

January 9, 2023

TO: House Judiciary Committee

RE: H.B. 1145

Dear Chairman Klemin and members of the House Judiciary Committee:

My name is Lloyd Suhr. I am an attorney in private practice in Bismarck. I write in opposition to H.B. 1145, which is slated to be heard by the House Judiciary Committee on January 11th at 9:00 a.m.

I have practiced criminal law for 21 years. I spent 11 years as a prosecutor with the Burleigh County State's Attorney's Office. I have spent the last 10 years in private practice focusing my practice almost entirely on criminal defense work.

Our office handles sex offense cases on a regular basis. H.B. 1145 tolls the statute of limitations for any sex offenses where the alleged victim was 18 years of age or older at the time that the offense was allegedly committed for a period of 2 years after the victim no longer has a "disabling mental condition" resulting from the offense. That term is very broadly defined in the bill, to include depression and PTSD. The victim and the victim's mental health provider must agree in writing that the victim no longer has a disabling mental condition. Equally broad is the definition of "mental health provider". It is not limited to just physicians, psychiatrists, or psychologists, but the undefined "mental health counselor" and "addiction counselors", the latter of whom may be qualified to diagnose addiction but not mental health disorders.

H.B. 1145 would effectively eliminate any statute of limitations for adult sex offenses. Individuals suffering from a disabling mental health condition for reasons completely unrelated to an alleged sex offense could contend otherwise and never. Even if a mental health provider did opine that the victim no longer suffered from a disabling mental condition caused by an offense, if the victim refutes that clinical opinion the statute of limitations would continue to be tolled, since both must agree in writing. Even if the victim did reach that point where they felt like they no longer suffered from the condition(s), there would be no reason for the victim and their mental health provider to issue a written statement to this effect nor is there an identified mechanism in the bill about who is responsible to seek out / secure the written statement and to whom such a statement would be submitted. This bill would frustrate and complicate the prosecution of the identified class of offenses rather than protect it.

I respectfully ask the committee to recommend a DO NOT PASS to H.B. 1145.

Thank you for your time

Sincerely,

Lloyd C. Suhr
Attorney at Law