

HB 1104  
House Judiciary Committee  
January 12, 2021  
Testimony of Travis W. Finck, Executive Director, NDCLCI

Chairman Klemin, members of the House 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 in North Dakota. I rise today to provide neutral testimony on HB 1104.

The Commission has some concern regarding the constitutionality, as written, of section 2 of HB 1104. Section two of this bill allows for retroactive application to judgments and convictions for offenses subject to NDCC §12.1-32-09.1. However, section one of the bill adds additional crimes to the list of crimes requiring an offender to serve a portion of time prior to eligibility for parole. Therefore, as currently written, an individual who was convicted of one of those new additions and sentenced to prison, would have their sentence modified making them ineligible for parole. Whereas, currently they are not subject to the 85% requirement. The Commission believes this would be in violation of the Ex Post Facto clause of the U.S. Constitution Article 1, Section 10.

Therefore, the Commission respectfully requests the committee consider the implication of section two and potential ex post facto concerns. A simple amendment may fix the ex post facto concerns.

Thank you for your time and consideration, I would stand for any questions.

Respectfully Submitted:

A handwritten signature in dark ink, appearing to read 'T. Finck', with a large, sweeping horizontal stroke above the name.

Travis W. Finck

Executive Director, NDCLCI