

HB 1225
69th Legislative Assembly
Senate Judiciary Committee
March 12, 2025
Testimony of Travis W. Finck, Executive Director, NDCLCI

Madam Chair Larson, members of the Senate Judiciary Committee, my name is Travis Finck and I am the Executive Director for the North Dakota Commission on Legal Counsel for Indigents. The Commission is the state agency responsible for the delivery of indigent defense services in North Dakota. I rise today on behalf of the Commission to provide testimony in opposition of House Bill 1225 as it is currently written.

The Commission is not opposed to the bill original intention. Originally, this bill was intended to address the concern of a prosecutor in the state to deal with drive by shootings. The amendment in section 1 of the bill was to create a new level of reckless endangerment when a firearm is used. The House Judiciary Committee added or a dangerous weapon. The Commission has a concern this may cause a current C Felony reckless endangerment when someone is driving a vehicle recklessly would be elevated to a Class B felony.¹ I understand that is not the primary supporter's intention, but it is a reality under this bill. Furthermore, it could be considered a mandatory minimum four year prison sentence for a Class B felony with a weapon. We would respectfully request language removing a vehicle from being a dangerous weapon for purpose of this chapter.

The second concern the Commission has with this bill is the proposed change in section 2 as to what constitutes a felony for a dangerous/special offender. Currently, a crime in another state is only considered a felony in this state if it is punishable by up to five years in prison. This bill seeks to say anything over 360 day sentence is a felony for purposes of this section. However, this may cause due process concerns.

Several states still allow up to 1 year or 364 day sentences for a misdemeanor. Thus, essentially any person who is told they have a misdemeanor conviction in the state where the crime occurred would have that same crime be treated as a felony in North Dakota. To satisfy the concerns in the testimony in favor of the bill, the Commission would

¹ See Generally State v. Vetter, 2013 ND 4.

suggest simply any two felony convictions in any other state or the United States. This would satisfy the proponents concerns and protect due process of those alleged to have committed prior felonies.

For the reasons states herein, the Commission requests a DO NOT PASS in the current form of the bill but would be willing to work on amendments to satisfy the concerns of all the parties.

Respectfully Submitted:

A handwritten signature in black ink, appearing to read 'Travis W. Finck', with a stylized flourish at the end.

Travis W. Finck
Executive Director, NDCLCI