

Good morning. My name is David Schweigert, I am an attorney in Bismarck, North Dakota and I am here today to testify against HB 1372

This bill is not needed, not only is it my understanding that there presently are not any in state ND attorneys who are utilizing the funding which this bill is designed to protect against, it also does not address any problem that exists. However, this big bureaucracy bill does create a lot of traps and concerns for ND attorneys. My concerns regarding this bill are as follows:

1. **Legitimizing case recruitment.** I'm concerned it opens the door for the types of entities you are trying to regulate to now come into the state of North Dakota legitimately and recruit cases. In fact, after some of these agencies saw the bill that was introduced, they have asked to now come to annual lawyer's convention with the intent to try and recruit firms to partner with.
2. **Nobody in ND currently uses this.** To my knowledge there is currently not any ND firms that are using litigation funding that are located in ND. The consensus is that the local firms probably don't want to touch any of the recruited cases. This is not fixing a problem or even preventing one. It doesn't stop what is truly happening in that firms where their state bar allows them to partner with non-lawyers (i.e. Arizona and I believe Wisconsin) In those states we are seeing personal injury firms either owned by private equity and Hedge funds or in partnership with them. That arrangement is not covered by your bill.
3. **Prohibiting owners from loaning money to their firms.** After reading the bill several times, I'm fearful that this bill could be used to affect the owner of a law firm's ability to borrow money to the law firm. For instance, if I borrow money to SKM and take out a security interest pursuant to an agreement with the firm on the fees generated by the firm at 7% interest rate, that is used largely by another attorney in the firm to fund a case, I don't fall into the exceptions of "litigation financing". Although I suspect they will claim that is not the case, I don't want to take that chance when the penalty for violating this bill is similar to a Negligent Homicide - Class C Felony.
4. **Class C Felony.** Why are you subjecting attorneys to a Class C felony. If I have a client that may have entered into one of these agreements without me even knowing, I'm treated like a person who is guilty of negligent homicide. Similarly, if I am working as local counsel, but there is an out of state law firm that has funded the case, which I would have no way of knowing about, I am the one that is subject to the felony, not the attorney that took the funding. Even if I have them sign something saying that is not the case, I'm not sure that covers me. Where is the public being harmed in this matter? What if the violation is unintentional such as I described in No. 3 above.
5. **This bill creates needless bureaucracy/regulation** – How is this bill enforced. Every year do I as an attorney now have to attest as to what type of loans I may have taken out during the year. Would you like your business books to be audited and your loans questioned as to the source. My hope is that under MAGA guidance we have less regulation. This does the opposite.
6. **This is strictly an insurance bill.** I'm not sure how this bill has any positives for North Dakotans. It only benefits insurance companies. I think its telling that this is clearly an insurance bill since they are the ones who introduced it. They are the ones here testifying in favor of it. Where is the fairness in having a Plaintiff disclose the fact they had to borrow money and the defense not disclose that there is an insurer or likely a reinsurer paying for their bills to a jury. **Please vote no on this regulatory bill.**