

2011 HOUSE JUDICIARY

HB 1435

2011 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HB 1435
February 1, 2011
13753

☐ Conference Committee

Committee Clerk Signature



Minutes:

Chairman DeKrey: We will open the hearing on HB 1435.

Rep. Kim Koppelman: Sponsor, support. The AG's office asked if I would be the sponsor on this bill. We had six sponsors on this bill, somehow LC only ended up with one name.

Chairman DeKrey: You can have the front desk redo the original and input the names into the computer and all the names will show up.

Rep. Koppelman: This bill says that you can't list a state park as your address for the purposes of registration if you're a sexual offender.

Chairman DeKrey: Thank you.

Wayne Stenehjem, Attorney General: My copy shows six sponsors, I don't want to forget Rep. Hunsakor, Rep. Kingsbury, Sens. Miller, Robinson and Sorvaag. I appear in support of HB 1435. We learned during the course of the last interim that there are at least one individual, probably more, who are registering their addresses, and appropriately registering under the current system of the law, their addresses as they are required to do, but had been listing state parks as their place of residence. The reason for that is because that's where they were living at the time. I thought it would be a good idea, because I heard from lots of moms and dads who weren't happy to learn that there could be moderate, high sex offenders who are living in the tent, right next to where they pitched their tent, and have gone with their family to spend a weekend or a week. This bill provides that a sexual offender who is assigned a moderate or high risk level by my SORAC cannot use a state park as their residence. I should mention that the Sex Offender Risk levels are assigned by a committee that I appoint, it is called the SORAC, the Sex Offender Risk Assessment Committee. That committee meets every month and they go through each and every registered sex offender and assign a risk level; high, moderate or low risk to reoffend. For your information, of the 1655 risk levels that have been assigned by SORAC, 765 or 46% of them are determined as low risk; 507 or 31% of

them are moderate risk; and 383 or 23% have been labeled high risk to reoffend. The higher the risk level, the longer the registration period and the more frequent address verification is required. A sex offender who is caught living at a state park would be in violation of the sex offender registration requirements under the law, that crime is a class C felony, punishable by a maximum penalty of 5 years in jail, \$5000 or any combination of both. I think that this is a public safety issue. I think that most parents across ND would believe that this is a good piece of legislation to enact and I hope you will do that. I have visited with Mark Zimmerman, the director of the ND Park Service, he's not here but he indicated that he is in support of the legislation. The maximum period of time you are allowed to live in a state park is 14 days.

Rep. Klemin: Why limit it just to state parks, why not city parks, national parks.

Wayne Stenehjem: We thought about that, first with national parks we can't regulate what might happen in a national park nor do we have the wherewithal to determine who might be there. We decided not to go with the city or local parks simply because we felt that those are decisions that can be made by local political subdivisions to determine whether they want to permit it or not. Not too many cities have parks where people can actually live.

Rep. Delmore: Are some of these people literally living in the park and are some of them homeless, so they are going to have trouble finding a residence. Is that a problem for some of them.

Wayne Stenehjem: Yes, there have been people who are living or had been reporting that they had been living in the state park. They were accurately reporting it because that is in fact where they were living. So they weren't in violation of the law, they were registering their address and they registered it as that state park. Is it a question of homelessness, sometimes it can be difficult for registered sex offenders, especially the high risk, to find places to live; but the solution to the problem is not to permit them to live in our state parks. Those situations, I think, can be more dangerous than having someone living in a house next door. You could have a tent pitched right next to where kids are playing and recreating and spending a weekend, it can actually be more dangerous than having someone living in a house next door.

Rep. Kretschmar: Does this law or any other law that we have, prohibit them from going to the state parks.

Wayne Stenehjem: It would not prohibit them under the current drafting of the bill, from being there for 3 days, the reason for that, is that you have 3 days after you move to register your new address. But you couldn't use that new address after the 3 days. I'll leave that to the wisdom of this committee, if you want to simply prohibit them from being in a park at all, then it becomes, however, something of an enforcement problem, because the list of people who have registered is on our

website, and is available, but it's only updated after that 3 days have elapsed. So there is that period from when you actually move and the 3rd day when there is no public listing of where these folks are. I think with this law, the Park Service can go to our website if they care to, to see if there is somebody listed on the website and listed that address as their place of residence.

Chairman DeKrey: Thank you. Further testimony in support. Testimony in opposition. We will close the hearing. What are the committee's wishes in regard to this bill.

Rep. Delmore: I move a Do Pass.

Rep. Beadle: Second.

14 YES 0 NO 0 ABSENT

DO PASS

CARRIER: Rep. Delmore

Date: 2/1/11
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1435

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) 14 No 0

Absent 0

Floor Assignment Rep. Delmore

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

REPORT OF STANDING COMMITTEE

HB 1435: Judiciary Committee (Rep. DeKrey, Chairman) recommends **DO PASS**
(14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1435 was placed on the
Eleventh order on the calendar.

2011 SENATE JUDICIARY

HB 1435

2011 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

HB1435
3/14/11
Job #15365

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to sexual offender and felony crimes against children registration requirements

Minutes:

You may make reference to "attached testimony."

Senator Nething – Chairman

Dan Schelske – Manager of Fort Lincoln State Park – See written testimony.

Senator Lyson – Asks if he expects the offender to give the information to them or where would they get it.

Schelske – Said he expects the sex offender will notify them if they are staying in the park. He said they also work closely with local law enforcement.

Senator Lyson – Said he isn't sure if the amendment is going to help.

Schelske – Replies that the state parks are manned most hours so there is the opportunity for them to notify either in person or by phone or e-mail.

Senator Lyson – Said he doesn't think offenders will volunteer the information.

Schelske – Said he thinks when the sex offender registers may be there could be a paragraph that tells them when do visit a state park then need to notify the park.

Senator Sitte – Asks if there have been problems with the people living in the parks.

Schelske – Replies they have not, once the park employee finds out about an offender they will go notify the other visitors. He said they have not had problems with them except they try to stay longer than they should.

Jonathan Byers – Assistant Attorney General – In favor – See written testimony. He asks for an emergency clause amendment.

Senator Sitte – Asks what a moderate risk sex offender is.

Byers – He gives the breakdown of the 1655 sex offenders still in ND, 46 % are low risk, 23%, are high risk with 383 offenders, they are typically someone with more than one offense or refuses to do any sex offender treatment or committed an aggravated offense. He said in the middle range the 31% are a moderate risk, 507 offenders. They might show signs of doing the right things to reduce their risk level.

Senator Sitte – Questions the restrictions on where they live.

Byers – Commented that the Attorney General is not a fan of residency restrictions. In the past they have come out against them.

Senator Sitte – Asks how many people are staying more than 3 days in a state park.

Byers – Responds it is not a large number.

Senator Sitte – Asks how long do have this handle on you.

Byers – Replies 25 years.

Opposition -0

Neutral -0

Close the hearing on 1434.

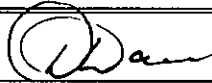
2011 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

HB1435
3/22/11
Job #15839

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to sexual offender and felony crimes against children registration requirements.

Minutes:

Senator Nething – Chairman

Committee work

Committee discusses the amendment that was brought in. Corrects the language.

Senator Nelson moves to adopt the amendment

Senator Olafson seconds

Verbal vote – all yes

Senator Olafson moves a do pass as the amended

Senator Sorvaag seconds

Discussion

Senator Sitte questions where these people can live. She believes there is an over reach of government. Senator Sorvaag says no one should use a state park as a residence. Senator Nething says we can't legislate for isolated cases.

Roll call vote – 6 yes, 0 no

Motion passes

Senator Sorvaag will carry

PROPOSED AMENDMENT TO HB 1435

Page 1, line 3, after "requirements" insert "; and to declare an emergency"

Page 1, line 9, after the period insert "In addition, prior to arriving at a state park for overnight lodging or camping, a sexual offender who is currently assigned a moderate or high-risk level by the attorney general must notify a park and recreation department law enforcement officer at the state park the sexual offender will be staying at."

Page 1, after line 9, insert:

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Renumber Accordingly

Date: 3/22
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1435

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 Nelson Seconded By Senator Olafson

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

Total (Yes) _____ No _____

Absent _____

Floor Assignment Senator

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

Verbal all yes

Date: 3/22/11
Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1435

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 Olafsen Seconded By Senator Lomaaq

[illegible]

Total (Yes) 6 No 0

Absent _____

Floor Assignment Senator Solvberg

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

REPORT OF STANDING COMMITTEE

HB 1435: Judiciary Committee (Sen. Nething, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1435 was placed on the Sixth order on the calendar.

Page 1, line 3, after "requirements" insert "; and to declare an emergency"

Page 1, line 9, after the underscored period insert "Before arriving at a state park for overnight lodging or camping, a sexual offender who is assigned a moderate or high-risk level by the attorney general shall notify a park and recreation department law enforcement officer at the state park where the sexual offender will be staying."

Page 1, after line 9, insert:

"**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

2011 TESTIMONY

HB 1435

TESTIMONY – HOUSE BILL 1435
SENATE JUDICIARY COMMITTEE
MARCH 14, 2011, FORT LINCOLN ROOM

Mr. Chairman and members of the Senate Judiciary Committee, my name is Dan Schelske, Manager of Fort Abraham Lincoln State Park. I appear today in support of House Bill 1435.

Over the past four years there have been several instances of registered sex offenders listing their address throughout the state park system, with the most recent occurring in 2009. HB 1435 will prevent this from occurring and limit a moderate or high-risk sex offender's overnight stay in a State Park to no more than 3 days.

While the existing language of HB 1435 is acceptable, we would like to recommend several amendments. First, that it be amended to include a requirement that Parks and Recreation Department Law Enforcement Officers be notified by moderate or high-risk sex offenders who will camp or stay in other lodging in a State Park prior to their visit. This is important because under the existing bill a moderate or high-risk sex offender would still be allowed to spend a weekend camping in a park and this notification will allow our staff to properly notify campers of the sex offender's presence and ensure public safety. The second amendment we would request is the addition of an emergency clause, allowing implementation prior to our busy summer season.

Please note, as a result of the known instances of sex offenders listing their address in State Parks, the Parks and Recreation Department developed a policy to notify campers and prevent harassment of the sex offender. Copies of both the proposed amendments and our sex offender notification policy are attached.

Visitation to North Dakota's State Parks exceeded 1,000,000 in 2010. Many of those visitors are families with young children who see parks as safe places where you can relax and let your guard down. Kids frequently explore our trails, beaches and woods on their own. Passage of this bill with the proposed amendment will help ensure that our parks are still in fact safe places.

Mr. Chairman this concludes my remarks; I would be pleased to answer any questions the committee may have.

Prepared by the North Dakota Parks and Recreation Department
for the Senate Judiciary Committee

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1435

Page 1, line 3, after "requirements" include "; and to declare an emergency"

Page 1, line 9, after the period insert "In addition, prior to arriving at a state park for overnight lodging or camping, a sexual offender who is currently assigned a moderate or high-risk level by the attorney general must notify a park and recreation department law enforcement officer at the state park the sexual offender will be staying at.

Renumber accordingly

Policy: Sex Offenders Residing or Reporting Residence in ND State Park Campgrounds or Cabins

Purpose:

Purpose of this policy is to establish procedure for notification of the public when a sex offender is required to report residence in a ND state park. This procedure is not a warning; it is to make the public and staff aware of sex offender residence.

Background:

Under state law, convicted sex offenders must register with the police department or sheriff's office in the jurisdiction where the offender resides. Out-of-state offenders are required to register if they work or attend school in North Dakota. Each time the offender moves or changes jobs, the offender must notify local law enforcement of address change at least 10 days prior to the change. If an offender moves to a new city, the offender must re-register with law enforcement in the new location within 3 days of the move.

According to the ND Attorney General; If the offender intends to move to a new place of residence whether temporary or permanent in a city, county, or state, the individual must complete a change of registration form with the agency where the individual is currently registered **before** the move, **and** must register again in the new city, county, or state **not later than three days after** moving.

The purpose of this system is to promote public protection from the potential risks posed by individuals who have committed offenses in the past. Sex offenders have always lived in our communities, and the accompanying risks have always been present. This method of public notification is an acceptable way of reducing that risk and enhancing public protection.

Definitions:

According to the ND Attorney General a sex offender is:

- High – Statistically the most likely to commit another sexual offense, high risk offenders have typically committed more than one offense, have refused to engage in sex offender treatment, or have engaged in behaviors that contribute to an elevated level of risk. Generally high risk is required to register for life.
- Moderate – Moderate risk offenders score higher on actuarial tools than those in the low risk category, but may not constitute a significant threat to all members of the public. Community notification is "targeted" towards those who fall in a similar victim class as a previous victim of the offender. . Generally moderate risk is required to register for 25 years.
- Low – Statistically the least likely to commit another sexual offense, low risk offenders have typically only committed one offense, have completed sexual offender treatment, or have been in the community for a number of years without reoffending. . Generally low risk is required to register 15 years.

Procedures:

Protection of offender's individual civil rights will be assured. Members of the public visiting a state park or staff will not vandalize property, intimidate, harass or issue verbal or written threats of harm against these subjects or their families, landlords, or employers. Public may be warned once and if noncompliant will be asked to leave the park. Staff who violate this policy will be disciplined and or terminated from employment. Incidents can be reported and result in arrest and prosecution.

Officers need to obtain all pertinent information regarding conditions terms and restrictions of the offender.

If the sex offender reports residency to park staff, immediately forward information to local law enforcement for proper follow up.

Be prepared for media questions.

For a High Risk Offender

Print and post the following information in multiple conspicuous locations: (Park Bulletin Boards)

- Include name and picture
- Location (campsite or cabin)
- Length of stay
- For more information www.sexoffender.nd.gov

For a Moderate Risk Offender

- Verbally notify all campers and campground users that a moderate sex offender is residing in campground or cabins; give site number or cabin number or name. Make the public know and understand this notice is made for their awareness.

Training Requirements:

No requirement for formal training, however periodic review of Office of the Attorney General Sex Offender website will be (should be) conducted. www.sexoffender.nd.gov

More information:

Contact the North Dakota Office of Attorney General - ndag@nd.gov

State Capitol
600 E. Boulevard Ave.
Dept. 125
Bismarck, ND 58505

701 328-2210
TTY: 800 366-6888

Bureau of Criminal Investigation

701 328-5500
800 472-2185

HOUSE BILL 1435 TESTIMONY
SENATE JUDICIARY COMMITTEE
MARCH 14TH, 2011
FORT LINCOLN ROOM

By Jonathan Byers, Assistant Attorney General

Chairman Nething, Members of the Committee:

My name is Jonathan Byers and I am an assistant attorney general. I wish to testify in favor of House Bill 1435.

House Bill 1435 simply provides that high and moderate risk sex offenders may not use a state park as a registration address. A sex offender who violates this provision would be guilty of a class C felony, punishable by maximum penalties of 5 years in prison or a fine of \$5,000, or a combination of both.

We drafted an amendment inserting an emergency clause on the house side, but somehow didn't get it submitted to the committee before it came out and then passed on the House Floor. Given that August 1st comes after much of the summer park traffic, it still seems important enough to offer it at this stage.

The Attorney General asks for a due pass on House Bill 1435. I would be happy to answer any questions.

2

Proposed Amendment to House Bill 1435

Page 1, line 3, after "requirements" insert "; and to declare an emergency"

Page 1, after line 9, insert:

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Renumber Accordingly