

House Bill 1609

Testimony of Tony J. Weiler

House Judiciary Committee

February 12, 2025

Chairman Klemin, and members of the House Judiciary Committee. My name is Tony Weiler, and I am the Executive Director of the State Bar Association of North Dakota. We are the professional association of nearly 3,000 licensed North Dakota Lawyers. I work for a Board of 15 lawyers who meet to discuss all legislation that I put in front of them, and they voted unanimously that I appear before you today in Opposition to HB 1609, and I ask for a Do Not Pass recommendation.

The State Bar Association is a unified or mandatory bar association. That means that any licensed lawyer in North Dakota is a member of our association. We were the first mandatory bar association in the county, formed in 1921. There are currently 31 mandatory bars across the county. Because we are a mandatory bar, we are bound by the constitution to only take a position on issues that would improve the practice of law or discipline the profession. As such, we don't take a position on many issues at all. While there arguably may be many bills that would be considered improving the practice of law, we simply don't weigh in on many matters. You see me in the committee room a lot, because I feel it is important that the Bar is represented and acting as a resource to the legislature should questions arise.

This is a bill that certainly impacts the improvement of the legal profession in North Dakota and therefore I rise to testify in opposition. While I'm asking you for a Do Not Pass, I want to address some issues that I think are important to not only this committee, but to lawyers, judges, and citizens of this great state.

First, I'd like to talk about the benefits of attending law school.

1. **Advancing Legal Knowledge and Skills:** Law school offers a structured education in legal principles, history, and practice. It provides students with deep knowledge of how laws shape society, the mechanisms of legal systems, and how laws evolve. With a comprehensive understanding of law, graduates can interpret, analyze, and apply legal concepts effectively.
2. **Developing Critical Thinking and Analytical Skills:** Law school sharpens critical thinking and problem-solving abilities. Through case studies, debates, and legal writing, students learn how to think logically, assess complex information, and approach issues from multiple perspectives. These are skills that can be applied in a variety of professions beyond law, such as business or government.
3. **Advocacy and Social Justice:** A law degree empowers individuals to advocate for others. Lawyers can influence change, represent marginalized groups, and work toward justice reform. By attending law school, one has the opportunity to contribute to society

in a meaningful way, whether it's through defending the rights of individuals, lobbying for policy changes, or providing legal aid.

4. **Professional Opportunities and Career Growth:** A law degree opens up numerous career paths, from working as a lawyer, judge, or prosecutor to careers in academia, politics, or corporate governance.
5. **Building a Network and Reputation:** Law schools provide opportunities to build professional networks, collaborate with future leaders in various fields, and develop a reputation in the legal community. By attending law school, students gain access to a vast network of professors, alumni, and peers who can offer mentorship, support, and potential career opportunities throughout their careers.
6. **Making a Difference in Society:** Law professionals often hold positions of power and influence that allow them to shape policies and affect the lives of people both on a local and global scale. Whether it's working on civil rights, environmental law, or corporate regulations, lawyers can be instrumental in creating systems of accountability and fairness.

Second, there are apprenticeship programs in other states. Many of these “Alternative Pathways to Admission” are well structured and have been through a long process of development. Most, however, still contemplate a person attending law school.

New Hampshire has a Scholar Honors Program located in its University's School of Law, and it was the first program of its kind that allowed law students to apply for bar admission without having to take the traditional bar examination. It was part of a study with the Institute for the Advancement of the American Legal System (IAALS) at the University of Denver. This is a very structured program where each semester after the start of a student's second year of law school the bar examiners study a portfolio of the student's coursework. The students must still complete the Multistate Professional Responsibility Examination.

Wisconsin allows for a Diploma Privilege, where those who graduate from Marquette and the University of Wisconsin School of Law are admitted to practice in that state. Students must still with character and fitness requirements.

The Oregon Supreme Court adopted the concept for two new examination models for the Oregon State Bar admission.

1. Supervised Practice Portfolio Exam allows applicants to work in a supervised apprenticeship following law school. The Board of Law Examiners review the work for state bar admission.
2. The Oregon Experiential Portfolio Pathway creates a very rigorous curriculum at Oregon's three law schools. This is still followed by a portfolio to the bar examiners for admission. Draft rules are still being promulgated for this program.

California has really gone its own way and will offer a California specific exam and not rely on the National Conference of Bar Examiners and the NextGen Bar Exam. California is also looking at a Portfolio Bar Exam pilot project. This would assess competence to practice law and require participants to complete 700-1,000 hours of legal work supervised by a licensed attorney in the state.

Minnesota has also studied alternative pathways to admission and has adopted the NextGen Bar Exam. The state is also looking at a curricular-based pathway for assessment.

Finally, the state of Washington created a Washington Bar Licensure Task Force to assess the current bar exam and study related requirements for licensing. The task force studied experiential pathways for law school graduates and students. Washington is currently moving forward with some of the recommendations.

I provide these examples as a way of demonstrating that other states have looked at alternative pathways to admission, but most were done following extensive study and research under the direction of the state's Supreme Court. If we want to look at an alternative pathway to admission, I'd suggest we turn this into a study and ask the North Dakota Supreme Court to analyze the issue.

The 2023 Legislature did something similar. House Concurrent Resolution 3023 encouraged the judicial branch to study alternative pathways to bar admission (Letter from Chief Justice Jensen to Leader Lefor is attached). I served on this Task Force and we looked at many areas of the practice of law in North Dakota. While the Task Force did not recommend any alternative pathways to admission at this time in North Dakota, one recommendation was the Allied Legal Professionals program that is part of the Supreme Court's 2025-2027 biennial budget. Unfortunately, it's my understanding this has already been cut from the Court's budget.

I am hoping we can work on ways to move forward with some of the ideas contained in this bill, but it should be studied by the Court and not dictated by the Legislature. Therefore, I again encourage a DO NOT PASS. I'd be happy to answer any questions.

Tony Weiler

tony@sband.org

701-220-5846



CHAMBERS OF
JEROD E. TUFTE
JUSTICE

State of North Dakota
SUPREME COURT

11 October 2024

Representative Mike Lefor
Chairman, Legislative Management
State Capitol
600 East Boulevard Ave.
Bismarck, ND 58505

Re: Report of HCR3023 Lawyer Licensing Task Force

House Concurrent Resolution 3023 encouraged the judicial branch to study alternative pathways to bar admission. Chief Justice Jon Jensen appointed a seven-member task force to study occupational licensing of lawyers in the state and whether changes in licensing or other legal reforms may be advisable to respond to an increasing shortage of available lawyers in the state.

As stated in our report, we examined several alternatives to the bar examination. We determined that the bar exam does not appear to be a significant factor in limiting the number of lawyers serving the people of our state. Over one recent three-year period, UND School of Law graduated 103 non-residents. Of those, only six stayed in state to practice law. As our report indicates, we have identified two reforms we believe are feasible in terms of implementation time and required resources and begin to address the unmet legal needs of our state.

Primary Recommendations:

1. Allied Legal Professionals (ALP) Program.

An ALP is an individual not licensed as an attorney who is trained and authorized to provide legal advice in specified areas. Several states, including Arizona, Utah, Minnesota, and Texas have begun programs in this area. There is significant variation among state programs, but ALPs typically are authorized to work in one or more specified areas of law, such as family law, landlord-tenant, and consumer debt collection. This can be a cost-effective option to fill legal service needs, particularly where there are few attorneys practicing in an area relative to the demand for services or where the amount in controversy or the ability to pay may unduly restrict the feasibility of hiring a lawyer for a particular matter. We expect an ALP program would reduce the number of self-represented people in court and as a result reduce associated challenges for judges and court staff when working with litigants unfamiliar with court rules and other requirements.

2. Court Navigator Program.

A Court Navigator Program would be an expansion of the court's current legal self help center. A navigator would be authorized by the court to review documents, answer questions about legal interpretation and completion of court forms, and offer limited legal advice in designated areas of law to inform people about the options available to them.