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Do Pass HB 1217

Dear Chair Lee and members of the Human Services committee,

My name is Kara Gloe, LCSW. I am a mental health therapist licensed in both North Dakota and Minnesota. I work at Canopy Medical Clinic. One of the primary populations I serve are folks living with HIV/AIDS in North Dakota. As such, I write in support of HB 1217 as section 12.1-20-17 a step toward modernization of a law that is harmful to the goal of ending the HIV epidemic.

The main points of my testimony are:

- Section 12.1-20-17 of the North Dakota Century Code disincentivize people from getting tested.
- Testing is a critical a component of President Trump's goal to end the HIV epidemic by 2030.
- There are multiple criminal statutes that currently exist that could be used to hold accountable anyone who intentionally transmits the virus.
- Section 12.1-20-17 adds to the stigma people living with HIV face and reducing stigma is both fiscally and morally responsible.

In his 2019 State of the Union address, President Trump made a commitment to gather bipartisan support for a budget that would end the HIV epidemic by 2030. The plan, as laid out by his then head of the US National Institute of Allergy and Infection, was to identify every person living with HIV, get them on medication therapy, thereby dropping their viral loads to undetectable levels, eliminating the possibility of transmission, and ultimately ending the epidemic. During this session, the North Dakota State Legislature can decide if it will be an asset or barrier to President Trump's goal.

In my practice, there is not a single person living with HIV with whom I work that does not talk about how deeply impacted they are by the stigma of HIV. Stigma that includes laws that criminalize HIV. While I understand the intent of section 12.1-20-17 of the North Dakota Century Code might be to protect public health, in practice it does the opposite by discouraging testing and therefore treatment. People are afraid to get tested, as knowing their status carries the threat of 20 years in prison and a \$10,000 fine. It is fantastical to think that folks at-risk will be comforted by arguments that disclosing one's status and engaging in safer sex and/or use practices will be protected under 12.1-20-17, especially as transmission of HIV is not a requirement. Therefore, it is not hard to imagine that people will forgo testing if they believe knowing their status plus having a jilted lover might land them in prison.

During the last session when Representative Dobervich brought this bill forward, the stated opposition against this bill was primarily the concern regarding folks who might *intentionally* transmit HIV.

However, as stated in previous sessions, there are already laws in place that could be used to hold any bad actors accountable. According to North Dakota Century Code Chapter:

- **12.1-17-01. Simple assault states:** “A person is guilty of an offense if that person
 - a. Willfully causes bodily injury to another human being.”
- **12.1-17-01.1. Assault states:** “A person is guilty of a class A misdemeanor, except if the victim is under the age of twelve years in which case the offense is a class C felony, if that person:
 - 1. Willfully causes substantial bodily injury to another human being.”
- **12.1-17-02. Aggravated assault states:** “Except as provided in subsection 2, a person is guilty of a class C felony if that person:
 - a. Willfully causes serious bodily injury to another human being
 - b. Knowingly causes bodily injury or substantial bodily injury to another human being with a dangerous weapon or other weapon, the possession of which under the circumstances indicates an intent or readiness to inflict serious bodily injury;
 - c. Causes bodily injury or substantial bodily injury to another human being while attempting to inflict serious bodily injury on any human being; or
 - d. Fires a firearm or hurls a destructive device at another human being”
- **12.1-17-03. Reckless endangerment states:** A person is guilty of an offense if he creates a substantial risk of serious bodily injury or death to another. The offense is a class C felony if the circumstances manifest his extreme indifference to the value of human life. Otherwise it is a class A misdemeanor. There is risk within the meaning of this section if the potential for harm exists, whether or not a particular person's safety is actually jeopardized.”
- **12.1-06-01. Criminal attempt states:**
 - 1. “A person is guilty of criminal attempt if, acting with the kind of culpability otherwise required for commission of a crime, he intentionally engages in conduct which, in fact, constitutes a substantial step toward commission of the crime. A "substantial step" is any conduct which is strongly corroborative of the firmness of the actor's intent to complete the commission of the crime. Factual or legal impossibility of committing the crime is not a defense, if the crime could have been committed had the attendant circumstances been as the actor believed them to be.” Which could be used in arguments of attempted murder.

While I appreciate the North Dakota Legislature’s previous attempts to honor the severity of sex crimes, it is clear North Dakota already has several laws that can be used to prosecute any criminal behavior.

Further, reducing stigma and increasing testing is fiscally and morally responsible. When people are diagnosed and properly treated, they are at a lower risk for other health problems, both physical and mental. For many North Dakotans living with HIV, stigma is or has been the reason they are isolated, stuck in unhealthy relationships, suffer from substance use disorder, etc. It is a major contributing factor to their depression, anxiety and/or has caused or contributed to their trauma. It is the reason they stopped attending church or have lost their community. It’s a deep dark secret they carry, because they have experienced shame, shunning, and rejection when they have attempted the type of vulnerability and courage it takes to share this part of themselves with others. I have heard devastating stories about how the ignorance of others plagues my clients, either as thousands of paper cuts or as full frontal emotional and psychological assaults. When people are isolated and feel unsupportive, both their physical and mental health deteriorate. The cost of that deterioration is often laid at the feet of North Dakota taxpayers.

Medical advances mean people living with HIV can live long productive lives and have meaningful healthy romantic and sexual relationships without worrying about transmission. It is time for North Dakota to remove section 12.1-20-17, as it is a barrier to diagnosis and treatment, and therefore a barrier to public health and President Trump's goal to end the HIV epidemic by 2030.

I hope North Dakotans can count on you to support an end to the HIV epidemic by voting **DO PASS on HB 1217**.

Sincerely,
Kara Gloe, LCSW
Canopy Medical Clinic