



# NORTH DAKOTA HOUSE OF REPRESENTATIVES

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## **Representative Kim Koppelman**

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## **Speaker of the House**

1-20-2020

## **Testimony in Support of HB 1185**

### **Before the House Judiciary Committee**

Mr. Chairman and Members of the Committee,

House Bill 1199 seeks to correct an unintended consequence in an old statute in the North Dakota Century Code and also to bring consistency to our treatment of minors in our state.

You may know that, when you sign the required document, as a parent or guardian, to allow your minor child to obtain a driver's permit, you are agreeing to accept liability for that minor's actions while driving. That makes complete sense because, typically, Mom or Dad are allowing their teenager to begin driving the family car and, of course, if there is an accident or if the young driver does any damage, it reverts to that parent and the family's auto insurance. That, however, is where the unintended consequence comes in.

The North Dakota Supreme Court, in the *Anderson v. Anderson* case determined that if the parent or guardian who signed that document is injured, as a result of the actions of the minor, the liability reverts back to that parent or guardian. In other words, because you can't sue yourself, the courts will not award damages for the injury or death of that adult which results from the actions of that young driver. This interpretation was probably logical, on its face,

reading the plain wording of the law, but it was tragic, particularly in an accident which occurred, involving my constituents a couple of years ago.

You'll hear more about that story from the mother and wife who endured it, Lisa Radtke, who is here to testify before you today, so I won't go into detail about it but, suffice it to say that this reading and understanding of our law, through court ruling, resulted in no coverage for Mrs. Radtke's husband's death. Their minor son was driving the car and was the sole survivor of a horrific crash which killed the occupants of another vehicle and his own father. There was coverage for the vehicles and for all the deaths, but one—Mr. Radtke.

As you know, insurance coverage for the death of a husband, parent and breadwinner is designed to make the family financially whole, providing for the income which the deceased parent would have earned in an expected lifespan, etc. My constituent's family was denied that because of how this law has been interpreted.

Another injustice which this same family suffered was the release of this young man's identity, which is currently part of the accident report which is a public document. I say that this was an injustice because, as you all know as a member of this committee, we go to great ends to protect the identity of minors in our juvenile justice system, yet we do nothing to protect the identity of minors who may be in a car accident. In the case of my constituent, as you'll hear, this has resulted in great distress and irreparable damage.

As most of you know, we've embarked upon a study of our juvenile justice system in North Dakota, this last interim. One of the hallmarks of that system is that the identity of juvenile offenders—those who actually commit crimes before they are adults—is protected. Their identities are carefully shielded from public disclosure for two major reasons.

- 1.) We understand that what one may do as a juvenile does not necessarily set a course for the rest of one's life. In other words, we believe in correction and redemption and attempt to set them on the right path.
- 2.) We're told that juveniles don't fully understand the gravity of their actions, because their brains are not fully developed until their 20's, etc., so we, in public policy, have made the

decision that their identity should not be made public so that the errors of their youth don't follow them for the rest of their lives.

Because only a few members of the media elected to make this young man's information very specific and very public, while others believed that the story could be told without doing so, his actions will, sadly, follow him for the rest of his life.

Consider, for a moment, that if a minor commits a crime, like robbery, assault, or something worse, our laws protect their identity from being made public and, furthermore, they are even spared adult consequences for juvenile offenses. Conversely, should that same minor simply happen to get into a vehicle accident, his or her identity, date of birth, address and, with a little digging, photos and countless other pieces of information can be made public. That is simply wrong.

I am a former journalist and I firmly believe in the freedom of the press and the people's right to know, but I also understand that, as a legislator, we need to balance this with fairness and consistency in law. In this case, the greater concern is that minors should be protected, while all pertinent information should be publicly available. This bill will accomplish that, while also making the minor's identity to those who need to know it, such as the parties in the accident, the Court, and the insurance companies involved.

House Bill 1185 is a good bill which will make good changes in our law. I respectfully encourage you to give it a "Do Pass" recommendation.

Thank you.

