

House Bill 1059
House Judiciary Committee
Testimony Presented by Sara Behrens
January 4, 2022

Good afternoon Chairman Klemin, members of the committee. My name is Sara Behrens and I am a staff attorney with the State Court Administrator's Office. I am here today in support of House Bill 1059. Last year, the U.S. Supreme Court's Dobbs decision overruling Roe v. Wade was leaked ahead of the issuance of the opinion. The leak resulted in threats to the justices' safety. A man carrying a gun, knife, and zip ties was arrested near Justice Brett Kavanaugh's house.

Following the Dobbs' leak, the North Dakota Supreme Court considered the penalty for such a leak at the state supreme court level or the district court level. A draft opinion is just that, a draft. The judge or justices may not have finalized their opinions and the draft is subject to change. The deliberations of a judge or justices are not public and should not be public. The leak of a draft opinion at either court level can lead to major consequences for judge safety, confidence in the judicial system, and economic viability of a business subject to the opinion.

HB 1059 adds a new section to chapter 27-01 making it a class A misdemeanor to intentionally disclose a pending decision. This will hopefully provide some deterrent to anyone considering disclosing a draft opinion and accountability if it does occur. Thank you for your consideration and we urge a do pass.