

2011 HOUSE JUDICIARY

HCR 3037

2011 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HCR 3037
February 14, 2011
14505

Conference Committee

Committee Clerk Signature



Minutes:

Chairman DeKrey: We will open the hearing on HCR 3037.

Rep. Lois Delmore: Sponsor, support. Explained HCR 3037. HCR 3037 suggests a study of immunity from civil and criminal liability for certain functions within our state. As this committee well aware, we've had a number of bills this session that deal with the immunity issue.

Chairman DeKrey: Thank you. Further testimony in HCR 3037.

Bill Newmann, Executive Director, ND State Bar Association: Support. We support the resolution. This started out as one or two bills introduced early on this session to try and address the issue of immunity of non-lawyer guardians ad litem. There were some drafting issues. A few people got together, Sherry Mills-Moore from the Bar Association, some folks from the Supreme Court and others, and in the process of trying to figure out what language they wanted to suggest, they found out that there were six or more different provisions out there, none of them consistent with one another. It was suggested in order to try to make some sense of it all, there should be a study resolution that would give us a chance to look at all of these different variations and try to achieve some consistency amongst all of them. We support the resolution.

Rep. Koppelman: How do you see this going, you talked about consistency. Do you think that there should be a bright line determination across the Century Code that certain groups or types of people get immunity and other don't. I know that we usually deal with this on an individual basis on the merits.

Bill Newmann: I'm not sure I understand the question because every time you grant immunity to someone, others are excluded. What I think the goal should be here, is to provide identical immunity for both law trained and non-law trained guardians ad litem in every kind of case in which guardians ad litem are asked to function. There are inconsistencies now, not only among the statutes but amongst court rules as

well. That's something else I think needs to be addressed with the other branch of government.

Rep. Koppelman: As you will note, I'm sure the resolution doesn't mention guardians ad litem specifically, it's broader than that, and that's why I was asking the more general question. As a former Supreme Court Justice, you are very familiar with sovereign immunity. Do you envision this study revisiting that question in any way.

Bill Newmann: I don't, but I'm not familiar with all of the motivation that went into the drafting of the particular language of this resolution. My understanding is that it comes about because of this confusion over guardians ad litem.

Rep. Onstad: We're really looking at the inconsistency of language. It's not going to change the granting of immunity, it's how it's read, we're trying to look at it in a more consistent basis in the language.

Bill Newmann: That's my understanding of what this interim study should be as to try to provide a consistent and extensive kind of immunity, and it's consistent in its inclusion of who is granted this immunity and who is not.

Chairman DeKrey: Thank you. Further testimony in support. Testimony in opposition to HCR 3037. We are going to close the hearing. What are the committee's wishes in regard to HCR 3037.

Rep. Delmore: I move a Do Pass and to place it on the Consent calendar.

Rep. Maragos: Second the motion.

14 YES 0 NO 0 ABSENT

DO PASS WITH REFERRAL TO THE CONSENT CALENDAR

CARRIER: Rep. Delmore

Date: 2/14/11
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HCR 3037

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. Maragos

| 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:

Place on Consent Calendar.

REPORT OF STANDING COMMITTEE

HCR 3037: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3037 was placed on the Tenth order on the calendar.

2011 SENATE JUDICIARY

HCR 3037

2011 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

HCR3037
3/9/11
Job #15187

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Study the statutes throughout the ND Century Code which grant immunity from civil or criminal liability for performing certain functions.

Minutes:

There are no attachments

Senator Nething – Chairman

Representative Delmore – Introduces the resolution and explains that this will study our code and bring some consistency to where we are.

Senator Olafson – Asks if she has any specific hope that may come out of the interim study.

Rep. Delmore – Said she would just like to see some consistency in where we are and it would be beneficial for the State to have a handle on where we are going with the liability issue.

Allen Austad – ND Association for Justice – In support of this study. He says there are over 90 statutes that have given immunity in some way to different groups and after this session there will be a lot more of them. He said each time this happens someone else loses their rights.

Bill Neuman – In support of this bill. He explains how this came to be and they hope by the end of next session there will be a law that will grant non-lawyer guardians ad litem for doing their jobs.

Senator Olafson – Asks for inconsistencies in immunity from liability laws that have been passed.

Neuman – Replies no, he was not involved in the work of this group. He believes it is inconsistent language.

Close the hearing 3037

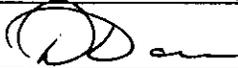
2011 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

HCR3037
3/22/11
Job # 15834

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Study the statutes throughout the ND Century Code which grant immunity from civil or criminal liability for performing certain functions.

Minutes:

Senator Nething – Chairman

Committee work

Committee discusses the amendment. They decide to insert granting on line 7.

Senator Olafson moves to adopt the amendment

Senator Sitte seconds

Verbal – all yes

Senator Olafson moves a do pass as amended

Senator Sorvaag seconds

Roll call vote – 6 yes, 0 no

Motion passes

Senator Nelson will carry

Proposed Amendment to HCR 3037

Page 1, line 4, remove "that"

Page 1, line 6, replace "that" with "which"

Page 1, line 7, remove "that" - *granting*

Page 1, line 10, replace "that" with "which"

Page 1, line 11, remove "that"

Page 1, line 11, replace "grant" with "granting"

Page 1, line 16, remove "That"

Page 1, line 16, replace the first "the" with "The"

Page 1, line 18, remove "that"

REPORT OF STANDING COMMITTEE

HCR 3037: 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). HCR 3037 was placed on the Sixth order on the calendar.

Page 1, line 4, remove "that"

Page 1, line 7, replace "that grant" with "granting"

Page 1, line 11, replace "that grant" with "granting"

Renumber accordingly