

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2105

2001 SENATE JUDICIARY

SB 2105

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2105

Senate Judiciary Committee

Conference Committee

Hearing Date January 16,2001

Tape Number	Side A	Side B	Meter #
2	X		14-52.9
3	X		10-30
January 17, 2001 (tape 2)		X	12.1-31.4
Committee Clerk Signature			

Minutes: SENATOR TRAYNOR opened the hearing on SB 2105: A BILL FOR AN ACT TO CREATE AND ENACT A NEW SECTION TO CHAPTER 27-21 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO THE FILES AND RECORDS OF THE DIVISION OF JUVENILE SERVICES; AND TO AMEND AND REENACT SECTION 27-20-51.1 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO DISCLOSURE OF INFORMATION NEEDED TO APPREHEND JUVENILES.

KEN SORENSON, Assistant Attorney General testifying on behalf of the North Dakota Department of Corrections and Rehabilitation's Division of Juvenile Services. Supports SB 2105. (testimony attached)

SENATOR TRAYNOR why are you removing references to code of constitution.

KEN SORENSON its a redundancy.

SENATOR TRAYNOR OK.

SENATOR WATNE your putting a limitation. But your not saying if it gets disclosed.

KEN SORENSON there is a limitation. But your not saying if it gets disclosed.

SENATOR NELSON we're talking about agency and districts. Who gets the information? Is there a limitation to this?

KEN SORENSON that was a concern.

SENATOR LYSON I would guess information disclosed would get a felony.

KEN SORENSON the only law is the Federal school privacy act. It is a concern. There should be a provision.

JOE WETBE, ND education association, has two concerns: First, the student who will be damaged by an allegation. A tendency of the pendulum to swing, with violence in schools. The second is erring on the side of confidentiality. Concern for potential harm by violence of this kind. I support SB 2105. I suggest on line 25 to remove period and add; including the teacher in whose classroom the student is placed. I agree with the other tenants of the law, however, I believe the teacher should know.

SENATOR LYSON I believe this is good but is not far enough. We should protect people from a class C felony.

SENATOR TRENBEATH how about this: "the school district or multischool district special education system in which a juvenile is enrolled, but only to such persons employed there by to whom such knowledge is reasonably necessary for the education of the juvenile and the protection of others (meter # 33.1-33.5).

SENATOR NELSON starting at line eight, I think this applies to all of those agencies.

SENATOR TRAYNOR you suggest a new paragraph to correct the language.

SENATOR TRENBEATH line 1, 2, page could be changed.

KRISTA ANDREWS, ND attorney General for Department of human services. (testimony attached)

LISA BJERGAARD, representing the Division of Juvenile Services, testifies in favor of SB 2105.

SENATOR BERCIER Kristy's suggestion adding into L in subsection 2. Is there a place in the bill, maybe a better place. Other than the center of it.

KEN SORENSON regarding placement isn't all that critical.

SENATOR BERCIER my point is to direct them to that first.

KEN SORENSON I can draft that.

SENATOR NELSON wide openness of the way things are listed here, it needs to be changed.

No restriction. Only people directly related to juvenile.

LISA BJERGAARD there are variations from school size in districts. In smaller areas the treatment needs might be dealt with differently.

SENATOR WATNE question for KEN. AS we go through here, division may be referred, the division shall disclose. 12.1-34-02.

KEN SORENSON that is the victim notification provision. It's a mandatory requirement.

↙ January 16th, 2001 tape 3, meter # 10.0

KEN SORENSON, proposed amendment to SB 2105. (attached and explains to committee)

SENATOR NELSON move up to top so it's not just a school issue. I don't want everyone to know. I want line 25 on top.

KEN SORENSON we are looking at this from a law suit point of view.

SENATOR NELSON you are connected to that child.

SENATOR TRAYNOR so you want that moved?

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SENATOR NELSON yes.

SENATOR BERCIER I agree with SENATOR NELSON.

JIM JACOBSON, director of protection and advocacy. (testimony attached)

January 17th, 2001 tape 2 side B

**MOTION WAS MADE BY SENATOR WATNE TO ACCEPT KEN SORENSONS  
AMENDMENTS; AS TO PAGE 1 & 2 AFTER LINE 29, AS WELL AS SENATOR  
TRENBEATHS AMENDMENTS. SECONDED BY SENATOR LYSON. VOTE  
INDICATED 7 YEAS, 0 NAYS, AND 0 ABSENT AND NOT VOTING.**







**REPORT OF STANDING COMMITTEE**

**SB 2105: Judiciary Committee (Sen. Traynor, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2105 was placed on the Sixth order on the calendar.

Page 1, line 19, remove "are not public records subject to section 44-04-18 and"

Page 1, line 20, remove "section 5 of article XI of the Constitution of North Dakota and"

Page 1, line 23, after "confidentiality" insert ", except for the confidentiality requirements of federal drug and alcohol treatment and rehabilitation laws"

Page 2, line 2, after "to" insert "individuals employed by" and replace "follow persons or agencies" with "following if the knowledge is reasonably necessary in the best interest of the juvenile and for the protection of others"

Page 2, after line 29, insert:

- "3. A person, agency, or institution receiving information or records under this subsection may not redisclose the information or records and shall maintain the confidentiality of the information or records.
4. The division may disclose nonidentifying information for research and statistical purposes."

Page 2, line 30, replace "3" with "5"

Page 3, line 1, replace "4" with "6"

Page 3, line 3, replace "5" with "7"

Renumber accordingly

2001 HOUSE JUDICIARY

SB 2105

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2105

House Judiciary Committee

Conference Committee

Hearing Date 02-28-01

Tape Number	Side A	Side B	Meter #
TAPE I	x		5932 to 6231
TAPE I		x	01 to 1582
Committee Clerk Signature <i>Joan D. Reis</i>			

Minutes: Chairman DeKrey opened the hearing on SB 2105. Relating to the files and records of the division of juvenile services, relating to disclosure of information needed to apprehend juveniles.

Al Lick: Director of Juvenile Services which is YCC of North Dakota. The law changed relating to confidentially for juvenile records. This is the companion bill that started on the senate side.

We made some changes and would like to introduce the bill on this side.

Ken Sorenson: Assistant Attorney General (see attached testimony).

TAPE I SIDE B

Sorenson's testimony continues. He submitted some amendments to make a change in the language.

Rep. Onstad: How does this address the same action in the tribal courts.

Ken Sorenson: This does not effect tribal courts.

Rep. Grande: Who will be the Division of Juvenile services?

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Ken Sorenson: It was created in 1989 under the Department of Corrections and Rehabilitation's.

Rep Grande: You referred to taking custody of the child, where are the parental rights?

Ken Sorenson: On page two of the engrossed bill provides for access of parents.

Rep Grande: I understand about access, but do you have to ask for my permission before you release my child's records.

Ken Sorenson: We do not have to ask the parents permission if they are being released to the persons enumerated in this bill.

Chairman DeKrey: If there are no further questions, thank you for appearing before our committee. Anyone else wishing to testify in support of SB 2105?

Krista Andrews: attorney with the North Dakota Department of Human Services Legal Advisory Unit. (see attached testimony)

Chairman DeKrey: At 18 years old, how are the records destroyed?

Krista Andrews: Records are treated the same whether juvenile or adult.

Rep Mahoney: Juvenile records aren't technically destroyed. If a 25 year old is convicted of a crime I can use juvenile records to enhance the sentence.

Chairman DeKrey: If there are no further questions, thank you for appearing, have you discussed these amendments with Department of Corrections.

Krista Andrews: Yes I have.

Chairman DeKrey: they were ok with them.

Krista Andrews: Yes.

Galen Becker: Assistant Director of Public Instruction (see attached testimony).

Chairman DeKrey: If there are no questions, thank you for appearing.

Bev Nielson: North Dakota School Board Association, testified in support of the bill.

Joe Westby: North Dakota Education Association, testified in support of the bill.

Chairman DeKrey: Are there any questions, if none, thank you for appearing.

Corinne Hofmann Protection and Advocacy Project, (see attached testimony).

Rep Disrud: Under what circumstances would you need these records?

Corinne Hofmann: we serve the children in a wide variety of circumstances. We have custody of children, and would request the records for medical purposes. I have some amendments attached to the back of my testimony.

Rep Delmore: Without your amendments you would have no access even in court?

Corinne Hofmann: Without the amendment, this tells the Division of Juvenile Services they cannot release records without permission of the court. This creates a problem with state and federal law.

Rep Delmore: Did you talk to the senate with your amendments.

Corinne Hofmann: We did not have the opportunity to discuss the matter with the Department of Corrections, we did bring them to the senate.

Rep Eckre: You answered my question.

Chairman DeKrey: If there are any further questions, if not thank you for appearing before our committee.

Ken Sorenson: we have had meetings since the senate.

Chairman DeKrey: Any further testimony in opposition of SB 2105, we will close the hearing on SB 2105.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2105b

House Judiciary Committee

Conference Committee

Hearing Date 03-14-01

Tape Number	Side A	Side B	Meter #
TAPE I	x		891 to 1613
Committee Clerk Signature <i>Jean Diers</i>			

Minutes: Chairman DeKrey called the committee to order on SB 2105.

Ken Sorenson: Attorney General Office came to explain the amendments.

DISCUSSION

Chairman DeKrey: What are the wishes of the committee. Vice Chr Kretschmar moved the amendments on page two line eight, Rep Mahoney seconded. Voice vote on the amendments carries. Rep Wrangham moved a DO PASS as amend on SB 2105, seconded by Rep Disrud. The motion passes with 13 YES, 0 NO and 2 ABSENT. Carrier Rep Kretschmar.

