

2011 HOUSE JUDICIARY

HB 1262

2011 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HB 1262
January 24, 2011
13257

☐ Conference Committee

Committee Clerk Signature



Minutes:

Chairman DeKrey: We will open the hearing on HB 1262.

Rep. Corey Mock: HB 1262 was introduced at the request of an assistant state's attorney out of Grand Forks related to fleeing an officer. Under current law, a person is not guilty of fleeing an officer, unless the police officer is uniformed and displays their badge. According to their office to successfully convict an individual refusing to halt, the state needs to prove that an individual flees or attempt to elude a pursuing peace officer when given an audio and visual signal to stop, the officer is in uniform and prominently displays their badge. This bill would merely allow the officer to be either in uniform or prominently display his/her badge. The reason this becomes an issue is that if the officer is not in their squad car and is working undercover with only a badge, the state is unable to prove a refusing to halt when an individual flees or attempts to elude an officer. This would only impact a small amount of cases, but it is important, it would still require the showing of the badge. Not being a uniformed officer or an attorney, I really can't say much more on the bill.

Chairman DeKrey: Thank you. Further testimony in support.

Aaron Birst, ND Association of Counties: This issue was also raised by our State's attorney members that brought this to our attention. We ran this past our state's attorney members and they agree with this change. We support this bill. As noted, last session, Ladd Erickson, McLean Co. States Attorney came in and had a huge bill rewrite, hitting some of these statutes that took care of his concerns. We found out when looking at this issue that you had to be in uniform and prominently display your badge. For instance, in the back of the hearing room, we have an officer who is wearing a suit, but does still has his badge, so we would indicate that he would have the same authority as someone wearing a blue, tan uniform to actually have somebody halt.

Rep. Delmore: Were both of those requirements put in for a reason to make sure that in the public's mind it really was a police officer. You can go lots of places anymore and rent a police officer's uniform and impersonate an officer. You can do

those types of things. I certainly understand what you're getting at, but I'm wondering if that would have an effect on some of the things that could happen.

Aaron Birst: I would assume that this is trying to convey to the public that a uniformed officer, although nowadays most of our detectives don't wear actual police uniforms for various reasons but they do prominently display their badge, and of course, the gun helps too.

Rep. Delmore: Where would someone in a uniform not have a badge, I can understand the opposite; if I'm in uniform it would seem very strange to me. Yes, I would have my gun and I would have my identification.

Aaron Birst: Again, I can't imagine a scenario where you are in uniform and do not also have the badge with you. This just states that you don't have to be in uniform but you do have to carry the badge. We haven't had any officers not in uniform misuse their position.

Chairman DeKrey: Thank you. Further testimony in support of HB 1262. Testimony in opposition. We will close the hearing.

Rep. Delmore: I move a Do Pass.

Rep. Beadle: Seconded.

10 YES 0 NO 4 ABSENT

DO PASS

CARRIER: Rep. Beadle

Date: 1/24/11
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1262

House JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Delmore Seconded By Rep. Beadle

Representatives	Yes	No	Representatives	Yes	No
Ch. DeKrey	✓		Rep. Delmore	✓	
Rep. Klemin			Rep. Guggisberg	✓	
Rep. Beadle	✓		Rep. Hogan	✓	
Rep. Boehning	✓		Rep. Onstad	✓	
Rep. Brabandt					
Rep. Kingsbury					
Rep. Koppelman					
Rep. Kretschmar	✓				
Rep. Maragos	✓				
Rep. Steiner	✓				

Total (Yes) 10 No 0

Absent 4

Floor Assignment Rep. Beadle

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

REPORT OF STANDING COMMITTEE

HB 1262: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS
(10 YEAS, 0 NAYS, 4 ABSENT AND NOT VOTING). HB 1262 was placed on the
Eleventh order on the calendar.

2011 SENATE JUDICIARY

HB 1262

2011 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

HB1262
3/7/11
Job #14998

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to fleeing a law enforcement officer

Minutes:

Senator Nething – Chairman

Representative Cory Mock – Introduces the bill – He explains currently under ND law it is not considered fleeing an officer if the officer is not in uniform and displaying their badge. He says this bill changes the word "and" to "or". This will allow undercover officers or detectives or any member of law enforcement who may be wearing a suit or plain clothes or is not in a squad car if they display their badge and the person attempts to flee they could still be brought up on charges for fleeing an officer.

Pamela Nesvig – Burleigh County State's Attorney's Office – in support of the bill. She says this would allow the flexibility to include officers who do not show the badge to make the stop or plain clothes officers or detectives.

Senator Sitte – Gives an example of a story she heard. She thinks the badge is an important element to show.

Nesvig – Understands her concern, for purposes of charging the prosecutor's office has the discretion to look at all of the circumstances to make sure they are charging out the offense appropriately.

Opposition – 0

Close the hearing for 1262

Senator Lyson moves a do pass
Senator Olafson seconds

Roll call vote
5 yes, 0 no, 1 absent
Senator Lyson will carry

Date: 3/7
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1262

Senate Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Lyson Seconded By Senator Olafson

Senators	Yes	No	Senators	Yes	No
Dave Nething - Chairman	X		Carolyn Nelson	X	
Curtis Olafson - V. Chairman	X				
Stanley Lyson	X				
Margaret Sitte	X				
Ronald Sorvaag	A				

Total (Yes) 5 No _____

Absent 1

Floor Assignment Senator Lyson

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

REPORT OF STANDING COMMITTEE

HB 1262: Judiciary Committee (Sen. Nething, Chairman) recommends **DO PASS**
(5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1262 was placed on the
Fourteenth order on the calendar.