

Engrossed HB 1417
69th Legislative Assembly
Senate Judiciary Committee
March 19, 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 support of House Bill 1417.

The Commission has followed the efforts of the interim legislative committee working on these important issues. We have had an opportunity to collaborate with other stakeholders in the criminal legal system. This bill and others you will hear related to the interim study are bills that are researched to North Dakota data and are methods that have shown positive results in addressing issues North Dakota is facing. Additionally, this bill is a result of discussion and collaboration.

The Commission supports efforts of the interim committee and now the 69th Legislative Assembly to work towards implementing smart reforms to address issues in our criminal legal system. Specifically, the Commission would like to speak as to the fees being eliminated in this bill in section 5 and section 6 of the bill. In Section 5, HB 1417 seeks to eliminate NDCC 12.1-32-08 which allows a court to order a defendant to reimburse the cost of indigent defense attorney being provided. The Right to an Attorney is a right guaranteed to all in the Sixth Amendment of the United States Constitution. The right to counsel for indigent persons has been a basic tenant of constitutional law since 1963. However, 42 states, including North Dakota, still have an option to order you to pay for exercising your constitutional right.ⁱ This reimbursement is not collected by our agency nor is it used to fund our agency, rather, the collections from this section go back into the general fund. The Commission feels it is appropriate to eliminate these fees.

Section 6 of the bill deals with another fee on exercising your constitutional right to counsel, and that is a fee of \$35 simply for apply for a public defender. This fee is collected

by the Court and then deposited in our special fund. Collections on this fee equate to \$310,000 for the biennium. The Commission supports the amendment to eliminate the fee, leave the special fund in place, and replace ongoing collections of \$310,000 per biennium with general fund dollars. Currently, only 18 states have upfront fees for public defense.ⁱⁱ These fees serve as potential barriers to a constitutionally guaranteed service the State of North Dakota is required to provide. Furthermore, the American Bar Association in its 10 Principles of a Public Defense Delivery System, Principle 5 provides “Public defense should be provided at no cost to any person who is financially unable to obtain adequate representation without substantial burden or undue hardship. Persons should be screened for eligibility in a manner that ensures information provided remains confidential. The process of applying for public defense services should not be complicated or burdensome, and persons in custody or receiving public assistance should be deemed eligible for public defense services absent contrary evidence. Jurisdictions should not charge an application fee for public defense services, nor should persons who qualify for public defense services be required to contribute to or reimburse defense services.”

For the reasons states herein, the Commission requests a DO PASS recommendation on Engrossed House Bill 1417.

Respectfully Submitted:



Travis W. Finck
Executive Director, NDCLCI

ⁱ <https://www.nlada.org/public-defense-system-fees?dataset=2>

ⁱⁱ Id.