

**2023 HOUSE JUDICIARY**

**HB 1262**

# 2023 HOUSE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Room JW327B, State Capitol

HB 1262  
1/31/2023

Relating to exempt records and body camera images
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Chairman Klemin opened the hearing on HB 1262 at 10:02 AM. Members present: Chairman Klemin, Vice Chairman Karls, Rep. Bahl, Rep. Christensen, Rep. Cory, Rep. Henderson, Rep. S. Olson, Rep. Rios, Rep. S. Roers Jones, Rep. Satrom, , Rep. Schneider, Rep. VanWinkle, Rep. Vetter

## **Discussion Topics:**

- Body cameras
- Current statute
- Exempt record or meeting
- Protection/footage

Rep. O'Brien: Introduced the bill. #18142

Stephanie Dassinger Engebretson, Deputy Director ND League of Cities: Testimony # 18140

Hearing closed at 10:20 AM.

*Delores Shimek, Committee Clerk*

# 2023 HOUSE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Room JW327B, State Capitol

HB 1262  
1/31/2023

Relating to exempt records and body camera images

Chairman Klemin opened the hearing on HB 1262 at 3:38 PM. Members present: Chairman Klemin, Vice Chairman Karls, Rep. Bahl, Rep. Christensen, Rep. Cory, Rep. Henderson, Rep. S. Olson, Rep. Rios, Rep. S. Roers Jones, Rep. Satrom, , Rep. Schneider, Rep. VanWinkle, Rep. Vetter

### Discussion Topics:

- Body cameras
- Open records
- Exempt records
- Protection of privacy

Representative Roers Jones moved a Do Pass on HB 1262

Representative Schneider seconded.

Roll Call Vote:

<b>Representatives</b>	<b>Vote</b>
Representative Lawrence R. Klemin	Y
Representative Karen Karls	Y
Representative Landon Bahl	AB
Representative Cole Christensen	N
Representative Claire Cory	Y
Representative Donna Henderson	N
Representative SuAnn Olson	Y
Representative Nico Rios	N
Representative Shannon Roers Jones	Y
Representative Bernie Satrom	Y
Representative Mary Schneider	Y
Representative Lori VanWinkle	N
Representative Steve Vetter	N

Motion Carried 7-5-1 Representative Karls carrier.

Meeting closed at 3:46 PM

*Delores Shimek, Committee Clerk*

**REPORT OF STANDING COMMITTEE**

**HB 1262: Judiciary Committee (Rep. Klemin, Chairman)** recommends **DO PASS** (7 YEAS, 5 NAYS, 1 ABSENT AND NOT VOTING). HB 1262 was placed on the Eleventh order on the calendar.

**2023 SENATE JUDICIARY**

**HB 1262**

# 2023 SENATE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Peace Garden Room, State Capitol

HB 1262  
3/21/2023

A bill relating to exempt records and body camera images.
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10:00 AM Chairman Larson opened the meeting.  
Chairman Larson and Senators Myrdal, Luick, Estenson, Sickler, Paulson and Braunberger were present.

**Discussion Topics:**

- Open records
- Exempt records

10:00 AM Representative O'Brien introduced the bill and provided written testimony #26087.

10:02 AM Stephanie Dassinger Engebretson, Deputy Director and Attorney, North Dakota League of Cities, testified in favor of the bill and provided written testimony #26038.

**Additional written testimony:**

Mitchell Sanderson #25742

10:14 AM Chairman Larson closed the public hearing.

10:14 Senator Sickler moved to Do Pass the bill. Motion seconded by Senator Myrdal.

10:14 AM Roll call vote was taken.

<b>Senators</b>	<b>Vote</b>
Senator Diane Larson	Y
Senator Bob Paulson	Y
Senator Jonathan Sickler	Y
Senator Ryan Braunberger	Y
Senator Judy Estenson	Y
Senator Larry Luick	Y
Senator Janne Myrdal	Y

Motion passes 7-0-0

Senator Luick will carry the bill.

This bill does not affect workforce development.

10:15 AM Chairman Larson closed the meeting.

*Rick Schuchard, Committee Clerk*

**REPORT OF STANDING COMMITTEE**

**HB 1262: Judiciary Committee (Sen. Larson, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1262 was placed on the Fourteenth order on the calendar. This bill does not affect workforce development.

**TESTIMONY**

**HB 1262**



Pat-down procedures are used to determine whether prohibited items or other threats to transportation security are concealed on the person. You may be required to undergo a pat-down procedure if the screening technology alarms, as part of unpredictable security measures, for enhanced screening, or as an alternative to other types of screening, such as advanced imaging technology screening. Even passengers who normally receive expedited screening, such as TSA PreCheck™ passengers, may at times receive a pat-down.

A pat-down may include inspection of the head, neck, arms, torso, legs, and feet. This includes head coverings and sensitive areas such as breasts, groin, and the buttocks. You may be required to adjust clothing during the pat-down. The officer will advise you of the procedure to help you anticipate any actions before you feel them. Pat-downs require sufficient pressure to ensure detection, and areas may undergo a pat-down more than once for the TSA officer to confirm no threat items are detected.

TSA officers use the back of the hands for pat-downs over sensitive areas of the body. In limited cases, additional screening involving a sensitive area pat-down with the front of the hand may be needed to determine that a threat does not exist.

You will receive a pat-down by an officer of the same gender. TSA officers will explain the procedures to you as they conduct the pat-down. Please inform an officer if you have difficulty raising your arms or remaining in the position required; an external medical device; or areas of the body that are painful when touched. You may request a chair to sit if needed.

At any time during the process, you may request private screening accompanied by a companion of your choice. A second officer of the same gender will always be present during private screening.

# +++from FindLaw

4th Amendment Search and Seizure Protections - FindLaw

## 1

### What Does the Fourth Amendment Mean?

*The Constitution, through the Fourth Amendment, protects people from unreasonable searches and seizures by the government. The Fourth Amendment, however, is not a guarantee against all searches and seizures, but only those that are deemed unreasonable under the law.*

## 2

### *Home*

Searches and seizures inside a home without a warrant are presumptively unreasonable.

*Payton v. New York*, 445 U.S. 573 (1980).

However, there are some exceptions. A warrantless search may be lawful:

If there is **probable cause** to search and exigent circumstances; *Payton v. New York*, 445 U.S. 573 (1980)

## 3

### *A Person*

When an officer observes unusual conduct which leads him reasonably to conclude that criminal activity may be afoot, the officer may briefly stop the suspicious person and make reasonable inquiries aimed at confirming or dispelling the officer's suspicions.

*Terry v. Ohio*, 392 U.S. 1 (1968)

*Minnesota v. Dickerson*, 508 U.S. 366 (1993)



# North Dakota House of Representatives

STATE CAPITOL  
600 EAST BOULEVARD  
BISMARCK, ND 58505-0360



## **Representative Emily O'Brien**

District 42  
5021 West Elm Court  
Grand Forks, ND 58203-0606

*eobrien@ndlegis.gov*

**COMMITTEES:**  
Appropriations

January 31, 2023

### **House Bill 1262 Judiciary Committee, Chairman**

Chairman Klemin and members of the House Industry, Business, and Labor Committee:

I am Representative Emily O'Brien, from District 42, in Grand Forks, North Dakota.

House Bill 1262 is a bill that would still exempt body camera footage from the open record for a law enforcement officer or a firefighter but would add EMTs, building inspectors, property assessors, and others.

This is a good policy for homeowners who do not want footage inside their house subject to open records.

Thank you Chairman Klemin and members of the Judiciary Committee. I will stand for any questions.

**HB 1262**

**(Body cams)**

**Why would we not want transparency all around?**

All body cams and images should be able to be used in a public or private place if any illegal activity is going on or suspected.

**So when the police come around to a private property we can tell them to turn off all recording devices???????**

March 21, 2023  
Senate Judiciary Committee  
HB 1262  
Senator Diane Larson, Chair

For the record, I am Stephanie Dassinger Engebretson. I am appearing on behalf of the North Dakota League of Cities, in support of HB 1262. I am the deputy director and attorney for the North Dakota League of Cities.

HB 1262 is a simple bill and is intended to ensure individual's privacy in their private spaces. It is already in the Century Code that images taken in a private place, from body cams or similar devices of a law enforcement officers or firefighters, are exempt records under the North Dakota open records laws. As a reminder an exempt record is a record that the government entity has discretion on whether to release.

HB 1279 would extend that protection for all images taken in a private place, by body camera or other similar device, no matter who is controlling the device. In other words, if a representative of a public entity wears a body camera and takes images using a similar device in an individual's home, that image would be protected.

The reason this came up is that there is a national trend to have property assessors and building inspectors wear body cameras. A couple of cities looked into starting to have these employees wear body cameras and discovered that when going into an individual's home they would be creating a video record showing the inside of someone's home and there would not be protection under the law from having to disclose the record if requested. As a result, we worked on this bill to be proactive about protecting individual's privacy in their homes.

Please note that this language appears in the statute with the title "Criminal intelligence information and criminal investigative information - Nondisclosure - Record of information maintained." Under the provisions in the Century Code related to statutory interpretation, the title of a statute is not instructive as to what is in the statute. As such, I want to make it clear that the intent is that, under this bill, this exemption would apply to everyone. I did not want to move the section because everyone is already accustomed to where to find it.

In order to protect individual's privacy rights in their homes and other private places, the North Dakota League of Cities respectfully requests a "Do Pass" recommendation on HB 1262.



# North Dakota House of Representatives

STATE CAPITOL  
600 EAST BOULEVARD  
BISMARCK, ND 58505-0360



**Representative Emily O'Brien**

District 42  
5021 West Elm Court  
Grand Forks, ND 58203-0606

*eobrien@ndlegis.gov*

**COMMITTEES:**

Appropriations

March 21, 2023

**House Bill 1262**

**Senate Judiciary Committee, Chairman Larson**

Chairman Larson and members of the Judiciary Committee:

I am Representative Emily O'Brien, from District 42, in Grand Forks, North Dakota.

House Bill 1262 is a bill that would still exempt body camera footage from the open record for a law enforcement officer or a firefighter but would add EMTs, building inspectors, property assessors, and others.

This bill is a good policy for homeowners who do not want footage inside their house subject to open records.

It is already in Century Code that images taken in a private place, from body cameras or similar devices of law enforcement officers or firefighters, are exempt under the North Dakota open records laws.

Thank you, Chairman Larson and members of the Judiciary Committee.