



North Dakota Association for Justice
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HB1256 ~ Senate Human Services

Madam Chair Lee and members of the Senate Human Services Committee, my name is Jaci Hall and I am the Executive Director of the North Dakota Association for Justice. I am here to testify in opposition to HB1256.

HB1256 will create a criminal penalty if an individual gives a false claim of sexual harassment or discrimination under Title IX. This proposed legislation creates a criminal sanction on a non-criminal filing.

Title IX is a federal civil rights law that prohibits discrimination based on sex in any educational program or activity that receives federal funding. This includes most schools, including private institutions and grades K-12. It addresses sexual harassment, sexual violence, or any gender-based discrimination that may deny a person access to educational benefits and opportunities.

Most Title IX complaints go through student affairs, which would not be considered law enforcement or a security official. Under HB1256, their evidence gathering could be used towards the criminal complaint.

Title IX hearing officers generally make a finding of "Not Responsible" or "Responsible" using a preponderance of the evidence standard. Some hearing officers may use the following: "Did not occur", "did occur", "unfounded", "unable to be shown by a preponderance of the evidence", and the like. HB1256 will create an extra burden on the hearing officers to determine whether an allegation is false:

- 1) because of the criminal penalties associated with making false reports if the bill were passed, and
- 2) because of the potential for a civil lawsuit being commenced against the person.

Every university in North Dakota (at least I believe every university) has penalties for making false statements/allegations regarding Title IX. For example, UND's policy "prohibits knowingly making false statements or knowingly submitting false information during the Sexual Misconduct grievance process. Doing so will subject the party making the knowingly false statement to disciplinary action".

Universities create their own policies towards Title IX because it is not a criminal action. It also has a lower standard of evidence compared to a criminal complaint. If passed, I do not believe any criminal actions would be brought against the individual who filed the false complaint. The evidence just may not be there.

Lastly, silencing victims could be a potential consequence of HB1256.

Because Title IX claims are not criminal complaints and each university creates their own penalties for false statements under Title IX, I believe HB1256 is not needed.

Thank you for your time and I will stand for any questions.