

Testimony in Opposition to SB 2102  
69<sup>th</sup> Legislative Assembly  
Senate Judiciary Committee  
January 15, 2025  
Testimony of Travis W. Finck, Executive Director, NDCLCI

Madam Chair Larson, members of the Senate Judiciary 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 indigent defense services in North Dakota. I rise today on behalf of the Commission to provide testimony in opposition to Senate Bill 2102. Senate Bill 2102 requires a reason for a demand of judge be provided by the demanding party. In Section 1, page 2, line 15-16 and again on page 2 line 29, there is new language requiring “the reason the change of judge is sought” and then later on page 2 allows the presiding judge to deny the demand for change of judge if the “reason is not based on reasonable grounds”. This would require an attorney to disclose trial strategy which is attorney client privileged information. An attorney would be forced with a Hobson’s choice of complying with the statute and face potential of discipline, or simply not demanding on a judge and facing discipline if the client wanted the judge removed.

Rule 26 of the rules of civil procedure in North Dakota protects an attorney’s “mental impressions”. Further, rule 16 of the rules of criminal procedure in North Dakota generally protects the Defendant’s rights to trial strategy. North Dakota Rule of Professional Conduct 1.6 protects attorney client confidentiality which could be breached by requiring attorneys to provide a reason their client is demanding a change of judge.

For the reasons states herein, the Commission is in opposition to SB 2102 and respectfully requests a do not pass recommendation.

Respectfully Submitted:



Travis W. Finck  
Executive Director, NDCLCI