roers Jones, Rep. Satrom, Rep. Schneider, Rep. VanWinkle, Rep. Vetter

Discussion Topics:

- Committee Work

Rep. Shannon Roers Jones moved a Do not pass on HB 1410.

Seconded by Rep. Bahl

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

Motion carried for a Do Not Pass 8-5-0.

Representative Bahl carrier.

Meeting closed at 11:30 AM.

DeLores Shimek, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1410: Judiciary Committee (Rep. Klemin, Chairman) recommends **DO NOT PASS** (8 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1410 was placed on the Eleventh order on the calendar.

TESTIMONY

HB 1410

Pat-down procedures are used to determine whether prohibited items or other threats to transportation security are concealed on the person. You may be required to undergo a pat-down procedure if the screening technology alarms, as part of unpredictable security measures, for enhanced screening, or as an alternative to other types of screening, such as advanced imaging technology screening. Even passengers who normally receive expedited screening, such as TSA PreCheck™ passengers, may at times receive a pat-down.

A pat-down may include inspection of the head, neck, arms, torso, legs, and feet. This includes head coverings and sensitive areas such as breasts, groin, and the buttocks. You may be required to adjust clothing during the pat-down. The officer will advise you of the procedure to help you anticipate any actions before you feel them. Pat-downs require sufficient pressure to ensure detection, and areas may undergo a pat-down more than once for the TSA officer to confirm no threat items are detected.

TSA officers use the back of the hands for pat-downs over sensitive areas of the body. In limited cases, additional screening involving a sensitive area pat-down with the front of the hand may be needed to determine that a threat does not exist.

You will receive a pat-down by an officer of the same gender. TSA officers will explain the procedures to you as they conduct the pat-down. Please inform an officer if you have difficulty raising your arms or remaining in the position required; an external medical device; or areas of the body that are painful when touched. You may request a chair to sit if needed.

At any time during the process, you may request private screening accompanied by a companion of your choice. A second officer of the same gender will always be present during private screening.

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4th Amendment Search and Seizure Protections - FindLaw

1

What Does the Fourth Amendment Mean?

The Constitution, through the Fourth Amendment, protects people from unreasonable searches and seizures by the government. The Fourth Amendment, however, is not a guarantee against all searches and seizures, but only those that are deemed unreasonable under the law.

2

Home

Searches and seizures inside a home without a warrant are presumptively unreasonable.
Payton v. New York, 445 U.S. 573 (1980).

However, there are some exceptions. A warrantless search may be lawful:
If there is **probable cause** to search and exigent circumstances; *Payton v. New York*, 445 U.S. 573 (1980)

3

A Person

When an officer observes unusual conduct which leads him reasonably to conclude that criminal activity may be afoot, the officer may briefly stop the suspicious person and make reasonable inquiries aimed at confirming or dispelling the officer's suspicions.
Terry v. Ohio, 392 U.S. 1 (1968)
Minnesota v. Dickerson, 508 U.S. 366 (1993)

January 31, 2023
House Judiciary Committee
HB 1262
Rep. Lawrence Klemin, Chair

For the record, I am Stephanie Dassinger Engebretson. I am appearing on behalf of the North Dakota League of Cities, in support of HB 1262. I am the deputy director and attorney for the North Dakota League of Cities.

HB 1262 is a simple bill and is intended to ensure individual's privacy in their private spaces. It is already in the Century Code that images taken in a private place, from body cams or similar devices of a law enforcement officers or firefighters, are exempt records under the North Dakota open records laws. As a reminder an exempt record is a record that the government entity has discretion on whether to release.

HB 1279 would extend that protection for all images taken in a private place, by body camera or other similar device, no matter who is controlling the device. In other words, if a representative of a public entity wears a body camera and takes images using a similar device in an individual's home, that image would be protected.

The reason this came up is that there is a national trend to have property assessors and building inspectors wear body cameras. A couple of cities looked into starting to have these employees wear body cameras and discovered that when going into an individual's home they would be creating a video record showing the inside of someone's home and there would not be protection under the law from having to disclose the record if requested. As a result, we worked on this bill to be proactive about protecting individual's privacy in their homes.

Please note that this language appears in the statute with the title "Criminal intelligence information and criminal investigative information - Nondisclosure - Record of information maintained." Under the provisions in the Century Code related to statutory interpretation, the title of a statute is not instructive as to what is in the statute. As such, I want to make it clear that the intent is that, under this bill, this exemption would apply to everyone. I did not want to move the section because everyone is already accustomed to where to find it.

In order to protect individual's privacy rights in their homes and other private places, the North Dakota League of Cities respectfully requests a "Do Pass" recommendation on HB 1262.