

68th Legislative Assembly
Regular Session (2023)

H.B. 1364

House Judiciary Committee

Rep. Lawrence R. Klemin, Chairman

Rep. Karen Karls, Vice Chairman

Testimony of Nathan Svihovec

Commissioner of Labor

N.D. Department of Labor and Human Rights

NEUTRAL

February 6, 2023

I. Introductory Summary

Chairman Klemin, Vice Chairman Karls, and members of the House Judiciary Committee, my name is Nathan Svihovec and I was appointed as the North Dakota Department of Labor and Human Rights Commissioner beginning December 2022. I am a licensed attorney in the State and prior to my appointment, primarily practiced in labor and employment law as well as other civil litigation areas. I have been fortunate to formerly represent the Department as an Assistant Attorney General and to represent private businesses and individuals before the Department while I was in private practice.

Chapter (Ch.) 34-05 of the North Dakota Century Code (N.D.C.C.) created the North Dakota Department of Labor and Human Rights and prescribes the powers and duties of the Commissioner of Labor (Labor Commissioner). The Department's statutory duties can be most concisely summarized as ensuring citizens can live, work, and prosper in North Dakota. It is my deeply held belief that the mission of the Department is an essential service to the public.

II. Bill Summary and Effects

Although the proposed amendments via H.B. 1364 include clarification of existing statutory language, certain provisions may impact members of the public with disabilities. Generally, an individual who has a medical necessity for a service or companion animal must have the animal accompany that person even in public places. The proposed language on Page 1, Lines 11-12 conflicts, at least in principle, with the position that service or companion animals generally do not need permission for persons with disabilities to enjoy facilities the same as people without disabilities. As an example, a more obvious comparison would be declaring that wheelchairs that track in mud to a facility are deemed to have entered the

property without the permission of the property's owner. Although a wheelchair clearly cannot inflict injury on someone the same as a dog could, the principle carries the same effect when a service or companion animal is a medical necessity to an individual with a disability.

III. Recommendations

Removing the language "without the permission of the property owner" (Page 1, Line 9) and "If a dog enters a property and the dog's owner is unknown, it is presumed to have entered that property without permission of the property's owner" (Page 1, Lines 11-12) would accomplish the same intent of the bill without creating questionable issues for individuals with disabilities. Indeed, whether the property owner knows or does not know the animal should not matter. If an animal – service, companion, or other – inflicts injury on a fellow patron, the owner's prior knowledge of the animal should be irrelevant.

Additionally, the term "harasses" is somewhat ambiguous, vague, and open to a large spectrum of individual interpretation that could yield absurd results not intended by the bill. Defining "harasses" would likely create clarity in this bill.

IV. Fiscal Impact

No fiscal impacts are anticipated by this bill.