

House Judiciary
February 12, 2025

Testimony of the State Board of Law Examiners
HOUSE BILL NO. 1409

Chair Klemin and members of the Committee, I am Petra Hulm, Secretary-Treasurer of the State Board of Law Examiners, appearing on behalf of the State Board of Law Examiners in opposition to HB 1409.

The Board is not addressing the larger scope of this bill giving standing to a person with an interest in property. However, the Board is concerned with the possible intent in the last sentence of this legislation to allow people who are not licensed to practice law to represent others in civil or criminal actions. The proposal specifies that interest is to be broadly construed. Therefore, it appears a spouse, business partner, co-landowner, co-trustee, etc. would be permitted to represent another in legal matters. Practicing law without a license is a class A misdemeanor under N.D.C.C. § 27-11-01.

The potential harm to the public is significant. Incompetent representation could result in a person losing their freedom in criminal matters. Convictions could be subject to petitions for post-conviction relief based on ineffective assistance of “counsel”. Civil litigation is complex and can result in monetary judgments, again putting the public in harm’s way.

The representing party is not subject to rules regarding licensing or education of lawyers. The proposal does not address fees and unreasonable fees could be charged. The representing party is also not subject to complaints or to discipline. At the least, the proposal will pose issues for the attorney disciplinary system.

To the extent this bill is intending to address access to legal services, the Board shares the concern. It is an issue nearly every jurisdiction in this Country is experiencing. The Supreme Court and the Board continue to examine ways to increase the availability of legal services. If this is the concern, I urge you to support the budget request by the Court for allied legal professionals and for a navigator. Those proposals were reviewed by the Supreme Court task force which examined the need for legal services in detail during the interim session.

The Board requests you to vote do not pass. This legislation is not advised and is not a solution to availability of legal services. It has the potential to do a great disservice, indeed harm, to the public.