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January 24, 2021

Chair Klemin and members of the committee

RE: HB 1193

My name is Roza Larson, and I have been a prosecutor for nearly 24 years. I'm writing to urge you to vote DO NOT PASS HB 1193.

I'm certain that this committee will hear many stories and reasons for the removal of the duty to retreat, as well as many stories and reasons to keep the duty included as it is currently written in the statute.

As a prosecutor I have concerns for the safety of the public if there is no duty to retreat. I'm certain you are wondering how one protecting themselves or others could cause concern for public safety. Here is why:

In 2020 Ward County had seven new murders, a few attempted murders, along with several other incidents involving firearms being fired to terrorize, "warn off," or as self-defense. Many of these incidents are not situations occurring in isolated areas, such as inside a home or business. Many of these use of deadly force/self-defense incidents are not directly aimed at the person creating the need for deadly force, but rather the deadly force is being "blasted and sprayed" in general directions. These incidents are occurring on public streets, through residential neighborhoods, or in areas where there is a crowd of people.

Some of incidents are still open cases so the specifics cannot be discussed. However, I can give you some general examples wherein the public safety was definitely at risk. I recall at least two incidents involving high speed chases in vehicles throughout Minot whereby the "chasing" vehicle was shooting at the vehicle/people in the lead. As you can imagine in this scenario the people doing the shooting are not necessarily taking proper aim of their target. Law Enforcement recovered many bullets from homes that were on the path of the chase. In these incidents the victims were retreating, attempting to find safety. Imagine if they stood their ground. These situations could have results of serious unintended consequences of innocent people sleeping inside their homes being shot. Without the duty to retreat, the people being shot at could have stopped, and began shooting back, or alternatively continued traveling at high rate of speed and simply attempted to shoot out the windows of their vehicle. The thing this committee has to remember is the self-defense statutes, including the use of deadly force, envision a one-on-one situation wherein there is a confrontation between an actor and a victim. It envisions the use of deadly force involves a close distance between the actor

and the victim. In real life situations, that is not always the situation. In real life situations we may have more than one actor, we may have more than one victim. In real life situations we see many of these situations playing out in the open on public streets in front of residences where there are people standing by or in their homes oblivious of the danger occurring outside.

Another scenario again, occurring in public place. A person is walking down the street. This person is confronted by an individual. The individual has a weapon in his hand and strikes the person in the face, who falls backwards. The person that is hit reacts and draws his firearm and begins shooting in the direction of the individual. The individual using the weapon in his hand begins to fire back. There are 30-40 people standing in the area. The individual and the person both get shot. But, so does somebody standing by, along with vehicles sustaining damage from stray shots. In this scenario there are multiple issues of self-defense, but also opportunity to retreat. In this scenario there were multiple people placed in danger.

My concern with HB1193 and the removal of the duty to retreat are the many incidents we have seen where firearms are being fired "as self-defense" but without aim at the threat. Instead the deadly force is being used, to "warn" or "fend off" threats. It has been my observation in the past 24 years of prosecuting, the self-defense statutes as they are currently written provides for the lawful use of deadly force in self-defense situations, yet protects the public from the above described scenarios. Too many times I have seen situations wherein firearms are the "go-to" when somebody feels threaten. Instead of safely retreating, shots are fired off randomly without thought or aim and others are place in peril.

I absolutely believe a person has the right to defend themselves, or others, including with deadly force if necessary. But this right has to be used with a reasonable standard. The right to use deadly force has to be used such that it is directed at the person creating the danger and not used in a "blast" unfocused manner. That is not what the deadly force statutes are intended for. The use of deadly force is intended to protect the individuals as a last resort to its use when there is no other option, and then used against or on person creating the danger. Removing the duty to retreat, in my opinion will only create more unsafe scenarios of deadly force being used without thought, focus or consequence, and not necessarily as the final and only option.

