

HB 1195
68th Legislative Assembly
House Judiciary Committee
January 18, 2023
Testimony of Travis W. Finck, Executive Director NDCLCI in Support

Chairman Klemin, Vice Chair Karls, members of the House Judiciary Committee, I rise today on behalf of the Commission on Legal Counsel for Indigents in support of HB 1195. The Commission on Legal Counsel is the state agency responsible for the provision of legal services for individuals when there is a constitutional, statutory or rule based right to counsel.

HB 1195 is a study bill with the potential to have a profound impact on the lives of our children and families. Currently, when a child commits a delinquent act (what would otherwise be a crime if they were an adult) the juvenile petition refers to the criminal code. This creates several unintended consequences of a juvenile adjudication. This is a result of the adult criminal code focusing on the age of the victim rather than on the person who is alleged to have committed the act. For example, the century code does not currently consider the age of the alleged perpetrator in an allegation of terrorizing against a child. They simply consider the alleged victim is a child. To provide this picture, terrorizing under Century Code section 12.1-17-04, provides you terrorize someone when you “with intent to place another human being in fear for that human being’s or another’s safety or to cause evacuation of a building, place of assembly, or facility of public transportation, or otherwise to cause serious disruption or public inconvenience, or in reckless disregard of the risk of causing such terror, disruption, or inconvenience, the person: 1. Threatens to commit any crime of violence or act dangerous to human life; or 2. Falsely informs another that a situation dangerous to human life or commission of a crime of violence is imminent knowing that the information is false”. An offender who is found guilty of terrorizing against a child is required to register as an offender against children pursuant to century code 12.1-32-15(1)(a). Thus, the current status of the law cares not whether it is a 10-year-old child frustrated at recess who threatens to kill his classmate, whether or not he/she truly intended on killing their classmate, or an adult who threatens to kill the same child on the playground. Clearly, something needs to be changed.

The above example is only 1 of the places where applying the adult criminal code to children creates unjust results. Legal precedent establishes juvenile offenders as being less culpable than their adult counterparts. Thus, it is only appropriate North Dakota stand up for its children and its families by studying the possibility of creating a separate code for juvenile delinquencies. A Do Pass on HB 1195

does exactly that. For all the reasons stated herein, the Commission on Legal Counsel respectfully requests the House Judiciary give a Do Pass recommendation to HB 1195.

Respectfully Submitted:

A handwritten signature in black ink, appearing to read 'Travis W. Finck', written over a horizontal line.

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