

HB 1022  
House Appropriations  
Government Operations Division  
January 13, 2023  
Testimony of Todd N. Ewell, Deputy Director, NDCLCI

Good Morning Chairman Monson, members of the Committee, my name is Todd Ewell and I am the Deputy Director of the North Dakota Commission on Legal Counsel for Indigents (hereinafter "the Commission").

My goal today to highlight the cost of attorney turnover on not only the Commission, but on the criminal justice system in North Dakota. On average, departing attorneys leave a caseload of 36 case assignments to reassign to either other attorneys in the office, or to contract attorneys. These reassignments cost time, money, and frustration to the criminal justice system.

36 new attorney-client relationships need to be established. Under normal circumstances a criminal case is set for trial 90 to 120 days after the initial appointment. This means that attorneys have time to establish trust with their clients, review their case, and make relevant motions. Attorney departures typically bring cases to a standstill.

Attorneys are ethically required to be prepared for trial. The new attorney needs time to review and understand any case before he/she can competently proceed. Courts acknowledge these ethical requirements, which often translate to continuances of each reassigned case. These continuances cost the courts administrative time and delay any disposition of the case.

In the event the local public defender office can absorb those 36 cases, then the attorneys in that office have an additional 36 cases on top of their normal caseloads. This can cause additional stress and pressure on attorneys.

Being a trial attorney is like being a surgeon, except there is another surgeon in the operating room attempting to kill your patient. That is the best description of a trial work that I have ever heard.

The stress on the criminal justice system in North Dakota is bigger than that. Because when a client does go to prison because he lost at trial, the first thing he is going to claim is ineffective assistance of counsel. That is why the Courts grant those continuances. If the

attorneys are not properly prepared for trial, and an ineffective assistance claim is justified, then a new trial may be granted – and we start the whole process over.

This is an extreme example, but we are in extreme times.

Respectfully submitted:



Todd N. Ewell, Deputy Director

N.D. Comm. on Legal Counsel for Indigents