

HB 1442
69th Legislative Assembly
House Transportation Committee
Testimony of Travis W. Finck in Opposition
January 31, 2025

Chairman Ruby, members of the House Transportation Committee, 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 the delivery of public defense services in the great state of North Dakota. We rise today in opposition HB 1422.

Let me start by thanking Rep. Novak for allowing me to discuss this bill with her and Chief Senn. This bill seeks to provide remedy to the issue of individuals driving on a suspended license, but the Commission feels it is not workable as written and has concerns about conflation of all driving under suspensions.

Section 1 of this bill seeks to add a new subsection with a new penalty to NDCC 39-06-01 for a disqualified driver. This has a few flaws. The term “disqualified driver” is not defined anywhere in code relating to driving. Rather, this new section seems to repeat the same conduct that is verboten in NDCC 39-06-42. A violation of NDCC 39-06-42 is a criminal violation which is a class B misdemeanor. This new section of law would have a penalty that is non-criminal traffic violation resulting in three points and a \$100 fine.

The problem with the 3-point violation and \$100 in section 1 of this bill, is there is already a penalty in the Code for a violation of this chapter. NDCC 39-06.1-10(3)(23) provides a violation of NDCC 39-06-01 is a four-point violation against an individual’s license and NDCC 39-06.1-06 provides for a fine of \$20. Thus, the new section would be incongruent with current sentencing code, which is not addressed in the bill.

The next issue the Commission is with Section 2 at page 2, line 25 of the bill. The bill would seek to amend the ability of a court to dismiss a charge for Driving Under Suspension/Revocation allowing a court only to reduce a charge to the new undefined “disqualified driver”. A Court may reduce a sentence under the North Dakota Rules of Criminal Procedure, but there is no way for a court to reduce a charge on their own absent a bench trial where a court may reduce a charge to a lesser included offense. See State v. Klose, 334 N.W.2d 647 (1983). The Court does not make charging decisions, the prosecuting attorney does.

The final issue the Commission has in regard to this bill is the conflation of reasons a license may be suspended. As currently written, even if there was a clerical mistake at no fault of the individual that led to their license being suspended, the Court could no longer just dismiss a charge of driving under suspension, and the individual would end up with a \$100 fine and three points of their license for not doing anything wrong. After speaking with

the bill sponsor and the constituent this was filed on behalf of, I know this was not the intention, but it is how it is written.

At this time, the Commission would respectfully request a do not pass recommendation.

Mr. Chairman, members of the Committee, I would gladly stand for any questions.

Respectfully submitted:

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

Travis W. Finck
Executive Director, NDCLCI