

# MICROFILM DIVIDER

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ROLL NUMBER

DESCRIPTION

2043

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Operator's Signature

*LaCosta Rickford*

10/15/03

Date

2003 SENATE POLITICAL SUBDIVISIONS

SB 2043

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10/15/03  
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2043

Senate Political Subdivisions Committee

☐ Conference Committee

Hearing Date January 9, 2003

Tape Number	Side A	Side B	Meter #
1	X		0 - 3879
Committee Clerk Signature <i>Shirley Borg</i>			

Minutes:

CHAIRMAN COOK called the committee to order. All present in attendance.

SENATOR COOK opened the hearing on SB 2043 which is a bill for an Act to designate the offices responsible for restitution and enforcement activities.

Vonette Richter, Legislature Council explained the bill. See attached final report.

SENATOR LEE questioned if there was a sunset or why we are going to keep doing it.

Ms Richter stated that in 2001 in SB 2002 which was the Judiciary Appropriations bill, there was a section in there that said the intent is that the county and state offices performing restitution collection and enforcement activities as of April 1, 2001, continue to perform those duties until June 30, 2003. What this would be doing is making that status quo permanent law.

SENATOR POLOVITZ questioned if this would affect, for instance, the City of Grand Forks, when the county went through an reorganization process and some of these titles have been combined.

Page 2

Senate Political Subdivisions Committee

Bill/Resolution Number SB 2043

Date January 9, 2003

Ms Richter answered that she believed that the clerk of court and employees became state employees. Grand Forks county States Attorneys are collecting restitution so that would not affect that office.

SENATOR SYVERSON asked if this would tie the hands of political entities that may desire to change their collection process in so far as who does the collecting?

Ms Richter answered, yes it would tie their hands. It would require that the way it was done is the way it will continue to be done.

SENATOR SYVERSON stated that he would like to see wording that would give counties that might want to do some modification some options.

Ms Richter answered that they were already funded by the state or contracted with the state even though they are a clerk of court function in the county.

REPRESENTATIVE KRETSCHMAR Dist 28, Served on Judiciary A . Testified in Support of SB 2043. It was the consensus of the Judiciary A committee that there be something in the statute to allow the counties to do the restitution work as they are currently doing. He felt Senator Syverson may have a valid point and that an amendment could be added.

SENATOR J. LEE asked if it would be correct to say the Judiciary A had studied this with the idea that it might be limited to one alternative or another and instead of doing that they said to leave it with both options acceptable .

REP. KRETSCHMAR replied that was correct and that there were counties where the states attorneys office did it and cases where the clerk of court was doing it. They wanted to allow those office to do which ever they wished. He felt they needed something in the statute so something was written down in law to say someone was going to do this.

Page 3  
Senate Political Subdivisions Committee  
Bill/Resolution Number SB 2043  
Date January 9, 2003

SENATOR G. LEE asked if all counties were doing the restitution by clerk of court or the states attorney office.

SENATOR KRETSCHMAR replied. that those two places were the only places currently being used by the counties for that function.

Ted Gladden, State Court Administrator, appeared in Support of SB 2043. He gave some background information on the bill . He stated that the Judiciary Intern committee concluded that the best way to deal with it, was too leave as it was being it was working at that time and it was all county and didn't matter. Now the personnel in eleven of the largest counties have been moved to state offices and the responsibility has been shifted. The concern that the Judiciary had is that they did not want to be put in a position where , the county did not want to handle it anymore and there would not be funding or staff to assume the responsibility. We are trying to maintain what is working.

Gary Traynor, Assistant Director of Association of Counties appeared in support of SB 2043.  
Further Support in favor.

Mr. Gladden reappeared. He had visited with Jim Ganje, Staff Attorney and Mr Ganje indicated that the way the law is written it is the states attorney or the clerk of courts office. Mr Ganje suggested some language to put in an amendment. See attached.

SENATOR COOK asked Mr Gladden and Mr Ganje to work with intern and provide some drafting to clarify.

No testimony against SB 2043. Hearing closed.

SENATOR COOK set bill aside for further discussion. Committee Meeting adjourned.

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2043

Senate Political Subdivisions Committee

☐ Conference Committee

Hearing Date: January 17, 2003 (Discussion and action)

Tape Number	Side A	Side B	Meter #
2	X		2705 -3496
Committee Clerk Signature			

Minutes:

CHAIRMAN COOK called the committee to order for discussion on SB 2043. All senators (6) were present. The amendments were discussed.

SENATOR JUDY LEE moved to pass alternative 1 amendment to SB 2043.

SENATOR CHRISTENSON second the motion.

SENATOR SYVERSON moved a DO PASS as amended on SB 2043.

SENATOR POLOVITZ SECOND the motion.

Roll call vote: 6 Yes 0 No 0 Absent . Motion carried

Carrier: SENATOR SYVERSON

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*LaCosta Rickford*

Date

*10/15/03*

**FISCAL NOTE**  
Requested by Legislative Council  
12/18/2002

Bill/Resolution No.: SB 2043

1A. **State fiscal effect:** Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** Identify the fiscal effect on the appropriate political subdivision.

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

This bill continues the action taken by the legislature in 2001. There is no fiscal impact.

3. **State fiscal effect detail:** For information shown under state fiscal effect in 1A, please:

A. **Revenues:** Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

B. **Expenditures:** Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

C. **Appropriations:** Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

Name:	Ted Gladden	Agency:	Supreme Court
Phone Number:	3284216	Date Prepared:	12/19/2002

La Costa Rickford  
Operator's Signature

10/15/03  
Date

30108.0201  
Title.0300

Adopted by the Political Subdivisions  
Committee  
January 17, 2003

*JB*  
1-17-03

PROPOSED AMENDMENTS TO SENATE BILL NO. 2043

Page 1, line 4, replace "The" with "Except as provided in this section, the"

Page 1, line 6, after the period insert "In counties in which a county office performs those activities, a county may transfer responsibility for the activities to another county office."

Renumber accordingly



Date: January 17, 2003  
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2043 Amendments

Senate Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken \_\_\_\_\_

Motion Made By Senator Judy Lee Seconded By Sen Christenson

Senators	Yes	No	Senators	Yes	No
Senator Dwight Cook, Chairman	X				
Senator John O. Syverson, V C	X				
Senator Gary A. Lee	X				
Senator Judy Lee	X				
Senator Linda Christenson	X				
Senator Michael Polovitz	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Syverson

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

Date: 1-17-03  
Roll Call Vote #: 2

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO 582043 as Amended

Senate Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken \_\_\_\_\_

Motion Made By Sen. Syverson Seconded By Senator Polovitz

Senators	Yes	No	Senators	Yes	No
Senator Dwight Cook, Chairman	X				
Senator John O. Syverson, V C	X				
Senator Gary A. Lee	X				
Senator Judy Lee	X				
Senator Linda Christenson	X				
Senator Michael Polovitz	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Syverson

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

**REPORT OF STANDING COMMITTEE (410)**  
January 20, 2003 8:21 a.m.

Module No: SR-10-0745  
Carrier: Syverson  
Insert LC: 30108.0201 Title: .0300

**REPORT OF STANDING COMMITTEE**

**SB 2043: Political Subdivisions Committee (Sen. Cook, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2043 was placed on the Sixth order on the calendar.**

Page 1, line 4, replace "The" with "Except as provided in this section, the"

Page 1, line 6, after the period insert "In counties in which a county office performs those activities, a county may transfer responsibility for the activities to another county office."

Renumber accordingly

(2) DESK, (3) COMM

Page No. 1

SR-10-0746

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*La Costa Rickford*

10/15/03

Date

2003 HOUSE POLITICAL SUBDIVISIONS

SB 2043

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Operator's Signature

10/15/03  
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2043

House Political Subdivisions Committee

☐ Conference Committee

Hearing Date: February 27, 2003

Tape Number	Side A	Side B	Meter #
1	X		0-12.1
Committee Clerk Signature <i>Mickie Schmidt</i>			3-11-03

Minutes:

**TAPE 1: SIDE A:**

**(0.0) CHAIRMAN GLEN FROSETH:** Let's open the hearing on SB 2043. We have a quorum.

**(1.8) VONETTE RICHTER, LEGISLATIVE COUNCIL:** (Testimony in support) I'm an Attorney for Legislative Council and I staff the Intern Judiciary A Committee. One of the studies was to look at the issue of collection of restitution and who's responsibilities that collection is. Handed out a portion of the final report from the Judiciary A Committee. (See attachment #1)

**(4.1) REP. GIL HERBEL:** When the counties collect these restitution's, is this primarily for money that goes to the state or is it money that the counties themselves get to keep?

**(4.4) VONETTE RICHTER:** From what we've heard in committee, most of the collections or restitution is bad checks. Then that restitution is used to pay back the victim. It usually goes to the victim.

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*La Costa Rickford* 10/15/03  
Operator's Signature Date

Page 2

House Political Subdivisions Committee

Bill/Resolution Number SB 2043

Hearing Date: February 27, 2003

**(4.7) CHAIRMAN GLEN FROSETH:** Do the fee's go on that too?

**(4.8) VONETTE RICHTER:** There may be fees in the form of court costs, penalties for the amount of the bad checks.

**(5.5) TED GLADDEN; STATE COURT ADMINISTRATOR:** (Testimony in support) (See attachment #2)

**(7.4) REP. GIL HERBEL:** When I look at the second page, first line, I transfer the responsibilities to another county office? How would that be done?

**(7.7) TED GLADDEN:** That came out of the hearing on the Senate side out of the committee. It was raised by one of the Senators in terms of what if they want to shift that responsibility. That's why the language was inserted to allow that level of flexibility. I can't imagine why it would occur because it's a logical function that ties into the prosecution of criminal cases, how that would occur, I'm really not sure.

**(8.5) REP. GIL HERBEL:** Does it create a moral problem in the department with the extra workload?

**(8.7) TED GLADDEN:** I think the County Commission would take care of that.

**(9.0) WADE WILLIAMS; ASSOC. OF COUNTIES:** (Testimony in support) We've come to the conclusion that whoever was the most politically motivated individual ???(couldn't hear him) To answer Rep. Herbel's question, I think that would transfer the duties from one county office to the other would be a policy decision.

**(9.9) JOHN OLSON; CHAIRMAN OF ND ATTORNEY'S ASSOCIATION:** (Testimony in support) To add to the answer of Rep. Herbel's question, I'm not sure that they have to transfer all of the responsibilities from one office to the other.

Page 3

House Political Subdivisions Committee

Bill/Resolution Number SB 2043

Hearing Date: February 27, 2003

**(10.4) CHAIRMAN GLEN FROSETH:** Further testimony in support? Opposition? Seeing none, we'll close the hearing on SB 2043. What are the committee's wishes?

**(10.7) REP. DALE SEVERSON:** I MOVE A DO PASS.

**(10.7) REP. BRUCE ECKRE:** I SECOND IT.

**(10.9) CHAIRMAN GLEN FROSETH:** Any discussion? I'll have the clerk take the Roll Call

Vote: 13-y; 0-n; 1-absent; Carrier: Rep. Eckre. (12.1)

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*10/15/03*  
Date

Date: 2-27-03

Roll Call Vote #: |

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO: 2043

House \_\_\_\_\_ "POLITICAL SUBDIVISION" \_\_\_\_\_ Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DO PASS

Motion Made By Rep. Severson Seconded By Rep. Eckre

Representatives	Yes	No	Representatives	Yes	No
Chairman Glen Froseth	✓				
Vice-Chairman Nancy Johnson	✓				
Mike Grosz	✓				
Gil Herbel	✓				
Ron Iverson	✓				
William E. Kretschmar	✓				
Andrew Maragos	✓				
Dale Severson	✓				
Alon Wieland	✓				
Bruce Eckre	✓				
Mary Ekstrom	✓				
Carol A. Niemeier	✓				
Sally M. Sandvig	✓				
Vonnie Pietsch	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Eckre

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



**REPORT OF STANDING COMMITTEE (410)**  
February 27, 2003 12:16 p.m.

Module No: HR-35-3573  
Carrier: Eokre  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**  
**SB 2043, as engrossed: Political Subdivisions Committee (Rep. Froseth, Chairman)**  
recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).  
Engrossed SB 2043 was placed on the Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-35-3573

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10/15/03  
Date

2003 TESTIMONY

SB 2043

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Date

10/15/03

## Judiciary A Committee

### 2001-2002 Final Report

#### Responsibility for Restitution Collection

The committee received testimony from the Supreme Court that there is considerable disparity among the counties regarding who is responsible for collecting restitution. According to the testimony, the Supreme Court does not have a strong recommendation regarding the responsibility for restitution collection, but if the Legislative Assembly decides the duty is to be performed by the clerks of district court, additional FTEs will be needed in the state-run offices, and additional compensation to counties would be needed in the contract counties. According to the testimony the question of whether restitution collection should be done by the clerk of district court or the state's attorney is a political issue. In Burleigh, Cass, and Grand Forks Counties the collection of restitution has traditionally been the responsibility of the state's attorney. In Ward County the state's attorney is responsible for restitution collection for felony cases, and the clerk of district court is responsible for collection of restitution in all other cases. In all other counties, restitution is being collected by the clerk of district court offices. The North Dakota Century Code is silent regarding who is responsible for the collection of restitution.

According to testimony from the North Dakota Association of Counties, if the Legislative Assembly decides that restitution is a county responsibility, the cost to each county, depending on size and caseload, would range from \$10,000 to \$45,000 per year. Regarding the current costs of providing restitution services in the four counties in which the state's attorney's office provides this service, it was reported that Cass County employs two FTEs at a cost of \$57,369; Grand Forks County has two FTEs at a cost of approximately \$60,000; Ward County has a .9 FTE at a cost of \$30,911; and Burleigh County has a .75 FTE at a cost of \$20,673. According to the testimony state's attorneys would like to continue to provide the restitution collection service, but if the state pays for the clerk of district court to provide the services in some counties, the counties will want money for the counties to provide the service.

The committee also received extensive testimony regarding the responsibility for restitution collection from clerks of district court and state's attorneys. According to a clerk from a county in which restitution is collected by the clerk of district court, the state's attorney in that county has limited office space. According to the testimony if restitution collection became the duty of the state's attorney, there would not be any physical space for another person to work in that office. It was argued that two offices would be too cumbersome and too confusing to the person paying restitution. Further, it was argued that employees in the clerk's office are well-trained in restitution collection, and it would be more costly for the counties if state's attorneys were required to collect restitution.

According to testimony from a state's attorney, county state's attorneys' offices are not set up for the collection of money, and those counties are not staffed nor physically

able to have a system to collect money without major changes that would necessitate expenditures. It was argued that if the task of collecting restitution became the responsibility of state's attorneys, it is likely that smaller jurisdictions with limited resources and staff would not make the effort to collect restitution. Because it is discretionary for a state's attorney to ask for restitution, it could become a more standard practice to tell a victim to seek a civil judgment if a prosecutor knows he or she does not have the resources available to handle a restitution case. Finally, it was argued that adding the duty of restitution collection to state's attorneys would be unfair to the counties and their budgets.

Several committee members expressed a concern that the North Dakota Century Code is silent on the issue regarding who has the responsibility for the collection of restitution and that a bill draft to codify the status quo may be helpful. The committee considered a bill draft that would have authorized county commissioners to designate either the state's attorney or the county-employed clerk of district court as the office responsible for the collection of restitution. Testimony in opposition to the bill draft indicated the bill draft would not cover those counties in which the clerks of district court are state employees and in which the clerks are responsible for the collection of restitution. In addition the testimony indicated the bill draft could result in the shifting of the cost of restitution collection from the state to the county. It was argued that the language in the bill draft may give the impression that restitution collection is a county responsibility. It was suggested that a better solution would be to codify the intent statement contained in Section 6 of 2001 Senate Bill No. 2002. Section 6 provided that "[i]t is the intent of the legislative assembly that the county and state offices performing restitution collection and enforcement activities as of April 1, 2001, continue to perform those activities until June 30, 2003."

The committee considered a bill draft that provided that those county and state offices performing restitution collection and enforcement activities as of April 1, 2001, are to continue to perform those activities. Testimony in support of the bill draft indicated the bill draft would ensure that the structure regarding the collection of restitution which is currently in place would be retained.



TED C. GLADDEN  
STATE COURT ADMINISTRATOR

**State of North Dakota**  
OFFICE OF STATE COURT ADMINISTRATOR

SUPREME COURT  
Judicial Wing, 1st Floor  
600 E Boulevard Ave Dept 180  
Bismarck, ND 58505-0530  
Phone: (701) 328-4216  
Fax: (701) 328-2092

January 10, 2003

The Honorable Dwight Cook, Chairman  
Senate Political Subdivisions Committee

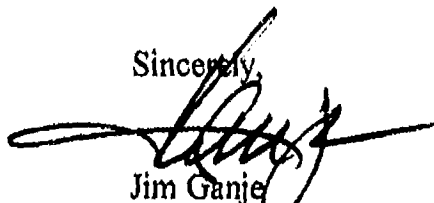
Dear Chairman Cook:

Attached are draft amendments to Senate Bill No. 2043, which addresses restitution collection and enforcement activities and which the Committee heard yesterday morning.

There two alternative amendments. The first simply allows a county office the option of transferring those activities to another county office. The second, in response to comments by Senators Syverson and Polovitz, retains that option and adds two others: contracting with a private entity to perform the activities or entering into an agreement with other counties to have the activities performed by a county office or private entity.

If our office can be of any further assistance, please call.

Sincerely,



Jim Ganje  
Staff Attorney

LaCosta Rickford  
Operator's signature

10/15/03  
Date

*Alternative 1*

PROPOSED AMENDMENTS TO SENATE BILL NO. 2043

Page 1, line 4, replace "The" with "Except as provided in this section, the"

Page 1, line 6, after the period insert:

"In counties in which a county office performs those activities, a county may transfer responsibility for the activities to another county office."

Renumber accordingly

-----

(The relevant language, as amended, would then read:

"Except as provided in this section, the county and state offices performing restitution collection and enforcement activities as of April 1, 2001, shall continue to perform those activities. In counties in which a county office performs those activities, a county may transfer responsibility for the activities to another county office.")

*Alternative 2*

PROPOSED AMENDMENTS TO SENATE BILL NO. 2043

Page 1, line 4, replace "The" with "Except as provided in this section, the"

Page 1, line 6, after the period insert:

"In counties in which a county office performs those activities, a county may transfer responsibility for the activities to another county office, contract with a private entity to perform the activities, or enter into an agreement with one or more other counties to perform the activities through a county office or a private entity."

Renumber accordingly

-----

(The relevant language, as amended, would then read:

Except as provided in this section, the county and state offices performing restitution collection and enforcement activities as of April 1, 2001, shall continue perform those activities. In counties in which a county office performs those activities, a county may

O:\WP\Course\lm-2\Amends to SB 2043.wpd

transfer responsibility for the activities to another county office, contract with a private entity to perform the activities, or enter into an agreement with one or more other counties to perform the activities through a county office or a private entity.")

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#2

2-27-03

**Testimony Regarding SB 2043**  
By Ted Gladden, State Court Administrator

Chairman Froseth and members of the House Political Subdivisions Committee, I am appearing today in support of SB 2043.

Beginning April 1, 2001, the cost of district court clerk of court services became the state's responsibility.

When clerk of court services were paid by the county, it was much less relevant which office handled the administration of restitution collection enforcement activities. However, we now have 11 counties that have opted to have the state assume clerk of court responsibilities. Activities that were once county funded in those counties are now provided with state employees. Thus the need for SB 2043, which will maintain the relationship that was in effect April 1, 2001.

Today, restitution collection is handled in the clerk of district court's office in 49 counties, the 49 smallest counties in the state. In Ward County, restitution collection is divided between the state's attorney's office and the clerk of district court's office. In Cass, Grand Forks, and Burleigh Counties, restitution collection is an administrative responsibility of the state's attorney's office. In all counties, the actual enforcement process is carried out by clerk personnel through the issuance of orders to show cause for nonpayment of restitution or probation revocation proceedings usually initiated through the Department of Corrections. SB 2043 will maintain status quo and not shift the work responsibility between county and state offices. The bill was amended by the Senate to be flexible enough to allow counties in

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*Ta Costa Rickford*

10/15/03

Date



which restitution is handled by a county employee to transfer the responsibility to some other county office.

Based on a staffing study conducted through the State Court Administrator's Office in 2000, we concluded that the administration of restitution processing is approximately 10 full time equivalents (FTE) statewide. The legislation before you today will keep that workload distribution in the offices it was in on April 1, 2001. It will mean that there will be no shift in work activity, ensuring that the work will continue to be done and there will be no adverse financial impact on either the state or the counties.

Thank you.