

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1418

2005 HOUSE JUDICIARY

HB 1418

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1418

House Judiciary Committee

☐ Conference Committee

Hearing Date 1/26/05

Tape Number	Side A	Side B	Meter #
1	xx		41.6-end
1		xx	0-7.3
2	xx		37.5-42
Committee Clerk Signature <i>Dawn Penrose</i>			

Minutes: 12 members present, 2 members absent (Rep. Charging & Zaiser).

Chairman DeKrey: We will open the hearing on HB 1418.

Sgt. Pat Clause, Fargo Police Department: Explained the bill. I support this bill. Rep.

Grande submitted HB 1418 on behalf of the Fargo Police Department. I assisted with the drafting of the changes to Chapter 12.1-29-03 of the NDCC. This is the bill I made reference to in my last testimony. Prostitution has been a growing problem in our part of the state, Fargo. Our investigations have not only resulted in prostitution charges, but also linking these charges to other types of crimes, to include theft of property, firearms, intimidation, drug trafficking and use. These led us to conduct and are still conducting, investigations relative not only to prostitution, but operation of prostitution rings in our jurisdictions. Because of that, we did several stings and this bill addresses some of the issues that arose from that investigation. In the adult entertainment section of the Fargo Forum, there were 10 listed agency ads, advertising their services. We have linked several of these and people that work for those operations as being

involved in criminal activity. There are two areas that were added to HB 1418 to address some issues. The first one, is the addition of a section prohibiting hiring a prostitute, making that a Class B misdemeanor, if an individual hires or offers, or agrees to hire a prostitute for purpose of engaging in sexual activity. This is important in two areas, 1) it brings fairness to the law, it addresses not only the supply side of the crime, but the demand side of the crime, similar to drug crimes; 2) it allows a deterrent factor to affect the crime of prostitution. Overall, it allows us to deter that demand side and hopefully reduce some of the problems and quality of life issue resulting from prostitution crime. The other point addressed in HB 1418 is the addition to the charge of prostitution, 12.1-29-03, in addition to soliciting another person, it would be a violation of ND state law for a person to agree to engage in a sex act, with another for money or other items of gain. This is important because during our investigation, as in drug crimes, often these investigations result from sting and undercover operations, where our officers pose as either a john or a jane, in order to effect arrests and further these investigations. Merely bringing up the suggestion of a crime is not entrapment. It is inducement to commit that crime when a person normally wouldn't. This would solve that problem. In addition, adding that phrase, "agrees to engage in sexual activity" brings it in line with the john provision, which also makes it a crime to agree. It doesn't matter who brings up the idea, it would matter if you willingly and without inducement agreed to engage in this activity.

Representative Kretschmar: The ads that you talked about from the Forum, generally are those prostitution businesses.

Sgt. Pat Clause: The names of these organizations change rapidly. We have linked at least one of these ads that are still in business, that we have linked to prostitution. We have made an arrest

from that location and have conducted other criminal investigations involving that proprietor to include drug charges. Some of the other people that we linked, the dancers, to these other organizations have been involved in alleged prostitution.

Representative Klemin: I am for freedom of press, but how does the Fargo Forum get away with advertising these prostitution ads.

Sgt. Pat Clause: That question is one I posed, recently the Forum did an article last Sunday on prostitution, and that is the question I posed to the reporter for the Forum, and that was not answered in his article and it was not answered to me. The law makes it a violation, a felony, if a person runs a house of prostitution. Our operations are designed to investigate the violation of prostitution on the misdemeanor side, but we hope to utilize those investigations to further investigate the people who operate these businesses. So it's a crime if we can show a person operates, without that being shown, then I would assume that the Forum assumes no liability by advertising what they believe to be a legitimate business, but in our investigations, we believe are not legitimate.

Representative Klemin: If you investigate and find out that it's not a legitimate business, and you go back to the Forum and say this business is not a legitimate business, it's actually a prostitution ring, don't carry any more of those ads; and they continue to do it, then is there anything that you can do with the advertiser. It seems that if they don't have the advertising, that would cut down on them being able to get customers.

Sgt. Pat Clause: I'm sure it would. Based on the facts of the investigation, the state's attorney office, if they could show that this business was operating a house of prostitution, and if the Forum knew that and if the Forum then furthered that, it may be possible. It would be up to the

state's attorney office, to look at it as a conspiracy count, but that again is beyond the scope of our control. We do see this as a problem. I have addressed that to the Forum.

Representative Klemin: Would it be helpful if there was a section that said it was a crime to advertise these prostitution businesses.

Sgt. Pat Clause: It would help. Again, we would have to show, and the problem we have is that one of these businesses had at least one of their employees was arrested and convicted of prostitution. We do have some ongoing investigations. That would be helpful. Unfortunately, they change their names, same proprietor, but they change their names, cell phone numbers, rapidly. Any tool is always gratefully accepted.

Representative Klemin: Well, we have newspapers that refuse to carry ads for scams, and not refuse to carry these kinds of ads.

Representative Galvin: Do you use these ads to initiate an investigation, or can you use them to initiate an investigation.

Sgt. Pat Clause: Yes we do. We utilize these, in fact in our last sting operation, that was our intent and we called several of these right out of the newspaper. We do use those.

Representative Koppelman: With that in mind, what would this bill give you the opportunity to do, all of the things we have been talking about now, I assume you can pursue these, under the guise of someone that is responding to the ad, and charge the organization or individual with prostitution. This would allow you to, I assume, run the ad yourself and try to entice the john, so to speak, trying to purchase prostitution if they chose that route.

Sgt. Pat Clause: That would be an option, whether that would be conducted or not, of course, is up to my Chief, if it is a tactical and strategic approach to dealing with the problem. But that is a

common approach in law enforcement where they have john laws. They actually have undercover officers pose as prostitutes, as a deterrent, like a reverse sting operation, in high crime areas for drugs. Again, ND is lucky, we don't see much street prostitution, if any. We have had some problems in the past with some of our truck stops in Fargo. That would be an option for us and even that option acts as a deterrent, because people never know who they're really calling and hopefully that would help with our problem.

Representative Koppelman: We have two bills before us, how is this bill different and how do we reconcile the fact that we have two different pieces of legislation.

Sgt. Pat Clause: We do support both bills. I understand that they are very similar. This particular bill addresses our specific issues that we have found by enforcing the prostitution law. One, it takes care of the john law, which is what the other bill did in a manner that addresses even some of the issues that the committee brought up last time. It is gender neutral; we refer to an individual, instead of referring to a prostitute. It does cover a lot of the problems that were identified with the other bill, and it also changes, very important in our line of work, it to "agrees to engage". As we do more of these cases, and we prosecute them, we don't want to have to get into more of a long drawn-out technical debate, on who said what first. It's clear to me through the john law, that if you agree to engage in this activity, it's the activity that we're trying to focus on, not whether someone said something first or brought it up. Again, we take care in documenting our cases, electronic means, live witness, and utilizing sworn law enforcement officers to avoid any charge of entrapment, and we're aware of that and we understand what the Supreme Court has deemed as entrapment. This particular bill that was crafted, addresses all of the issues that we found in actually conducting these investigations.

Representative Boehning: There are a lot of kids that say that oral sex isn't sex anymore, so is considered sex with a prostitute. What identifies that.

Sgt. Pat Clause: The definition of sexual activity under ND prostitution law, means any sexual contact or sexual act, which would include oral sex, any contact at all, touching, engaged in sexual intercourse, it covers basically any sexual contact between the two parties.

Representative Maragos: That would have to entail, under the definition of prostitution, a payment of some sort, is that correct.

Sgt. Pat Clause: Correct. The sexual activity has to be for payment. You've agreed to engage in that activity for payment of money or items of pecuniary gain. In other words, you are trading it, doesn't have to be for money, we also have cases where sexual activity is traded for drugs.

Chairman DeKrey: Thank you.

Rep. Bette Grande: I am the sponsor of the bill. We support this bill. My reasoning behind this was that the defense attorneys were not finding clear definition in law as to how this was to be handled. I wanted to see something in place that handled both sides, the prostitute and the john. We need to take care of these illegal acts. This will be a great deterrent.

Representative Koppelman: In formulating the legislation, the city of Fargo came forward in wanting this, do you know is this similar to what other states have on their books. Do other states hit both sides of the issue.

Rep. Bette Grande: The only other state laws that I happened to have looked at, that was Minnesota. Minnesota has extensive john laws. We didn't go as far as the MN law does. Our worked well in simple language like we have here.

Chairman DeKrey: Thank you. Further testimony in support of HB 1418.

Jessica McSparron-Bien, Sexual Assault Program and Policy Coordinator for the ND

Council on Abused Women's Services/Coalition against Sexual Assault in ND: We

support this bill.

Chairman DeKrey: Thank you. Further testimony in support, testimony in opposition. We will close the hearing.

(Reopened later in the same session).

Chairman DeKrey: What are the committee's wishes in regard to HB 1418.

Representative Maragos: I move an amendment to remove Section 2 from this bill.

Representative Delmore: Seconded.

Chairman DeKrey: Motion carried.

Representative Maragos: I move a Do Pass as amended.

Representative Koppelman: Seconded.

12 YES 0 NO 2 ABSENT DO PASS AS AMENDED CARRIER: Rep. Koppelman

VR
1/26/05

HOUSE AMENDMENTS TO HOUSE BILL NO. 1418 JUD 1/27/05

Page 1, line 1, remove "create and enact a new section to chapter 12.1-29 of the North Dakota"

Page 1, line 2, remove "Century Code, relating to hiring a prostitute; to"

Page 1, remove lines 15 through 19

Renumber accordingly

Date: 1/26/05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1418

HOUSE JUDICIARY COMMITTEE

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended

Motion Made By Rep. Maragos Seconded By Rep. Koppelman

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Representative Delmore	—	
Representative Maragos	✓		Representative Meyer	—	
Representative Bernstein	✓		Representative Onstad	—	
Representative Boehning	✓		Representative Zaiser	A	
Representative Charging	A				
Representative Galvin	✓				
Representative Kingsbury	✓				
Representative Klemin	✓				
Representative Koppelman	—				
Representative Kretschmar	✓				

Total (Yes) 12 No 0

Absent 2

Floor Assignment Rep. Koppelman

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

REPORT OF STANDING COMMITTEE

HB 1418: Judiciary Committee (Rep. DeKrey, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1418 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "create and enact a new section to chapter 12.1-29 of the North Dakota"

Page 1, line 2, remove "Century Code, relating to hiring a prostitute; to"

Page 1, remove lines 15 through 19

Renumber accordingly

2005 SENATE JUDICIARY

HB 1418

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1418

Senate Judiciary Committee

☐ Conference Committee

Hearing Date March 16, 2005

Tape Number	Side A	Side B	Meter #
1	X		5397 - End
		X	0.0 - 300
2			0.0 - 311
Committee Clerk Signature <i>Maria L Solberg</i>			

Minutes: Relating to prostitution; penalty.

Senator John (Jack) T. Traynor, Chairman called the Judiciary committee to order. All

Senators were present. The hearing opened with the following testimony:

Testimony In Support of the Bill:

Rep. Bette Grande, Dist. #41 - Introduced the bill (meter 5397) At the request of the Fargo Police Department. One of the issues the Fargo Police needed to address as it pertains to prostitution is the wording in the first section pertaining to person individual and adding agrees to engage in sexual activity with another for money or other items pecuniary value. Second is the part in section 2 on the hiring of a prostitute. These changes will clear up the past confusion with the "exotic" dancers, who is hiring who or soliciting.

Sen. Traynor asked in Section 12.1-29-03 the reference to an "inmate" definition? Sen.

Trenbeath read the definition referring it to a prostitute with in a house of prostitution.

Senator Triplett questioned why section 2 deleted? Due to the actions of the house having another bill. I would like to request it be put back to its original content.

Sergeant Pat Klausin - Fargo Police Dept. (meter 6036) I have 15 years of state/federal drug and vice crime. Prostitution is not a victimless crime. There are health concerns for the community, Exploitation of workers. The Fargo vice unit indicate the recruitment of dancers by these operations. Drug activity, violence and property crime go hand in hand with prostitution. The grown of this problem in our area resulted in stolen checks and aggravated assaults. This is not an activity that goes on behind close doors. Thankfully in ND we do not have a problem with "street walkers" our clients utilize "exotic dance services" or so they bill themselves out as in the Fargo Forum. Gave the history of the services in the Fargo Forum "adult entertainment". This does not effect the protection under state law for entrapment. Discussed undercover activities. Second part of bill is about equal accountability. Same as in drug law.

Senator Hacker asked if there were any physical location for the companies? Srg. discussed "out" call and "in" call businesses (meter 100).

Testimony in Opposition of the Bill

None

Senator John (Jack) T. Traynor, Chairman closed the Hearing

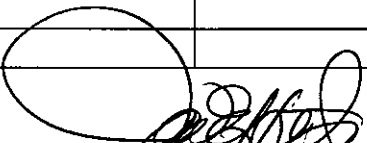
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1418

Senate Judiciary Committee

☐ Conference Committee

Hearing Date March 22, 2005

Tape Number	Side A	Side B	Meter #
1		x	4175 - 4297
Committee Clerk Signature 			

Minutes:

Chairman Traynor opened the discussion on HB 1418.

Senator Hacker moved a do pass on HB 1418.

Senator Nelson seconded the motion.

The motion passed on a roll call vote 6-0-0.

Senator Syverson will carry the bill.

Date: 3/22/05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1418

Senate Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Senator Hacker Seconded By Senator Nelson

Senators	Yes	No	Senators	Yes	No
Sen. Traynor	✓		Sen. Nelson	✓	
Senator Syverson	✓		Senator Triplett	✓	
Senator Hacker	✓				
Sen. Trenbeath	✓				

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)
March 22, 2005 12:34 p.m.

Module No: SR-52-5722
Carrier: Syverson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1418, as engrossed: Judiciary Committee (Sen. Traynor, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1418 was placed on the Fourteenth order on the calendar.