

2023 HOUSE ENERGY AND NATURAL RESOURCES

HB 1483

2023 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Coteau AB Room, State Capitol

HB 1483
1/26/2023

Relating to possession of a firearm at a public gathering or in a federal building or courthouse; relating to the possession of a firearm in a liquor establishment, and to provide a penalty

11:00 AM

Chairman Porter opened the hearing. Members present: Chairman Porter, Vice Chairman D. Anderson, Representatives Bosch, Conmy, Dockter, Hagert, Heinert, Ista, Kasper, Marschall, Novak, Olson, Roers Jones, and Ruby.

Discussion Topics:

- Open carry restrictions
- Restricted places
- Sensitive places doctrine
- Carry concealed
- Bruen 1 decision
- Bruen 2 case
- Penalties
- University lands
- Gun free zones

Rep. Ben Koppelman, Dist 16, West Fargo, presented HB 1483, Testimony 20928
Brian Gosch, National Rifle Association lobbyist, oral testimony
David Krabbenhoft, Director, ND Dept of Corrections and Rehabilitation, Testimony 16924
Luke Hendrickson, ND Highway Patrol, oral testimony
Jonathan Ahlm, Attorney with Dept of HHS, oral testimony
Stephanie Dassinger Engebretson, ND League of Cities, introduced Frank Sand
Frank Senn, Police Chief, City of Beulah, oral testimony
Janelle Preske, Exec Director of Sharrif's and Deputies Division, ND Association of Counties, oral testimony

Additional written testimony:

Ashley Lies, Executive Director, ND State's Attorneys' Association, Testimony 16880
Andrew Bornemann, farmer, small business owner, Kintyre, ND, Testimony 16952
Craig Roe, ND CWL Instructor/BCI ND, FFL holder, Testimony 21132
Andrew Kordonowy, ND Resident, Testimony 17388

12:07 PM Chairman Porter closed the hearing.

Kathleen Davis, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Coteau AB Room, State Capitol

HB 1483

2/2/2023

Subcommittee

Relating to possession of a firearm at a public gathering or in a federal building or courthouse; relating to the possession of a firearm in a liquor establishment; and to provide a penalty.

8:00 AM Chairman Heinert called the subcommittee meeting to order. Present were Chairman Heinert, Representatives Ista, Roers Jones. Absent: subcommittee member Rep Ruby.

Also present: Rep. Porter

Discussion topics:

- Gun bills

Chairman Heinert stated the 7 gun bills the subcommittee would be working on:

1. HB 1339
2. HB 1340
3. HB 1341
4. HB 1350
5. HB 1404
6. HB 1479
7. HB 1483

Claire Ness from the Attorney General's office will attend with information on a Supreme Court case next Thursday, February 9, 2023 at 8 AM. The subcommittee will also meet next Friday, February 10, 2023 at 8:00 AM.

8:04 AM Chairman Heinert closed the meeting.

Kathleen Davis, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Coteau AB Room, State Capitol

HB 1483

2/9/2023

Subcommittee

Relating to possession of a firearm at a public gathering or in a federal building or courthouse; relating to the possession of a firearm in a liquor establishment; and to provide a penalty.
--

8:00 AM

Chairman Heinert called the meeting to order. Present were Chairman Heinert, Representatives Ista, Roers Jones, and Ruby. Also present were Representatives D Anderson and Porter.

Discussion Topics:

- Reasoning by analogy
- Person's conduct
- 2nd amendment
- Dangerous and unusual weapons
- Proposed amendment 01001

Claire Ness, Chief Deputy Attorney General, ND Attorney General's Office, oral testimony on New York State Rifle & Pistol Association Inc. v. Bruen (Decided on June, 2022)

8:25 AM Chairman Heinert closed the meeting.

Kathleen Davis, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Coteau AB Room, State Capitol

HB 1483
2/10/2023
Subcommittee

Relating to possession of a firearm at a public gathering or in a federal building or courthouse; relating to the possession of a firearm in a liquor establishment; and to provide a penalty.
--

8:00 AM

Chairman Heinert called the meeting to order. Present were Chairman Heinert, Representatives Ruby, and Ista. Rep Roers Jones was absent.

Discussion Topics:

- Study

Chairman Heinert stated that the subcommittee recommend to the full committee a Do Not Pass on HB 1483.

8:45 AM Chairman Heinert closed the meeting.

Kathleen Davis, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Coteau AB Room, State Capitol

HB 1483
2/16/2023

Relating to possession of a firearm at a public gathering or in a federal building or courthouse; relating to the possession of a firearm in a liquor establishment, and to provide a penalty

10:10 AM

Chairman Porter opened the meeting. Members present: Chairman Porter, Vice Chairman D. Anderson, Representatives Bosch, Conmy, Dockter, Hagert, Heinert, Ista, Kasper, Marschall, Novak, Olson, Roers Jones, and Ruby.

Discussion Topics:

- Committee action

Rep Heinert moved a Do Not Pass, seconded by Rep Roers Jones.

Representatives	Vote
Representative Todd Porter	Y
Representative Dick Anderson	Y
Representative Glenn Bosch	Y
Representative Liz Conmy	Y
Representative Jason Dockter	Y
Representative Jared Hagert	Y
Representative Pat D. Heinert	Y
Representative Zachary Ista	Y
Representative Jim Kasper	AB
Representative Andrew Marschall	N
Representative Anna S. Novak	Y
Representative Jeremy Olson	Y
Representative Shannon Roers Jones	Y
Representative Matthew Ruby	N

11-2-1 Motion carried. Rep Dockter is carrier.

10:11 AM Chairman Porter closed the meeting.

Kathleen Davis, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1483: Energy and Natural Resources Committee (Rep. Porter, Chairman)
recommends **DO NOT PASS** (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING).
HB 1483 was placed on the Eleventh order on the calendar.

TESTIMONY

HB 1483

North Dakota State's Attorneys' Association

January 25, 2023

To: Energy and Natural Resources Committee
Hon. Chairman Porter
Hon. Vice-Chair Anderson
Members of the Committee

RE: House Bill No. 1483

Chairman Porter, Vice-Chair Anderson, and Members of the Energy and Natural Resources Committee:

The North Dakota State's Attorneys' Association (NDSAA) is submitting this letter as a caution to House Bill 1483 and to ask you to issue a **DO NOT PASS on this bill as written**.

N.D.C.C. § 62.1-02-05 currently prohibits individuals from possessing firearms or dangerous weapons at (1) schools, (2) churches, and (3) *publicly owned or operated buildings*. This Bill seeks to amend this third category so instead of being prohibited at publicly owned or operated buildings, they would instead be prohibited at *federally* owned or operated buildings that prohibit the possession of a firearm and would include a fourth category to prohibit them at (4) a publicly owned or leased building or space that is *occupied by a court*.

Not all public government facilities are located in courthouses and if this Bill is passed, those facilities would not be protected by 62.1-02-05. The intent of the law was clear to prohibit these firearms or dangerous weapons at courthouses where the majority of public employees are located; however, it fails to address those public employees whose offices may be outside of the courthouse. Many courthouses do not have the room to house all of their employees and rely on off-site buildings for additional employee workspace. So a county with, for example, a tax director, sheriff, or Human Service Zone office located outside of the courthouse would no longer be included as a place where firearms or dangerous weapons are prohibited.

If the intent of this Bill is to mirror the United States Supreme Court's opinion in *Bruen*, which clearly prohibits possession of firearms or dangerous weapons in municipal, county, and state buildings, but to allow them in federal buildings unless clearly prohibited, then a better amendment to subdivision (d) might read "d. A publicly owned or leased building or a space that is occupied by a court."

We would support, however, a change that would add the proposed language to subdivisions (c) and (d) of N.D.C.C. § 62.1-02-05(1), while keeping the language about publicly owned or operated buildings or correcting the punctuation to clearly state its intent. Alternatively, we would prefer the Committee consider changing the fourth category to "a publicly owned or leased building" and removing the condition that it be occupied by a court.

Thank you for taking the time to hear our concerns.

On behalf of the North Dakota State's Attorneys:


Roza Larson, President


Ashley L. Lips, Executive Director

**HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE
REPRESENTATIVE TODD PORTER, CHAIR
JANUARY 26, 2023**

Dave Krabbenhoft, Director, Department of Corrections and Rehabilitation
Neutral Testimony on House Bill 1483

Chairman Porter and members of the Energy and Natural Resources Committee, my name is Dave Krabbenhoft, and I am the Director of the North Dakota Department of Corrections and Rehabilitation (DOCR). I stand before you today to provide neutral testimony on House Bill 1483 on behalf of DOCR and, as a fellow cabinet agency, on behalf of the Department of Health and Human Services (DHHS).

House Bill 1483 removes the general prohibition on possessing a firearm at a publicly owned or operated building. It leaves exceptions that prohibit firearms in two types of public buildings—federal buildings and courts. However, in its current form, it would allow firearms on the grounds of and in correctional facilities, parole and probation offices, offices operated by the Division of Juvenile Services, offices operated by DHHS, and in law enforcement buildings and jails.

With respect to correctional facilities, statutory language found in Section 12-47-21 of the North Dakota Century Code would still prohibit delivery of dangerous weapons and firearms to inmates and possession of dangerous weapons and firearms by inmates. However, there is no other statute that prohibits members of the public from possessing firearms on the grounds of and in prison buildings. If firearm possession is not prohibited, there is a greater risk of dangerous interactions among DOCR employees, friends and families of inmates, and the public.

Adults on parole and probation are prohibited from possessing firearms by order of the Parole Board or court, but this bill as written would allow their family and friends and the general public to bring firearms into the seventeen (17) parole and probation offices across the state. Sometimes adults under supervision are

defiant and combative toward their supervising officers. Supervising officers also occasionally receive angry communication, including threats of violence, from supervised individuals' family and friends. It would be beneficial to consider keeping the prohibition on firearms in these offices to mitigate the risk of violence and injury. Similarly, DOCR employees in the eight (8) offices operated by the Division of Juvenile Services throughout the state often face the same contentious interactions with supervised youth and other members of the public. The Department of Health and Human Services is concerned about violent interactions between clients and employees, particularly at the North Dakota State Hospital, in human service centers, and in life skills centers. In Jamestown, DHHS' state hospital and DOCR's James River Correctional Center share a campus. The facilities often serve the same clients and face similar risks. Law enforcement across the state likely would face similar risks in their offices and jails.

It may be prudent to consider an amendment to House Bill 1483 to add language that would prohibit possession of a firearm or dangerous weapon at a publicly owned or leased building or space occupied by the department of corrections and rehabilitation; department of health and human services; or law enforcement. I have provided suggested language for proposed amendments, and I encourage you to consider the proposed amendments to support public safety. I will stand for questions. Thank you.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1483

Page 1, line 14, remove "or"

Page 1, line 15, after "court" insert ", or

- e. A publicly owned or leased building or space occupied by the department of corrections and rehabilitation, department of health and human services, or law enforcement agency

Renumber accordingly

HB 1483 Testimony

Hello, my name is Andrew Bornemann. I am a farmer and small business owner from Kintyre, ND.

I am writing to you today to respectfully request a "Do Pass" recommendation from your committee in House Bill 1483.

This bill would revise the list of places where possession of a firearm or dangerous weapon is prohibited, in order to remove the prohibition on "publicly owned or operated building" and add a few other definitions relating to federal buildings and buildings occupied by a court. While some may say this is a bad idea, and would like to make you think it will certainly result in mass murders on public properties, I would like to point out that it is only law-abiding citizens who are discouraged by such requirements. Criminals by definition are those who have no regard for the law, and thus if they do desire to cause mayhem and destruction, a prohibition on carrying weapons only makes their determined job easier, due to their would-be victims being disarmed. Statistics have proven over and over it is the gun-free zones that are targetted by those intent on causing mass harm, and that law abiding, armed citizens are the strongest deterrent to violent crime.

As a 10-year CCW holder, and a husband and father, I will always support the rights of law abiding citizens to protect themselves and their families, no matter where they happen to be. I ask that you join me in defending the right to bear arms, guaranteed to us in the Second Ammendment, by voting for a "Do Pass" recommendation on House Bill 1483.

Thank you!

Andrew Bornemann

Monroe, Beverley

From: Andrew Kordonowy <kord@cerberususa.com>
Sent: Thursday, January 26, 2023 8:31 AM
To: NDLA, H NAT; NDLA, H EDU
Subject: HB 1483

Once again, our geographical location should not be a prerequisite to having rights. We the people should be able to walk into a government building to pay a utility bill without having a restriction on our rights.

Thank you,

Andrew Kordonowy

HB 1483

Rep. Ben Koppelman- Testimony

Mr. Chairman and Members of the Committee,

Thank You for the opportunity to introduce HB1483 to you today.

In the process leading up to the introduction of this bill, I attempted to review our weapons law as it applies to restricted places and whether these places could survive the Supreme Court scrutiny and guidance. Although the court had indicated that some of these places could possibly meet constitutional muster as sensitive places, most would have to meet the historical test of the court. A little background on the right to keep and bear arms as guaranteed by the Second Amendment, including how it applies to ND.

1791: The States ratify the Bill of Rights, which are the first Ten amendments to the US Constitution. These rights were widely discussed and contemplated in the Federalist Papers to encourage ratification of the US Constitution, and the Bill of Rights followed soon after.

1861: Dakota Territory is created and existed until the formation of North and South Dakota in 1889.

1868: The Fourteenth Amendment was ratified to ensure that Constitution and more specifically, the Bill of Rights, applied to the States equally as to the Federal Government. This was in response greatly to the oppression by some states of newly freed black slaves. Central to this circumstance was the denial of Second amendment rights to blacks.

1889: North Dakota Becomes a State

1979: The First restriction on carrying of a weapon in North Dakota. This applied on to carry in a liquor establishment.

1985: The adoption of all the rest of the modern prohibited places of carry in ND: Restrictions on the carry in schools, churches, places of assembly, government

opinion in Bruen and following the referenced "sensitive places doctrine", but without the use of intermediate scrutiny.

Thus, in the bill before you, I have made the following suggested changes. First, remove the restriction on carrying concealed in a bar. This is likely the weakest and least defensible based on the lack of historical parallel and the likelihood that it does not fit the definition of sensitive places. Second this bill removes carry restrictions on government owned and operated buildings and more narrowly defines those restrictions as federal buildings (in which we lack jurisdiction) and court houses (based on the presumption of the sensitive places doctrine). There would be room for some additional narrowly tailored sensitive place restrictions within law enforcement centers and jails, of which I have been speaking with some sheriffs recently and am open to working with the committee on amendments. Schools and Churches are not contemplated in this bill and thus are unaffected.

Mr. Chairman and Members of the Committee, In light of the Bruen decision and other cases that are likely to be coming soon, we owe it to the residents of North Dakota to do our absolute best in removing carry restrictions wherever possible to comply with the rights guaranteed by the Second Amendment and interpreted by the US Supreme Court. Let's get the interested parties in the room and navigate this important issue. I ask the committee to give this bill a strong Do-Pass Recommendation. I will attempt to answer any questions that you may have.

OPINION ON 2023 HOUSE BILLS

CRAIG ROE—ND CWL INSTRUCTOR/ BCI ND, FFL Holder

General opinion on all House bills 2023 regarding firearms rights. As the wording of the US Constitution states, The right to keep and bear arms shall not be infringed, it seems they are still, in many cases, being infringed at the Federal level and here in our own state of ND. The Second Amendment does not give the right to keep and bear arms, it restricts the government from infringing on the rights we naturally have. Any and all restrictions should be unconstitutional.

As pertains to our state of ND and the upcoming specific bills;

HB 1339—I agree that anyone who can legally enter the state and is not disqualified from owning firearms should have the right to bear those arms in the state. To own said firearms means that in most cases they have gone through background checks and that alone should give the right to bear arms anywhere in the US as long as state rules that are in place are followed. I would urge passage of HB 1339

HB 1340 – It seems some cities in ND feel they can restrict citizens on certain gun rights at their discretion. ND Century Code 62.1-01-03 Limitation on authority of political subdivision

regarding firearms states very clearly that cities must follow state law and cannot make laws or ordinances that are more restrictive than state law. This state law has repeatedly been ignored by several cities in ND and needs to be stopped. HB 1340 will take care of this problem. I am highly in favor of this bill.

HB 1483 – As per the recent Bruen decision by the Supreme Court that was passed in 2021, the court affirmed that rights cannot be restricted under the Second Amendment to the Constitution regarding carry of firearms. ND law cannot supercede federal law in any form. Rights to carry in all public places should be allowed according to the decision taking into consideration sensitive places which must be held to few if any but very specific places. Arbitrary decisions on what is a sensitive place must be scrutinized carefully so as not to be abused. HB 1341 and HB 1404 would follow the same reasoning as HB 1483. All should be passed in ND without question. If not, it is again a Second Amendment infringement.

ND should be known as the state that honors and respects the Constitution, the Bill of Rights and the Second Amendment. I hope the legislators will agree and vote for the continuing rights of North Dakotans. Sincerely, Craig Roe

Kindred, ND