

HOUSE JUDICIARY COMMITTEE  
JANUARY 8, 2025

TESTIMONY OF HEIDI SMITH  
OFFICE OF ATTORNEY GENERAL  
HOUSE BILL NO. 1061

Chairman Klemin and members of the Committee:

My name is Heidi Smith, IT/CJIS Division Director with the Office of Attorney General, and I appear on behalf of the Attorney General in opposition to House Bill 1061. Our division provides the ND Statewide Victim Information and Notification system (ND SAVIN) for the state of ND. The suggested changes to section 1 and section 17 do not align with the Article I Section 25 of the ND constitution, will add additional burden and risk to victims of crime, and makes the ND SAVIN system the sole method of notification for victims. The Office of Attorney General recommends a do not pass on House Bill 1061.

ND SAVIN

ND SAVIN provides crime victims with automated notifications regarding offender incarceration, probation, commitment and criminal court case status and events. Notifications are provided to registrants as a text, email or automated phone call. Having a tool that assists custodial facilities, courts and victims service providers fulfill notification requirements allows for more time to be spent on tasks such as making connections with victims, preparing for court and safety planning upon release. ND SAVIN is a tool to assist agencies, but it is not intended to remove the personal interaction for victims, which is an essential part of the criminal justice process.

Bill Section 1, addition of “when requested”

Section 1 of the House Bill 1061 amends a statute that effectuates certain rights of crime victims guaranteed under Article 1 of the Constitution of North Dakota. For example, crime victims have the right “to reasonable, accurate, and timely notice of, and to be present at, all proceedings involving the criminal or delinquent conduct, including release, plea, sentencing, adjudication, and disposition, and any proceeding during which a right of the victim is implicated.”<sup>1</sup> They also have the right “to be promptly notified of any release or escape of the accused.”<sup>2</sup>

Contrary to that constitutional provision, adding the words “when requested” to section 1 of the bill on page 1, line 6 puts the burden on each crime victim to ask for information about the victim notification system that the victim may not be aware even exists. If a victim is unaware of the notification system and, as a result of this bill, does not receive information about the system, there is a high potential they will miss high-priority notifications, such as notifications about the criminal’s release or escapes from correctional facilities or important court hearings at which the victim has a right to appear. This could put crime victims’ safety at risk. If a victim has asserted their rights under the Constitution at any point during the criminal justice process, they should not be required to then ask for information on how to register for the victim notification system. That information should be given without the expectation that they will need to request it.

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<sup>1</sup> Constitution of North Dakota, Art. 1, Sec. 25.

<sup>2</sup> Id.

Bill Section 1, removing “Victims who are not registered must be given the same notice by the appropriate custodial authority”

Removing “Victims who are not registered must be given the same notice by the appropriate custodial authority” would compound the problems identified by the addition of the phrase “when requested” in section 1 of the bill. It would impede the state’s ability to fulfill its constitutional responsibility to notify crime victims of critical events, reduces the chance that victims will receive those notifications, and increases the risk to victims. This is because it would put the entire responsibility on crime victims to register for and continuously use the ND SAVIN system, and it would depend on perfect performance by an electronic information system.

The concern with this is that ND SAVIN has always been meant to be a tool to assist agencies and victim service providers with notification, but it was never meant to fully replace notifications provided by the custodial authority. In several instances, you may have victims who are uncomfortable receiving automated phone calls, text messages, or emails. They may prefer to receive a phone call from a person, especially in highly volatile, dangerous situations. These victims now have the option to receive in-person notifications from custodial authorities and do not have to register for ND SAVIN, but the change on page 1, lines 18-21 of House Bill 1061 would take that option away from crime victims.<sup>3</sup>

Also, when someone escapes from prison, a phone call from someone at the facility will likely be much timelier and more appropriate than an electronic notification that is dependent on data being entered into a system and an automated message being received. Similarly, when there is an in-custody death (also considered a release), there are safeguards in place to not provide those automated notices right away because victims often times are family members of

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<sup>3</sup> This conclusion is bolstered further if the reference to an “authorized representative” on page 2, line 15 of the bill is intended to refer to ND SAVIN.

the offender. Intentional delays in these situations allow time for in-person notifications to be provided to the victims by the custodial authority prior to receiving an automated notification. By striking out the proposed language, these scenarios and others would no longer require a person to reach out to a victim. Victims would have to rely on an automated system with limited ability to communicate information to provide the many kinds of notices victims are entitled to receive.

ND SAVIN is a tool and resource for victim notifications and, most of the time, very reliable. But it should not be the sole provider of all notification types. As with any system, processes fail, downtime occurs, booking systems change, and data may not be entered accurately or timely. All these scenarios impact the timeliness and accuracy of notification. IT/CJIS works extremely hard to ensure that the system is up to date and is providing accurate notices, but, like any electronic information system, it is not foolproof, and it should not replace the need or expectation for in-person notification when appropriate. ND SAVIN provides an administrator site, so anyone responsible for providing notifications can log in and see if someone is registered, if a notice has gone out, and what that notice is. This is to ensure that if a victim has not registered or did not receive a notice, the burden then is on the custodial authority to ensure that the notice is provided by them.

Adding the wording in subsection 1 of N.D.C.C. § 12.1-34-02 and then removing the responsibility of the custodial authority to provide notification of release in subsection 17 of that same section, would put the burden on the victim to not only know a victim notification system exists but also to know they must ask for the necessary information to register for it, and then would remove victim's options for receiving other types of notifications. The changes in House

Bill 1061 also would require victims to rely entirely on electronic information system to receive critical, time-sensitive notifications to satisfy their constitutional rights..

For these reasons, the Office of Attorney recommends a do not pass. Thank you for your time and consideration, and I would stand for any questions.