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Yalosta Rickford
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10/2/03
Date

2003 HOUSE JUDICIARY

HB 1090

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10/2/03

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1090

House Judiciary Committee

☐ Conference Committee

Hearing Date 1-21-03

Tape Number	Side A	Side B	Meter #
1	xx		31.5-41
Committee Clerk Signature			

Minutes: 10 members present, 3 members absent (Rep. Grande, Bernstein, & Onstad)

Chairman DeKrey: We will open the hearing on HB 1090.

Ken Sorenson, Asst. A.G.: (see attached testimony & amendment)

Chairman DeKrey: Thank you. Anyone else in support? Anyone in opposition? We will close the hearing.

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1090

House Judiciary Committee

☐ Conference Committee

Hearing Date 1-27-03

Tape Number	Side A	Side B	Meter #
1		XX	33-35
Committee Clerk Signature <i>Penrose</i>			

Minutes: Committee work was held on HB 1090.

Chairman DeKrey: What are the committee's wishes.

Rep. Klemin: Move to adopt the proposed amendments.

Rep. Delmore: Seconded.

Voice vote: 11 yes 0 no 2 absent (Rep. Onstad, Rep. Maragos)

Rep. Wrangham: Move Do Pass as amended.

Rep. Boehning: Seconded.

11 YES 0 NO 2 ABSENT DO PASS W/AMENDMENTS CARRIER: Rep. Kingsbury

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Proposed Amendments to House Bill No. 1090

Offered by the North Dakota Department of Corrections and Rehabilitation
January 21, 2003

Page 1, Line 16, remove: "An employee or agent of the division of juvenile service or a county"

Page 1, delete lines 17, 18, and 19

Page 2, after line 11, insert:

"h. A criminal justice agency, when the juvenile is required to register, or is registered, under section 12.1-32-15."

Renumber accordingly.

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Date

38253.0101
Title.0200

Adopted by the Judiciary Committee
January 27, 2003

VR
1/28/03

HOUSE AMENDMENTS TO HOUSE BILL NO. 1090 JUD 1-28-03

Page 1, line 16, remove "An employee or agent of the division of juvenile services or a county"

Page 1, remove lines 17 through 19

HOUSE AMENDMENTS TO HB 1090 JUD 1-28-03

Page 2, after line 11, insert:

"h. A criminal justice agency if the juvenile is required to register under section 12.1-32-15."

Renumber accordingly

Page No. 1

38253.0101

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10/2/03
Date

Date: 1/27/03
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1090

House Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 38253.0101 .0200

Action Taken Do Pass w/Amend.

Motion Made By Rep. Wrangham Seconded By Rep. Boehning

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Rep. Delmore	✓	
Vice Chairman Maragos	AB		Rep. Eckre	✓	
Rep. Bernstein	✓		Rep. Onstad	AB	
Rep. Boehning	✓				
Rep. Galvin	✓				
Rep. Grande	✓				
Rep. Kingsbury	✓				
Rep. Klemin	✓				
Rep. Kretschmar	✓				
Rep. Wrangham	✓				

Total (Yes) 11 No 0

Absent 2

Floor Assignment Rep. Kingsbury

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

REPORT OF STANDING COMMITTEE (410)
January 28, 2003 2:33 p.m.

Module No: HR-16-1218
Carrier: Kingsbury
Insert LC: 38253.0101 Title: .0200

REPORT OF STANDING COMMITTEE

HB 1090: Judiciary Committee (Rep. DeKrey, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1090 was placed on the Sixth order on the calendar.

Page 1, line 16, remove "An employee or agent of the division of juvenile services or a county"

Page 1, remove lines 17 through 19

Page 2, after line 11, insert:

"h. A criminal justice agency if the juvenile is required to register under section 12.1-32-15."

Renumber accordingly

2003 SENATE JUDICIARY

HB 1090

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Halista Rickford

Date

10/2/03

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1090

Senate Judiciary Committee

☐ Conference Committee

Hearing Date 03/12/03

Tape Number	Side A	Side B	Meter #
1	X		2.0 - 8.1
Committee Clerk Signature <i>Maria L. Salberg</i>			

Minutes: Senator John T. Traynor, Chairman, called the meeting to order. Roll call was taken and all committee members present. Sen. Traynor requested meeting starts with testimony on the bill:

Testimony in Support of HB 1090

Ken Sorenson - Assistant Attorney General, on behalf of the ND Department of Corrections and Rehabilitation Read Testimony (meter 2.3) Attachment #1

Sen. Lyson discussed the release of the entire Juveniles record due to some police departments putting this type of information on posters or on television.

Discussion of the above process. (meter 8.1)

Testimony in Opposition of HB 1090

None

Testimony Neutral to HB 1090

None

Page 2
Senate Judiciary Committee
Bill/Resolution Number HB 1090
Hearing Date 03/12/03

Motion Made to **DO PASS** HB 1090 Senator Stanley W. Lyson, Vice Chairman and
seconded by Senator Dennis Bercler

Roll Call Vote: 6 Yes. 0 No. 0 Absent

Motion Passed

Floor Assignment: Senator Stanley W. Lyson, Vice Chairman

Senator John T. Traynor, Chairman closed the hearing

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Yolanda Rickford
Operator's Signature

10/2/03
Date

Date: March 12, 2003
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1090

Senate JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS

Motion Made By Sen. Lyson Seconded By Sen. Bercier

Senators	Yes	No	Senators	Yes	No
Sen. John T. Traynor - Chairman	X		Sen. Dennis Bercier	X	
Sen. Stanley Lyson - Vice Chair	X		Sen. Carolyn Nelson	X	
Sen. Dick Dever	X				
Sen. Thomas L. Trenbeath	X				

Total (Yes) SIX (6) No ZERO (0)

Absent ZERO (0)

Floor Assignment Senator Stanley W. Lyson, Vice Chairman

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

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10/2/03
Date

REPORT OF STANDING COMMITTEE (410)
March 12, 2003 1:08 p.m.

Module No: SR-44-4556
Carrier: Lyson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
HB 1090, as engrossed: Judiciary Committee (Sen. Traynor, Chairman) recommends DO
PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1090 was
placed on the Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-44-4556

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Date

10/2/03

2003 TESTIMONY

HB 1090

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Yolanda Rickford

Date

10/2/03

House Bill 1090

**Submitted on behalf of the North Dakota Department of Corrections and
Rehabilitation**

January 21, 2003

**Before the House Judiciary Committee
Representative Duane DeKrey, Chairman**

Mr. Chairman, Members of the House Judiciary Committee:

My name is Ken Sorenson, Assistant Attorney General, and I am submitting this written testimony on behalf of the North Dakota Department of Corrections and Rehabilitation's Division of Juvenile Services.

The Division of Juvenile Services is the state agency that is charged under law with taking custody of children who have been committed by the juvenile courts. The Division of Juvenile Services asked for the proposed amendment to N.D.C.C. Section 27-20-51(1)(c), as it appears in Section 1 of House Bill No. 1090, to address the Division's concern that from time to time its staff was not allowed to attend juvenile court proceedings or review juvenile court records regarding juveniles who would be placed in the custody of the Division. This problem has been worked out now between through the North Dakota Supreme Court, which is the administrator for the juvenile courts, and the Division. Therefore, the Division no longer needs to pursue this amendment and it submits a proposed amendment to delete that particular provision of House Bill No. 1090.

The second proposed amendment to Section 1 of House Bill 1090 is a provision to amend N.D.C.C. Section 27-20-51(1) to add a paragraph relating to access to juvenile court records for offender registration under N.D.C.C. Section 12.1-32-15, which is North Dakota's sex offender and felony crimes against children registration statute. Since August 1, 1999, juveniles have been required to register for sexual offense or offense against children adjudications. Effective August 1, 2001, the Attorney General is required to assign a risk level to all sexual offenders, including registered juveniles. Although law enforcement records pertaining to juveniles, (see N.D.C.C. Section 27-20-52(4), and Division of Juvenile Service records, (see N.D.C.C. Section 27-21-12(f)) are accessible to the Attorney General, there is no such provision relating to juvenile court records. In order to comply with obligations imposed under N.D.C.C. Section 12.1-32-15, the Attorney General may need information that is contained in the juvenile court file, particularly for those juveniles who have been through the juvenile court and are subject to the registration requirements, but have not been placed in the custody of the Division of Juvenile Services.

Yalosta Rickford
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10/2/03
Date

Section 2 of House Bill 1090 addresses the confidentiality of records of juveniles who may have been temporarily detained in a correctional facility. The 57th Legislative Assembly dealt with the status of correctional facility records with the enactment of N.D.C.C. Section 12-44.1-28, which provides that correctional facility records regarding medical, psychiatric, and treatment records are confidential; that inmate discipline and conduct records are exempt records, and that information such as identification, charges, criminal convictions, bail, and release dates are open records. The question regarding the status of certain records of juveniles who have been placed in a correctional facility, the most likely record being a juvenile court's order authorizing the juvenile to be held in the facility. There may also be booking and intake records after a law enforcement officer has taken a juvenile into custody pending juvenile court proceedings.

It was generally assumed that because the records involved a juvenile, especially juvenile court records ordering the placement, that the records were confidential. However, while a record may be confidential in the hands of one agency, unless there is a statute providing for the confidentiality of that same record in another agency, it may not retain its confidential status. As a consequence, while many parts of a juvenile's records may be confidential, if a juvenile is held in a correctional facility, placement and identifying information is not confidential. The first part of the amendment in Section 2 of H.B. 1090 places a juvenile's correctional facility records in the same category as law enforcement records relating to juveniles and precludes the release of any identifying information, except as authorized by N.D.C.C. Section 27-20-52.

The second part of the amendment in Section 2 of H.B. 1090 is to subsection 3 of N.D.C.C. Section 27-20-52 and adds the words "or may be" so that agencies such as the Division of Juvenile Services may receive law enforcement records before a juvenile has been committed to the Division, instead of only after there has been a commitment.

The third part of the amendment in Section 2 of H.B. 1090 is a "housekeeping" amendment. Juveniles may not be committed to penal facilities, but they may be held in correctional facilities. This part of the amendment replaces the word "penal" with the word "correctional".

Yalosta Rickford
Operator's Signature

10/2/03
Date

Att #1

Engrossed House Bill 1090

Submitted on behalf of the North Dakota Department of Corrections and
Rehabilitation

March 12, 2003

Before the Senate Judiciary Committee
Senator Jack Traynor, Chairman

Mr. Chairman, Members of the Senate Judiciary Committee:

My name is Ken Sorenson, Assistant Attorney General, and I am submitting this written testimony on behalf of the North Dakota Department of Corrections and Rehabilitation's Division of Juvenile Services. The Division of Juvenile Services is the state agency charged under state law to take custody of juveniles who have been adjudicated delinquent or unruly and committed to the care of the Division by the Juvenile Court.

The purpose of Section 1 of House Bill 1090 is to amend N.D.C.C. Section 27-20-51(1) to add a paragraph relating to access to juvenile court records for offender registration under N.D.C.C. Section 12.1-32-15, which is North Dakota's sex offender and felony crimes against children registration statute. Since August 1, 1999, juveniles have been required to register for sexual offense or offense against children adjudications. Effective August 1, 2001, the Attorney General, with the assistance of the Department of Corrections and Rehabilitation and the Juvenile Courts, is required to assign a risk level to all sexual offenders, including registered juveniles. Although law enforcement records pertaining to juveniles, (see N.D.C.C. Section 27-20-52(4), and Division of Juvenile Service records, (see N.D.C.C. Section 27-21-12(f)) are accessible to the Attorney General, it is necessary to have a similar provision relating to juvenile court records. In order to comply with obligations imposed under N.D.C.C. Section 12.1-32-15, the Attorney General may need information that is contained in the juvenile court file, particularly for those juveniles who have been through the juvenile court and are subject to the registration requirements, but have not been placed in the custody of the Division of Juvenile Services.

Section 2 of House Bill 1090 addresses the confidentiality of records of juveniles who may have been temporarily detained in a correctional facility. The 57th Legislative Assembly dealt with the status of correctional facility records with the enactment of N.D.C.C. Section 12-44.1-28, which provides that correctional facility records regarding medical, psychiatric, and treatment records are confidential; that inmate discipline and conduct records are exempt records, and that information such as identification, charges, criminal convictions, bail, and release dates are open records. A question arose regarding the status of certain records of juveniles who have been placed in a correctional facility on a very

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limited or temporary basis. These records may include a juvenile court's order authorizing the juvenile to be held in the facility, or placement for what is called attendant care, which is basically pre-adjudication non-secure detention, a program that is operated by various facilities, including several local correctional centers. There will also be booking and intake records after a law enforcement officer has taken a juvenile into custody pending transfer to another facility, release to the juvenile's parents, or for juvenile court proceedings.

It was generally assumed that because the records involved a juvenile, especially juvenile court records ordering the placement, the records were confidential. However, while a record may be confidential in the hands of one agency, unless there is a statute providing for the confidentiality of that same record in another agency, it may not retain its confidential status. As a consequence, while many parts of a juvenile's records may be confidential, if a juvenile is held in a correctional facility, placement and identifying information may not be confidential. The first part of the amendment in Section 2 of H.B. 1090 places a juvenile's correctional facility records in the same category as law enforcement records relating to juveniles and precludes the release of any identifying information, except as authorized by N.D.C.C. Section 27-20-52.

The second part of the amendment in Section 2 of H.B. 1090 is to subsection 3 of N.D.C.C. Section 27-20-52 and adds the words "or may be" so that agencies such as the Division of Juvenile Services may receive law enforcement records before a juvenile has been committed to the Division, instead of only after there has been a commitment.

The third part of the amendment in Section 2 of H.B. 1090 is a "housekeeping" amendment. Juveniles may not be committed to penal facilities, but they may be held in correctional facilities, subject to various requirements such as complete sight and sound separation from any adult prisoners. This part of the amendment replaces the word "penal" with the word "correctional".