Bret L. Burkholder
Administrator, Grand Forks County Correctional Center
1701 N Washington St.
Grand Forks, ND 58203

This is testimony submitted in opposition to proposed new language to NDCC 12.44.1-14 under HB1410.

I have personally been in a Corrections Administrative role for nearly 33 years. In this time I have seen numerous individuals attempt to circumvent the safety and security of the facilities. I have seen people of all walks of life come through the doors to be incarcerated: The homeless, blue collar workers, farmers, business men, professionals, doctors, lawyers, law enforcement, legislators, religious clerics and many more. In other words, there is NO individual by virtue of what they do in our communities that is not above the law and capable of being housed in a correctional facility.

My job as an Administrator is to ensure the safety and security of all individuals that come through our doors – no matter their charge. I currently have four individuals housed in my facility with either attempted murder or murder charges pending (AA Felony). What is important to remember is that these individuals are entitled to the same constitutional rights as all others.

As a correctional facility in the state of North Dakota we are subject to ensuring the rights of our inmates are not diminished simply because they are an inmate of our institution. These means their constitutional rights are not diminished and when there has been controversy, direction has come from the federal courts or via the Religious Land Use and Institutionalized Persons Act (RLUIPA) of 2000. There have been many federal cases that have defined the interpretation of the constitution and one's effective first amendment rights as it pertains to one's religion:

- Brown v Schuetzle (actually a ND case)
- Cutter v Wilkinson
- Singson v Norris
- Hayes v Lona
- Borzych v Frank
- Kaufman v McCaughtry
- Jihad v Fabian
- Turner v Safely
- MANY, MANY more……

What all these cases have in common is that they have formed the framework of which correctional institutions across the state, and nation, must abide by ensuring an individual's right to practice religion are not infringed upon. Protections for the practice of religion are already in place.

As for HB1410, it has grave potential to jeopardize our ability to safely and securely protect all the citizens of this state that become incarcerated by substantially expanding upon requirements of all facilities in addition to laying a framework to encourage lawsuits at a cost to the state.

As for the rationale, need for language in HB1410, I personally asked what in North Dakota prompted this bill. My response was that this was a reaction to a situation in New York that was felt they didn't want to occur in North Dakota. I looked up that case/situation, and did not find a correlation between that and any ND Correctional Facility. I contacted the ND Dept. of Corrections to ask how many complaints were filed last year regarding freedom of religion within a Correctional facility. The answer I received was ZERO.

HB1410 page 2, section 1, clause 3 is most disturbing as it is an attempt whereby we could be forced, against recommendations of professionals in the field of medicine, or with greater knowledge of a known threat, to allow "clergy", complete and unequivocal access to our facilities. Carving out "clergy" above all others. ** Note, clergy is not defined. In 10 minutes I was able to go on-line and create a certificate of ordination. Could this be presented to gain access to any facility in the state? If so, this would create a great avenue for criminals to gain access to the secure areas of all our facilities enabling for introduction of contraband, executions, escapes, hostage situations and so on. Those of us who manage these facilities need to have last say on who has access to our facility.

Lastly, I would say that I strongly object to the "clear and convincing scientific evidences" language. Who will determine clear and convincing? If 10% of the population were to die due to XXX, is that clear and convincing or do we need 51%?

Respectfully,

Bret Burkholder