



Testimony Prepared for the
Senate Education Committee

March 5, 2025

By: Lynn Flieth, RSR Human Service Zone Director

RE: HB 1247: Relating to protection of a student victim of sexual assault

Chair Beard, and members of the Senate Education Committee, my name is Lynn Flieth. I am the Director for the RSR Human Service Zone, which includes the counties of Ransom, Sargent and Richland. In addition, I am a member of the North Dakota Human Service Zone Director Association. I am here today to provide testimony in opposition to HB 1247, as it is currently written.

Human Service Zones are mandated to provide economic assistance and child welfare services, including child protection, foster care, in home case management as well as receive CHINS (Child In Need of Services) referrals. Human Service Zone Directors are also the legal custodian to children in public custody. These youth are most frequently victims of abuse or neglect themselves, whose own history of trauma may cause mental and behavioral health difficulties. Other children in public custody, of either Human Service Zones or the Division of Juvenile Services, have committed crimes and have exceptionally complex needs. The goals of treatment and rehabilitation are centered around ensuring the safety of the youth, their family, and the community. Whether these youth are victims of crimes, offenders, or both, legal custodians are charged with meeting their medical, behavioral health, physical health, educational, and privacy needs. House Bill 1247 presents significant challenges to meeting these needs.

HB 1247 proposes to ensure that a student convicted of sexual assault is not present at the school, under the premises of protecting student victims. The bill proposes that a school shall ensure a convicted student is not present at the school by a.) Expelling a convicted student; b.) transferring a convicted student to an alternative education program, including virtual option; or 3.) transferring a convicted student to another school. As the potential custodians for youth who may have been adjudicated in juvenile court for committing a sexual assault, the use of expulsion creates a significant burden in meeting a student's educational needs. While we recognize the importance of victims rights and need for support, the offending student is also a child in North Dakota who is afforded the right to an education.

Expulsion as a consequence will also pose challenges for students and their families in rural school districts, who do not have another school "right down the street" to transfer to. The school district may not have the staff or fiscal resources to provide alternative education or transportation, which leaves expulsion as a potentially more desirable option. Expulsion from school is a very serious and significant action, and is strongly associated with negatives outcomes, including dropping out of school entirely, which can increase the likelihood of recidivism. A student record including expulsion additionally creates future barriers to receiving an education elsewhere. While a juvenile criminal record is and remains sealed, an expulsion on a student's record will follow them the remainder of their life. The goal of our juvenile court system is to primarily provide treatment and rehabilitation to youth.

As the legal custodians of youth who may be impacted by this bill, our mandate to meet a child's educational needs may be severely hindered. Currently when there are questions about the best educational placement for a youth in public custody, the Human Service Zones, and the school district Foster Care Liaison, meet to explore options and educational needs of the student to make a best determination decision. We would request that continuing this process be reflected in this bill for any youth in public custody.

Furthermore, my understanding is that current law does allow the court to issue a restraining order to protect a victim, and that situations are addressed on a case by case basis to ensure appropriate victim protections and administration of justice. This complies with due process standards, and we support the appropriate use of restraining and protection orders to protect victims. When a protection or restraining order necessitates that a student offender transfer to a new school, or participates in an at-home program, we support that as well.

This bill in current form is limited to victims of sexual assault, however there are other types of crimes committed by juveniles in which similar measures of victim protection could be warranted. There are also considerations where the victim and perpetrator may reside in the same household. Representatives from the Children's Advocacy Center have submitted suggested amendments for the committee's consideration, which the Human Service Zone Directors do strongly support.

Our opposition to HB 1247 is not intended to diminish the rights of student victims to receive safe education. Rather, we are in favor of administering juvenile justice with integrity which includes the protection of victims and rehabilitative efforts for juvenile offenders, increasing the likelihood of success in adulthood. If HB 1247 does move forward, we request amendments that ensure compliance with victim privacy rights, and alignment with restorative justice goals for juvenile offenders. We also ask for amendments to reflect and affirm coordination with local safety-planning experts, such as the Children's Advocacy Centers, local domestic violence advocates, and the legal custodians of impacted students.

Thank you for your consideration of my testimony. I stand for questions from the committee.