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Do Pass HB 1217

Chair Ruby and members of the Human Services committee,

My name is Kara Gloe, LCSW. I am a mental health therapist licensed in both North Dakota and Minnesota. I work at Canopy Medical Clinic. We work directly with the North Dakota Ryan White program to provide mental health and psychosocial services to North Dakotans living with HIV. With funding from the North Dakota Ryan White program, we provide mental health therapy, mental health medication management, and launched the first peer support program for people living with HIV in North Dakota.

As you can imagine, I spend a good portion of my professional day talking to and serving North Dakotans living with HIV. It is with them in mind that I implore you to vote DO PASS on HB 1217. Passing HB 1217 will reduce redundancy in the North Dakota Century code. It will also reduce HIV stigma, which will improve the mental and physical well-being of North Dakotans living with HIV, reduce perceived barriers to testing and treatment, and ultimately help support President Trump's goal of ending the HIV epidemic by 2030.

Reviewing past testimony regarding bills like HB 1217, it seems legislators are most concerned about the ability to hold a person accountable for *intentionally* spreading the virus. While we've seen how infrequently this happens, as evidenced by how few people have ever been charged, there are several other statues that could serve in lieu of Section 12.1-20-17. For the sake of time, I will not read each one, but I have provided a list of North Dakota's criminal codes that could reasonably be applied, for easy reference.

Further, Section 12.1-20-17 is both harmful to folks currently living with HIV, public health, and attempts to end the epidemic. In my practice, there is not a single person living with HIV with whom I work that does not talk about how deeply impacted they are by the stigma of HIV. Stigma based on a lack of public education regarding advancements in the treatment of HIV and upheld by laws that criminalize HIV. A generation of Americans were traumatized by the AIDS epidemic of the 80s, and we have passed that trauma down to subsequent generations by not educating people broadly about medical advancements. HIV is now considered a long-term manageable disease, much like diabetes, and with medication adherence can lower the viral load to be untransmissible. Let me be clear, this means people living with HIV can have healthy sexual and romantic relationships without putting their partners at risk.

Despite these advances, I continue to hear the most heartbreaking stories from my clients and program participants. Stories about folks who, not knowing the person with whom they speak is a person living

with HIV, make derisive and wholly inaccurate statements about “getting it” from saliva or even touching a person’s skin, who scoff about people living with it, and suggest they deserve it.

For some time, I worked with a widowed straight cisgender woman living with HIV. This client who started therapy to work on processing a remarkable amount of grief, was also weighed down by HIV stigma. She was devastated by the diagnosis and was not open about her status to many of her own family members, let alone friends, despite having been diagnosed several years prior and always maintaining an undetectable viral load. Maintaining a positive attitude about other health issues was no problem for her. However, HIV stigma kept her stuck in an unhealthy relationship, because she did not believe anyone else could ever love her. She felt ashamed, unworthy, stuck, and as though she did not fit anywhere, despite raising healthy productive children, being active in her church, and volunteering in her community.

One of our Peer Navigation program’s early adopters, often talks about the culture shock experienced when he moved here from a major metropolitan area. Where he once lived in a community informed on and open about HIV, he is now terrified that his neighbors will find out his status. Where he once had a vibrant social life, he now experiences tremendous isolation. He has heard his neighbors’ derogatory comments about HIV and does not feel safe in his own apartment building.

Clients and program participants often talk about the rejection they experience when trying to date. Do they disclose up front and accept making themselves a pariah? If not, how long do they wait before disclosing their status? If they wait, will the person be angry that they did not disclose sooner? They live with this constant threat of rejection, regardless of whether they have yet to engage in a sexual relationship with a potential partner and despite being virally suppressed. We heard this sentiment in last session’s testimony, when a committee member stated they didn’t care about viral suppression, folks should disclose their status regardless.

I have heard stories from folks who, while aware that their lifestyle put them at an elevated risk, chose not to be tested, rather than face a diagnosis. Again, let me speak plainly. People have told me they chose not to be tested and therefore treated with life saving and life extending medications because the stigma of being a person living with HIV was worse.

Which brings me to why section 12.1-20-17 is so incredibly harmful to public health. It discourages testing and therefore treatment. People are afraid to get tested, as knowing their status in the state of North Dakota carries the threat of 20 years in prison and a \$10,000 fine. To end the HIV epidemic, everyone living with HIV *must* be tested and treated. This is the only way we will stop transmission.

It is time for North Dakota to remove section 12.1-20-17, as it is redundant, stigmatizing, and a barrier to diagnosis and treatment, and therefore a barrier to public health and President Trump’s goal to end the HIV epidemic by 2030.

I hope your constituents and I can count on you to support improving the lives of our neighbors and bringing an end to the HIV epidemic by voting **DO PASS on HB 1217**.

With that, I am open to answering any questions.

During the last session when Representative Dobervich brought this bill forward, the stated opposition against this bill was primarily the concern regarding folks who might *intentionally* transmit HIV. However, as stated in previous sessions, there are already laws in place that could be used to hold any bad actors accountable. According to North Dakota Century Code Chapter:

- **12.1-17-01. Simple assault states:** “A person is guilty of an offense if that person
 - a. Willfully causes bodily injury to another human being.”
- **12.1-17-01.1. Assault states:** “A person is guilty of a class A misdemeanor, except if the victim is under the age of twelve years in which case the offense is a class C felony, if that person:
 1. Willfully causes substantial bodily injury to another human being.”
- **12.1-17-02. Aggravated assault states:** “Except as provided in subsection 2, a person is guilty of a class C felony if that person:
 - a. Willfully causes serious bodily injury to another human being
 - b. Knowingly causes bodily injury or substantial bodily injury to another human being with a dangerous weapon or other weapon, the possession of which under the circumstances indicates an intent or readiness to inflict serious bodily injury;
 - c. Causes bodily injury or substantial bodily injury to another human being while attempting to inflict serious bodily injury on any human being; or
 - d. Fires a firearm or hurls a destructive device at another human being”
- **12.1-17-03. Reckless endangerment states:** A person is guilty of an offense if he creates a substantial risk of serious bodily injury or death to another. The offense is a class C felony if the circumstances manifest his extreme indifference to the value of human life. Otherwise it is a class A misdemeanor. There is risk within the meaning of this section if the potential for harm exists, whether or not a particular person's safety is actually jeopardized.”
- **12.1-06-01. Criminal attempt states:**
 1. “A person is guilty of criminal attempt if, acting with the kind of culpability otherwise required for commission of a crime, he intentionally engages in conduct which, in fact, constitutes a substantial step toward commission of the crime. A "substantial step" is any conduct which is strongly corroborative of the firmness of the actor's intent to complete the commission of the crime. Factual or legal impossibility of committing the crime is not a defense, if the crime could have been committed had the attendant circumstances been as the actor believed them to be.” Which could be used in arguments of attempted murder.