

HB 1453
68th Legislative Assembly
House Judiciary Committee
January 24, 2023
Testimony of Travis W. Finck, Executive Director, NDCLCI

Chairman Klemin, Vice Chair Karls, 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 delivery of public defense services in North Dakota. The Commission stands in support of HB 1453.

HB 1453 is a bill to require the Supreme Court to establish a uniform schedule for all district courts in North Dakota to follow. To better understand the bill, it is appropriate to walk through how it all works. When an individual is arrested, most of the time an arrest occurs without a warrant for a crime committed in the officer's presence or for a felony level offense. When that individual is arrested and the courts are not in session, the various districts across North Dakota have established presumptive bail schedules. These bail schedules allow someone with the means to post a cash amount, or in some cases a surety bond, to be released from custody pending further proceedings. If you are not able to post the amount on the schedule, you are held to see the Judge. The schedules also have several offenses requiring an individual be held to see the judge. Once the judge sees the individual, the Judge can set any amount of bond within constitutional limitations.

This current framework leads to those with means being released for identical offenses to those without means. To address some of this problem, North Dakota has created a Pre-Trial Service program which has been doing great work. However, Pre-Trial services is not in all districts and locations. Thus, more work needs to be done.

HB 1453 requires the new uniform schedule to be within current constraints of constitutional limits and requirements. Thus, there should be considerations to address a clients ability to pay worked within the schedule. Without considering the constitutional limits, HB 1453 would have no merit and only serve to exacerbate an already dangerous and archaic system of cash bail. This bill does not eliminate cash bail, but rather would have the constitutionally relevant questions asked when setting bail.

HB 1453 would also serve to treat all North Dakotan's the same when arrested. Currently for a Driving under the Influence charge in North Dakota, your pre appearance bail requirement might be anywhere from \$75 to \$750 cash or surety bond, depending upon where you are arrested. I would submit someone who is arrested in Spiritwood should be treated the same as someone who is arrested in Bismarck, the same way as someone arrested in Arnegard.

Lastly, a uniform schedule such as the one contemplated in this bill is not unheard of. Doing quick research last night, it appears Iowa, Wyoming and Alabama all either have statewide schedules or state wide guidelines. North Dakota has been dealing with bail reform for years. This bill is a good step in the right direction.

Chairman Klemin, members of the House Judiciary, for the reasons stated herein, the Commission on Legal Counsel urges a DO PASS recommendation.

Respectfully Submitted:



Travis W. Finck

Executive Director, NDCLCI