

2009 HOUSE JUDICIARY

HB 1334

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1334

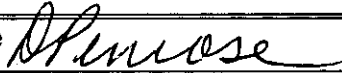
House Judiciary Committee

☐ Check here for Conference Committee

Hearing Date: 2/3/09

Recorder Job Number: 8431, 8492

Committee Clerk Signature



Minutes:

Chairman DeKrey: We will open the hearing on HB 1334.

Rep. Chris Griffin: Sponsor, support (amendment). Explained the bill.

Chairman DeKrey: Thank you. Further testimony in support.

Jonathan Byers, Assistance Attorney General, AG's office: Support (attachment). I would point out that a proposed amendment to this bill for juveniles was also something that I did contemplate in HB 1416 which you are going to be considering later on this morning.

Depending on what you do with HB 1416, that amendment might not be needed in this bill.

Chairman DeKrey: Three days is okay, if the guy loses his job on Friday will he be able to let someone know in the three days.

Jonathan Byers: If he lost the job on Friday, he would have until Monday to go in and report the change.

Chairman DeKrey: The weekend not a problem, most police departments and sheriffs are open?

Jonathan Byers: Most police departments and sheriffs would have someone that they could get a hold of even during weekends. The fact of the matter is that states' attorney decide

whether to charge somebody or not, to consider whether it was on the third day or the third business day. I can't imagine a state's attorney charging somebody over that.

Rep. Delmore: Are these amendments that were added in the bill already or not.

Jonathan Byers: The amendment that we have in the juvenile, I have dealt with that in HB 1416 already in the bill. I haven't looked at these amendments to see if they are exactly the same or not, but in talking with Rep. Griffin he identified several which are dealt with in HB 1416.

Chairman DeKrey: Thank you. Further testimony in support.

Jeff Ubben, Assistant Burleigh County State's Attorney: Support (attachment).

Rep. Delmore: Do you know the number of juvenile offenders this will affect statewide.

Jeff Ubben: No.

Rep. Kretschmar: Have you examined HB 1416 that Mr. Byers mentioned.

Jeff Ubben: I have not. This is the first I have heard of it. This was an amendment that I came to Rep. Griffin with when I thought of this statute currently being revised in that area. It does appear to be consistent.

Chairman DeKrey: Thank you. Further testimony in support. Testimony in opposition.

Neutral testimony. We will close the hearing.

(Reopened in the afternoon session)

Chairman DeKrey: We will take a look at HB 1334. What are the committee's wishes?

Rep. Griffin: I would just like to say that we don't need to add the amendment that I proposed. I don't know whether we want to amend the 5 days down to 3 days or leave it.

Chairman DeKrey: Personally, I think three days is kind of short. If there is a weekend, we may have a judge that doesn't recognize a weekend and I just don't like the 3 day time period.

Rep. Delmore: I move a Do Pass.

Rep. Koppelman: Second.

9 YES 0 NO 4 ABSENT

DO PASS

CARRIER: Rep. Boehning

Date: 2/3/09
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1334

HOUSE JUDICIARY COMMITTEE

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ DP ☐ DNP ☐ DP AS AMEND ☐ DNP AS AMEND

Motion Made By Rep. Delmore Seconded By Rep. Koppelman

Representatives	Yes	No	Representatives	Yes	No
Ch. DeKrey	✓		Rep. Delmore	✓	
Rep. Klemin	✓		Rep. Griffin	✓	
Rep. Boehning	✓		Rep. Vig	✓	
Rep. Dahl			Rep. Wolf		
Rep. Hatlestad	✓		Rep. Zaiser	✓	
Rep. Kingsbury					
Rep. Koppelman	✓				
Rep. Kretschmar					

Total (Yes) 9 No 0

Absent 4

Floor Carrier: Rep. Boehning

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

REPORT OF STANDING COMMITTEE

HB 1334: Judiciary Committee (Rep. DeKrey, Chairman) recommends **DO PASS** (9 YEAS, 0 NAYS, 4 ABSENT AND NOT VOTING). HB 1334 was placed on the Eleventh order on the calendar.

2009 SENATE JUDICIARY

HB 1334

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB1334

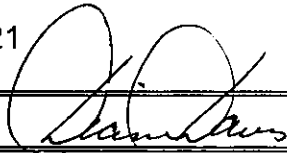
Senate Judiciary Committee

☐ Check here for Conference Committee

Hearing Date: 2/25/09

Recorder Job Number: 9721

Committee Clerk Signature



Minutes: **Senator Nething, Chairman**

Relating to sexual offender registration

Representative Chris Griffin – Introduces the bill and explains the changes this bill makes.

States that when an individual registers they are registering both their residence and their employment address. They must notify authorities within 5 days after termination of employment.

Johathan Byers – Attorney General's Office - See written testimony.

Senator Fiebiger – Asks if 5 days enough.

Byers – Said, the Adam Walsh Act would like it to be 3 days. They used to have 10 days and now think 5 days would be better.

Aaron Birst – Association of Counties – They support the bill.

Close the hearing on HB1334

Senator Nelson moves do pass

Senator Lyson seconds

Vote - 6-0

Senator Nelson will carry

Date: 2/25
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES RB 1334
BILL/RESOLUTION NO.

Senate JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By Sen. Nelson Seconded By Sen. Lyson

Senators	Yes	No	Senators	Yes	No
Sen. Dave Nething – Chairman	X		Sen. Tom Fiebiger	X	
Sen. Curtis Olafson – V. Chair.	X		Sen. Carolyn Nelson	X	
Sen. Stanley W. Lyson	X		Sen. Mac Schneider	X	

Total (Yes) 6 (N) 0

Absent _____

Floor Assignment Sen. Nelson

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

REPORT OF STANDING COMMITTEE

HB 1334: Judiciary Committee (Sen. Nething, Chairman) recommends DO PASS
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1334 was placed on the
Fourteenth order on the calendar.

2009 TESTIMONY

HB 1334

**HOUSE BILL 1334 TESTIMONY
HOUSE JUDICIARY COMMITTEE
February 3rd, 2009
PRAIRIE ROOM**

By Jonathan Byers, Assistant Attorney General

Chairman DeKrey and Members of the Committee:

My name is Jonathan Byers and I appear on behalf of the Attorney General. I wish to testify in favor of House Bill 1334.

This bill does two things: 1) clarifies that a termination of employment is an event that requires an offender to notify law enforcement, and 2) provides a five-day window for the offender to go in and sign a written form outlining the change in job status.

You may want to consider amending the window from 5 days down to 3 days, which is the period specified in the SORNA portion of the Adam Walsh Act. Other than that, we welcome this further effort to clarify what is expected of the offender in our offender registration statute.

The Attorney General asks for a do pass. I would be happy to answer any questions.

Testimony in Support of Amendment to HB 1334

by

Jeff Ubben

Assistant Burleigh County State's Attorney

Good morning Chairman DeKrey and members of the House Judiciary Committee. My name is Jeff Ubben, I am an Assistant Burleigh County State's Attorney here in Bismarck. My job duties include prosecuting juvenile and adult criminal cases for the Burleigh County State's Attorney's office. I am testifying in support of the amendment to HB 1334 and in support of a DO PASS as amended recommendation for this bill.

The current law for our state does not require individuals who have committed a sex crime or a crime against a child as a juvenile outside of the state of North Dakota to register as sexual offenders or as offenders against children upon moving to North Dakota. This issue came to my attention during a case I prosecuted last month in Burleigh County District Court. The case involved a charge of Failure to Register as a Sexual Offender. The individual who I charged with this offense is now an adult living in Bismarck. He was adjudicated a delinquent child by a juvenile court in Minnesota for committing sexual offenses in the state of Minnesota, namely, one act of Criminal Sexual Conduct in the First Degree, one act of Criminal Sexual Conduct in the second degree, and one act of Criminal Sexual Conduct in the third degree. The equivalent North Dakota offense for these acts is Gross Sexual Imposition, which is a Class A Felony. See N.D.C.C. § 12.1-20-03. The Minnesota juvenile court handling this case required this individual to register as a sexual offender in the state of Minnesota.

In order for me to fully explain why this amendment is needed, some background information on how juvenile courts handle the adjudication of criminal acts is needed. In

juvenile court, a juvenile does not plead guilty or nolo contendere to alleged criminal acts. Instead, if the juvenile desires to enter the equivalent of a guilty plea in juvenile court, the juvenile “admits to” the allegation or allegations and then is “adjudicated a delinquent child” by the court. Similarly, if a juvenile wishes to have a trial on an alleged criminal act, and the juvenile court believes the evidence presented shows beyond a reasonable doubt that the juvenile did commit the criminal act, the juvenile is “adjudicated a delinquent child” by the court, as opposed to “being found guilty of” committing the act.

These distinctions are extremely important when read in the context of N.D.C.C. § 12.1-32-15, the sexual offender and offender against children registration law for North Dakota. Currently, if a court has not required an individual to register in the state of North Dakota, an individual who resides or is temporarily domiciled in North Dakota shall register if the individual has pled guilty or nolo contendere to, or been found guilty of, an offense in a court of this state for which registration is mandatory or an offense from another court in the United States, a tribal court, or court of another country equivalent to the sexual offenses and crime against children offenses that require registration in North Dakota. See N.D.C.C. § 12.1-32-15 (3).

When applying this law to the facts of the Minnesota juvenile offender I was speaking of earlier, we can see that the Minnesota juvenile court did not require this individual to register as a sexual offender in the state of North Dakota. Therefore, when this individual moved to North Dakota, he is required to register as a sexual offender under our current law if he had pled guilty or nolo contendere to a sex crime or a crime against a child, or if he had been found guilty of a sex crime or a crime against a child. None of these scenarios apply to our juvenile offender from Minnesota. Instead, our

juvenile offender admitted to and was adjudicated a delinquent child for his acts, which is not one of the listed criteria for requiring an individual to register in this state. Therefore, the language "or been adjudicated delinquent of" should be added to the statute to ensure that an out of state juvenile offender is required to register upon moving to the state of North Dakota. I would stand for any questions the committee may have.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1334

Page 1, line 1, replace "subsection" with "subsections 3 and"

Page 1, line 4, replace "Subsection" with "Subsections 3 and"

Page 1, line 5, replace "is" with "are"

Page 1, after line 5, insert:

- "3. If a court has not ordered an individual to register in this state, an individual who resides or is temporarily domiciled in this state shall register if the individual:
- a. Is incarcerated or is on probation or parole after July 31, 1995, for a crime against a child described in section 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 if the individual was not the parent of the victim, or as a sexual offender;
 - b. Has pled guilty or nolo contendere to, or been found guilty or adjudicated delinquent of, an offense in a court of this state for which registration is mandatory under this section or an offense from another court in the United States, a tribal court, or court of another country equivalent to those offenses set forth in this section; or
 - c. Has pled guilty or nolo contendere to, or has been found guilty or adjudicated delinquent of, a crime against a child or as a sexual offender for which registration is mandatory under this section if the conviction occurred after July 31, 1985."

Renumber accordingly

Attachment 1
HB 1334

HOUSE BILL 1334 TESTIMONY
SENATE JUDICIARY COMMITTEE
February 25TH, 2009
FORT LINCOLN ROOM

By Jonathan Byers, Assistant Attorney General

Chairman Nething and Members of the Committee:

My name is Jonathan Byers and I appear on behalf of the Attorney General. I wish to testify in favor of House Bill 1334.

This bill does two things: 1) clarifies that a termination of employment is an event that requires an offender to notify law enforcement, and 2) provides a five-day window for the offender to go in and sign a written form outlining the change in job status.

We welcome this further effort to clarify what is expected of the offender in our offender registration statute.

The Attorney General asks for a do pass. I would be happy to answer any questions.