

Testimony for Hearing on HB1256
Primary Sponsor: Eric J. Murphy, District 43

Thank you, Chairman Klemin and my honorable colleagues. For the record, my name is Eric James Murphy, representative from District 43, Grand Forks.

Today is a difficult day for me. It forces me to focus on an event that attacked the very core of my soul and character. It attacked who I am as a man. Who I am as a man of faith. During my personal turmoil, Psalm 15 was read at church...and its message resonated with me. Psalm 15 can be found in its entirety on the following page. However, it ends with "Whoever does these things will never be shaken." This gave me faith in the process, and it gave me comfort.

I have been recently asked by members of the media to put my ordeal into perspective. I said this was the second worst event of my life, only next to holding my 3.5-year-old dead grandson.

While it is hard, I promised myself that if elected, I would introduce this bill. I would do all that I could to help others avoid what I faced, false and frivolous allegations of sexual harassment and discrimination under Title IX and under the policies of the University of North Dakota. Of course in the bill this includes sexual harassment or discrimination policies of any public entity in the State of North Dakota.

So, before us today is House Bill 1256 that seeks to make a Class C felony for those who make false and frivolous allegations under Title IX or under sexual harassment or discrimination policies of public institutions. While a public official that willfully encourages submission of false and frivolous allegations would commit a B misdemeanor.

About 10 years ago, this body debated a bill that afforded legal representation for students and individuals accused of allegations under Title IX in North Dakota. This was a step in the right direction and today, in the 68th session, we have an opportunity to take another important step forward.

We have an obligation to protect individuals from false allegations under these policies. Title IX uses a preponderance of evidence standard, which is the lowest standard of proof. This victim centric model is problematic as the accused is considered guilty and must prove their innocence. This is in direct opposition to one of our deepest held legal premises, that dates to the rights described in the Magna Carta in 1215, the presumption of innocence until proven guilty.

House Bill 1256 is about protecting those who are innocent of wrongdoing, but for nefarious reasons, find themselves facing allegations that are life changing. They find themselves struggling to understand why they are facing these allegations. Some go through it alone, others with support of their family, but the potential damage to their reputation, psychological damage, and enhanced anxiety are all real.

I reached out to several individuals who have gone through this process to testify. Both declined. For one it would be just too difficult to relive the pain and agony of what they suffered. The other felt that there would be retributions from their employer, an institution of higher

education in the North Dakota University System, to elaborate on their 5-month investigation for discrimination. To say these false allegations are a victimless action can only be spoken by those who have not suffered through them.

House Bill 1256 seeks to take the impunity away from the complainant. It is not the goal of this bill to limit these allegations when they occur, rather to add a pause when someone has less than legitimate allegations. We can not tolerate violation of these policies, just like we should not tolerate the misuse of these policies.

I have chosen not to give you a bunch of statistics, but these allegations affect students, faculty, and staff in higher education, but similar policies can be misused in any political subdivision in the State of North Dakota. We need to stop the weaponization of these policies to do harm, rather we need to embrace their power to do good when applied properly.

Thank you.

New International Version

Psalm 15A psalm of David.

¹ LORD, who may dwell in your sacred tent?

Who may live on your holy mountain?

² The one whose walk is blameless,

who does what is righteous,

who speaks the truth from their heart;

³ whose tongue utters no slander,

who does no wrong to a neighbor,

and casts no slur on others;

⁴ who despises a vile person

but honors those who fear the LORD;

who keeps an oath even when it hurts,

and does not change their mind;

⁵ who lends money to the poor without interest;

who does not accept a bribe against the innocent.

Whoever does these things

will never be shaken.