



NORTH DAKOTA

Family Alliance LEGISLATIVE ACTION

Testimony in Support of House Bill 1273

Jacob Thomsen, Policy Analyst
North Dakota Family Alliance Legislative Action
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Chairman Longmuir and honorable members of the House Political Subdivisions Committee,

North Dakota Family Alliance Legislative Action would like to testify in support of House Bill 1273 and respectfully request that you would render a “DO PASS” on this bill.

The right to free speech is fundamental to our nation’s founding. There is a reason why it is the very first amendment in the Bill of Rights. There are, of course limits to free speech like the fact that you can’t yell “fire!” in a crowded theater.

However, portions of hate crime ordinances can infringe on the right to free speech as highlighted in the Supreme Court decision in *Snyder v. Phelps* in 2011. As the American Library Association eloquently puts it, “the First Amendment requires the government to strictly protect robust debate on matters of public concern even when such debate devolves into distasteful, offensive, or hateful speech that causes others to feel grief, anger, or fear. Under current First Amendment jurisprudence, hate speech can only be criminalized when it directly incites imminent criminal activity or consists of specific threats of violence targeted against a person or group.”¹

The problem with some hate crime ordinances is that they are broad and open to a wide range of interpretations. As an example, section A, subsection 3 of 10-0322.1 of the Fargo City Municipal Code says, “A person is guilty of an offense if, with intent to frighten or harass another, he: (3.) communicates a falsehood in writing or by electronic communication and causes mental anguish.”² Who determines a falsehood in a debate? What exactly is mental anguish?

¹ American Library Association. (n.d.). *Hate Speech and Hate Crime*. American Library Association. [https://www.ala.org/advocacy/intfreedom/hate#:~:text=\(The%20Supreme%20Court's%20decision%20i,n,against%20a%20person%20or%20group](https://www.ala.org/advocacy/intfreedom/hate#:~:text=(The%20Supreme%20Court's%20decision%20i,n,against%20a%20person%20or%20group).

² Fargo Municipal Code. (n.d.). *Hate crime penalties*. In *Fargo Municipal Code*, Section 10-0322.1. https://library.municode.com/nd/fargo/codes/code_of_ordinances?nodeId=FARGO_MUNICIPAL_CODE_CIFANODA_CH10PUSAMOWE_ART10-03BRPEOR_10-0322.1HAATCR

Our organization believes that free speech, whether determined offensive by certain groups or not, is a fundamental right given to all citizens of the United States. This bill prohibits government infringement upon this right. Because of these reasons, North Dakota Family Alliance Legislative Action respectfully requests a “DO PASS” on this bill.

Thank you for the opportunity to provide this testimony, and feel free to contact us if you have any questions.

Sincerely,

Jacob Thomsen
Policy Analyst
North Dakota Family Alliance Legislative Action