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Operator's Signature Date

2003 HOUSE JUDICIARY

HB 1502

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1502

House Judiciary Committee

☐ Conference Committee

Hearing Date 2-12-03

Tape Number	Side A	Side B	Meter #
1		xx	0-14.6
1		xx	24-26
Committee Clerk Signature	DPenrose		

Minutes: 13 members present.

Chairman DeKrey: We will open the hearing on HB 1502.

Rep. Dave Monson: Introduced bill, support (see Mike Stensrud letter, proposed amendments).

Rep. Delmore: Do you think this bill would interfere with the investigative process of these people, if they are hired for legitimate reasons.

Rep. Monson: Could interfere if the person being investigated might be in the office where he has to check in, say with a sheriff's office, etc.. That would let the law enforcement officer know if he were being investigated.

Rep. Klemin: What is the affect of this, what are they going to tell the person being investigated if they see the private investigator and question the police. What are they going to tell the person. What are they going to do.

Rep. Monson: I guess that would be a little bit of a dilemma. Tell them don't worry.

Rep. Klemin: What if the person being investigated has a cousin in the police department, would the police officer lie to the person being investigated.

Rep. Monson: I don't know.

Chairman DeKrey: Thank you. Any further testimony in support. Any further testimony in opposition.

Francine Johnson, Johnson & Johnson Investigations, Bismarck, ND: Opposed (see attached testimony). We need to remain covert, anonymous, notifying law enforcement should be at our discretion. It would be counterproductive in some cases to notify law enforcement.

Chairman DeKrey: Thank you. Further testimony in opposition.

Norm Evans, PI: Opposed (see attached testimony).

Richard Olson, PI: Opposed. One of the saddest investigations we have to do, is investigate police officers, etc. This bill would really hinder our investigations.

Chairman DeKrey: Thank you. Further testimony? We will close the hearing.

(Reopened later in the same session)

Chairman DeKrey: What are the committee's wishes in regard to HB 1502.

Rep. Onstad: I move a Do Not Pass.

Rep. Eckre: Seconded.

11 YES 1 NO 1 ABSENT DO NOT PASS CARRIER: Rep. Eckre

30735.0101
Title.

Prepared by the Legislative Council staff for
Representative Morrison
February 10, 2003

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1502

Page 1, line 7, after "services" insert "that include surveillance"

Page 1, line 8, replace the second "the" with "these"

Renumber accordingly

Date: 2/12/03
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1502

House Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken "Do Not Pass

Motion Made By Rep. Onstad Seconded By Rep. Eckre

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

Total (Yes) 11 No 1

Absent 1

Floor Assignment Rep. Eckre

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

REPORT OF STANDING COMMITTEE (410)
February 12, 2003 9:36 a.m.

Module No: HR-27-2376
Carrier: Eckre
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1502: Judiciary Committee (Rep. DeKrey, Chairman) recommends **DO NOT PASS** (11 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1502 was placed on the Eleventh order on the calendar.

2003 TESTIMONY

HB 1502

Notice to law enforcement agencies. An individual physically providing private investigative services outside a county in which that individual has a place of business shall notify the city law enforcement agency, or county law enforcement agency if the services are provided outside the corporate limits of a city, of that individual's provision of private investigative services in that city or county and the make, model, year, color, and number plate of the vehicle being used by that individual. The notification must be made within a reasonable amount of time before or after the individual enters the city or county. Section 43-30-10 does not apply to this section.

Representative Monson,

I would like to take this opportunity to respond to HB 1502. I would request that since I can not make the hearing that this e mail be shared with the committee.

I am currently a licensed Private Investigator in the State of North Dakota. I am also a licensed Commissioned Security Officer and am General Manager of Bismarck-Mandan Security, Inc. Prior to my becoming a Private Investigator in 1983, I was an active licensed law enforcement officer for 10 years. During my career in law enforcement and in the private sector, I have found no need for such a law.

I am licensed by the State of North Dakota to practice investigations within the state and am based in Bismarck. I find no reason that when I go to Mandan or Fargo or anywhere in the state, that I am already licensed in, that I need to contact a law enforcement agency and tell them that I am there. For example, if I go to Minot to interview a witness and stop at the Courthouse to obtain records, do I need to call the Minot Police Department and tell them what kind of vehicle I am driving in case they see it at the Courthouse or outside a business? If I stop in Hazen, on my way to Minot to interview a witness at the grocery store, do I need to contact the Sheriff57;s Office? From Hazen I continue on and stop in Max to obtain photos of a vehicle that was involved in the accident that I am investigating for an insurance company. I now need to contact that Sheriff57;s Office and tell them I57;m in town?

I have now called three different law enforcement agencies and told them that I am in their town or county conducting business. My question is why is this law needed? Why do these three agencies need to know I am in town conducting business? I do contact law enforcement if I feel there is a need or a purpose, and work very closely with the law enforcement community. I would very interested in finding out what prompted this bill and what the reason was behind it.

In closing, I would like to state that I am licensed by the State of North Dakota, I am allowed to conduct business in the entire State of North Dakota, I am regulated by the North Dakota Private Investigative and Security Board, and therefore, my home area of conducting business is within the State of North Dakota. There is no need or reason for this type of requirement to conduct business within the State.

Thank you,

Mike Stensrud

General Manager, Private Investigator

Bismarck-Mandan Security, Inc

Mike.bms@midconetwork.com

Bismarck, ND

HOUSE BILL 1502
Before the Judiciary Committee

Chairman _____ and members of the committee, good morning. I am

Francine Johnson, owner and private investigator with Johnson & Johnson Investigations in Bismarck, North Dakota. I am here today speaking in opposition of HB 1502.

I investigate several matters for attorneys, insurance companies, private citizens, state and local government entities. Throughout the course of business, my investigations may take me to several jurisdictions to accomplish the tasks outlined by the client or decisions made through my professional judgment.

From a business standpoint, HB 1502 is an enormous intrusion and hindrance to private investigators due to the notification process proposed. First of all, the purpose of covert surveillance is that of remaining anonymous or undercover. The very fact that you are notifying individuals that you are conducting an investigation alerts them to the fact that there is **cause** for an investigation. I have conducted several investigations in small towns and have indeed contacted law enforcement for assistance or provided them with notification that I would be in the area. **This has been discretionary**.
I have also conducted investigations in which the very target of the investigation happens to be a law enforcement officer or a relative or close associate of law enforcement. Notification of law enforcement in these instances would obviously be detrimental. In other words, notification as proposed by HB 1502 would end the investigation before it had ever started.
What would be the purpose of undercover surveillance if investigators notified the individuals prior to the operation? How can fraudulent activity be documented when the target may have been informed prior to the investigation?
Restricting or hindering private investigators in the course of their business by notification of their activities to law enforcement is counterproductive at best. Additionally, law enforcement already has safeguards in place and has the authority granted to them to investigate suspicious activity, unknown persons or vehicles, or answer any complaints generated by the public. Private investigators notifying law enforcement when conducting investigations in their jurisdiction should remain **discretionary.**

OR County Attorneys

Mr. Chairman, with your permission, I would also like to address this committee from a second point of view, another position I hold relevant to the industry? I currently serve in a part time capacity for the NDPISB as their executive director. This the regulatory board that governs the security and investigative industry. The NDPISB is a 7 member governor

appointed board that is completely funded by it's industry members. The board **does not** receive any government assistance and relies completely on the license fees generated by the industry it serves.

As executive director, my job is to insure that all license holders remain in compliance with the current rules and statutes as they apply to the respective industries. I respond to all complaints received by the industry and the general public with regard to activities involving any of the license holders. Currently, there are 786 active status employees within the state of ND in the security and investigative industry. Of those active status employees there are approximately 110 licensed or registered investigators throughout the state.

HB 1502 requires notification of law enforcement of any investigative activity outside pi's jurisdiction. I assume the monitoring of this activity or complaints resulting from the lack of notification would fall upon this Board. First and foremost, this Board does not have enforcement powers or a compliance officer, nor do they have the authority or the funds to conduct these types of compliance activities. From the executive director standpoint, this bill would present an administrative nightmare. If someone did not inform law enforcement of their presence, it would fall on my shoulders to write the letter asking the individual why they did not comply. It then requires a response, an inquiry to law enforcement, and possible investigation. Once this is accomplished, and the investigator has not complied with the proposed notification, there is virtually no action taken. HB 1502 states that 43-30-10 (the criminal violation portion of our statute) would not be relevant or does not apply. Therefore, this simply becomes a letter writing issue with no results or action to be taken.

Presently, when a license holder does not comply with issues relating to statute or rule, (a misdemeanor) the Board must refer the violation to the states attorney in the jurisdiction in which the offense occurred. If the states attorney chooses not to prosecute, there is no other recourse aside from administrative action that can take place.

1/B 1502 ~~It~~ serves no legitimate purpose when in fact, law enforcement already has the power to investigate that strange vehicle or suspicious person in town.

Additionally, there are several exemptions within our statute that allow several investigators to conduct activities that are beyond the scope of the NDPISB. 43-30-02 exempts insurance investigators, those conducting investigation for state, federal, or city entities, and proprietary investigators. These individuals are beyond the scope of our authority. In response to the initial request of this bill, with MR. _____ situation, it appears that this particular individual was an insurance investigator, and would not have been within the NDPISB's authority. This bill has the propensity to over-regulate an industry that is not even responsible for the actions of those purported to have conducted themselves in an unprofessional manner.

For the reasons outlined as a industry member and executive director, I ask that you Do NOT PASS HB1502

EVANS
INVESTIGATIONS

1204 N 1st Street
Bismarck, ND 58501
Phone 701-222-1887

February 12, 2003

TESTIMONY ON HOUSE BILL NO. 1502

I have been a private investigator for twelve years and work closely with law enforcement agencies throughout the state of North Dakota and in other states.

I contact law enforcement officers for information and advise them of my purpose when it is not a detriment to the case. Let me explain. On a Pegasus Piracy case, I only notified a Detective in the Fargo area, as the individual who was pirating the cards was a security officer and had friends in the police department.

On another piracy case in the Devils Lake area, it was reported that a retired officer was buying and pirating cards. A young officer cautioned me to not tell the head of an agency about my investigation as he and the retired officer were good friends. He said the officer, would advise the retired officer, that he was being investigated.

I and other investigators do work for the Workers Compensation Bureau. In numerous claims we are investigating police officers. One claim involving an officer began in Grand Forks and went all the way to Bismarck. Would the investigator, under this new law, be required to notify local law enforcement, of his surveillance activities in each and every jurisdiction that he conducts surveillance, whether stopping or passing through? Do we by reporting our presence want the word to spread through the department and to the individual officer who is being investigated?

I ask a " Do Not Pass on House Bill No. 1502," allow us to make the notification, based on our experience and knowledge of the case.

Norman D. Evans