

HB 1035 – Explanation of Fiscal Note
Senate Appropriations
March 31, 2021
Testimony of Travis W. Finck, Executive Director, NDCLCI

Good Morning, Mr. Chairman, members of the Committee, my name is Travis Finck and I am the Executive Director of the North Dakota Commission on Legal Counsel for Indigents. The Commission is the agency which provides the attorneys and related services to indigent persons when there is a constitutional, statutory, or rule-based right to counsel at public expense. We prepared the Fiscal Note on HB 1035 to reflect the additional amount of case assignments our attorneys will be handling. In HB 1035, the Commission will provide counsel to all children regardless of income of the parents. Previously, the eligibility of a child for counsel was determined by the assets and income of the parents.

It is nearly impossible to anticipate the costs associated with this measure. However, we worked with the Court and compared their numbers to our database to estimate a fiscal impact of \$450,000 per biennium. We looked at the number of juvenile delinquency filings in a year and were able to determine we provided counsel in approximately half of those cases. We then took the number of case assignments we had in that same time to determine how much extra work we could be potentially looking at. We then applied the number of case assignments to the average amount of hours spent in a case, multiplied that number by our rate of compensation on contracts to reach a total estimated fiscal impact.

There is also a presumed indigency in this bill for children in unruly matters and deprivation matters. In HB 1035, those become Children in Need of Services and Children in Need of Protection cases. The Commission already provides counsel in these cases. A child in a child in need of protection case is entitled to counsel if they are of sufficient competent age to assist the attorney. Thus, we will not be on every CHPS case. However, when we looked at those numbers, we determined the presumed amount there to be miniscule. However, as I stressed above, this is all a guesstimate.

The fiscal note also contains reference to potential for income. HB 1035 requires the Court to make a finding as to the amount of reimbursement a parent should owe when counsel is provided for their children. It is assumed, this reimbursement would be handled the same way reimbursement of attorney fees in District Court are handled. The Clerk would collect them, and

they would be deposited into the general fund. Once again, it is nearly impossible to tell how much a judge will order for reimbursement on a case and how much of that order will actually be collected. Therefore, I was unable to even estimate income other than to say there is potential for income. The Commission does establish presumed rates of reimbursement, but the Judge would be free to set their own rate under HB 1035.

Mr. Chairman, Members of the Appropriations, I would stand for any questions.



Travis W. Finck, Executive Director
North Dakota Commission on Legal Counsel for Indigents
(701) 845-8632
tfinck@nd.gov

PRESUMED RATE FOR ATTORNEY FEE REIMBURSEMENT

NDCC §§12.1-32-08, 27-20-49, 29-07-01.1, 29-32.1-05

The following presumed rates for attorney fee reimbursement have been set by the Commission on Legal Counsel for Indigents at its May 28, 2020 meeting:

<u>Type of case assignment</u>	<u>Presumed amount per case</u>
Misdemeanor case	\$300.00
Felony case	575.00
Juvenile case(non TPR)	450.00
Termination of Parent Rights	750.00
Appeal Case	2,250.00
Post-conviction case	1,350.00