

January 21, 2021

Testimony to the **House Transportation Committee**

Submitted By: Jesse Walstad on behalf of the ND Association of Criminal Defense Lawyers

Testimony **in Opposition to H.B. 1336**

Chairmen and Members of the House Transportation Committee:

My name is Jesse Walstad and I represent the ND Association of Criminal Defense Lawyers. The NDACDL is made up of lawyers throughout our state who dedicate a portion of their practice to criminal defense. The mission of the NDACDL is “to promote justice and due process” and to “promote the proper and fair administration of criminal justice within the State of North Dakota.” With that mission in mind, the NDACDL **opposes H.B. 1336** and recommends a **DO NOT PASS** from the House Transportation Committee.

Criminal records severely impair a person’s access to employment, education, housing, public assistance, and civic engagement. The overwhelming majority of employers, colleges, landlords and lenders employ background screening checks specifically to determine whether a person has prior convictions. Section 39-08-01.6, N.D.C.C., in its current form, offers a ray of hope and a rehabilitative incentive to my clients. Since it took effect in August 2019, I have routinely advised DUI clients of the statute’s record sealing provision and that they must remain law abiding for a period of seven years to benefit from this opportunity. I genuinely believe it provides them an achievable goal to strive for and the vast majority take it very seriously.

Across our nation state, and local governments are recognizing the profound and long lasting negative impacts stale criminal records have on individuals, families, and society. Thankfully, North Dakota has been among the majority of state governments to expand record sealing remedies for certain offenses. The record sealing provision of Section 39-08-01.6, N.D.C.C., as passed by the Legislative Assembly only two years ago, recognizes and rewards rehabilitation by helping to alleviate the taint of stale DUI convictions when the individual has demonstrated seven years of law abiding behavior. It implicitly recognizes society’s interest in maintaining an easily accessible record of conviction while simultaneously acknowledging that after an individual has paid their debt to society and demonstrated a lengthy period of rehabilitation the value of maintaining a public record is outweighed by the stigma and collateral consequences of a stale conviction.

H.B. 1336 would arbitrarily deny the safe harbor of Section 39-08-01.6, N.D.C.C., to individuals convicted of DUI prior to December 31, 2004. This would result in an incongruent application of law. There is no responsible reason why an individual who was convicted of DUI on December 31, 2004, should be denied the benefit of the law, when a person convicted of the same offense a day later could reap its full reward. The criminal justice system must be fairly administered, it must ensure equal standing and protection under the law. H.B. 1336, if passed into law, would establish an inherently unfair and inexplicable incongruence. To safeguard against this implicit unfairness and to reinforce the sound reasoning and societal benefit of Section 39-08-01.6, N.D.C.C., in its present form, the NDACDL urges a **DO NOT PASS** on H.B. 1336.

Respectfully,



Jesse Walstad