

**Robert Vallie-Assistant State's Attorney
Cass County State's Attorney's Office
Testimony Concerning Senate Bill 2273
March 22, 2021**

Chairman Klemin and members of the House Judiciary Committee,

My name is Robert Vallie and serve as an Assistant State's Attorney with the Cass County State's Attorney's Office and a licensed attorney in the State of North Dakota. I stand in support of the passage of Senate Bill 2273. This bill would elevate the crime of Inhalation of Vapors to a Class A Misdemeanor for a third or subsequent offense within a one-year period and a mandatory minimum requirement of a chemical dependency evaluation.

First and foremost, I want to thank Senator Jim Roers and the co-sponsors of this bill for helping to bring this important issue before the North Dakota Legislature. As a prosecutor, having seen the impacts and limitations of our current law, I am appreciative to those willing to sponsor this legislation. This proposal provides additional resources and options to our court system to rehabilitate those involved in this offense.

Inhalation of Vapors is North Dakota's criminal offense to what is more commonly known as huffing. This involves an individual inhaling a volatile chemical or chemicals to achieve a high. Our current statute lists twenty-seven (27) chemicals that would qualify to this offense. These volatile chemicals can be found in items any one of us could acquire at the local hardware, auto repair, or grocery store. These chemicals can be found in common products such as antifreeze, cleaning supplies, cosmetics, printing inks and surface coatings. Since being enacted in 2001, the crime of Inhalation of Vapors is a Class B Misdemeanor. A Class B Misdemeanor provides maximum possible penalty of thirty (30) days in jail and a fifth teen hundred dollar (\$1,500) fine. A Class B Misdemeanor does not allow for supervised probation.

For the last three years, I have had the privilege of working as an Assistant State's Attorney with both Ward County and Cass County. I have prosecuted individuals for this offense and have interacted with other prosecutors who have prosecuted defendants for this offense. In my experience and observations, the number of individuals prosecuted for this crime is small, compared to other crimes, like Driving Under the Influence, or Possession of a Controlled Substance. However, while the number of individuals prosecuted may be small, the number of offenses committed by that individual is anything but that. In my experience, there have been those who have plead guilty or have been convicted of this crime dozens of times over a matter of a year timeframe, if not in a few months. Unlike some of our criminal statutes, such as Driving Under the Influence, where repeat offenders face an increased offense level and with-it increased penalties and mandatory minimums, Inhalation of Vapors does not. Whether a defendant is a first-time offender or an offender with dozens of convictions, the law does not provide for options for supervised probation, where a probation officer may be able to assist a probationer with resources, like in patient treatment. The law does not provide for a requirement of a chemical dependency evaluation, as we see in our DUI statute. Under the current statute, being able to properly deal with the underlying addiction issues relies on the defendant being able to overcome that hurdle alone or have a support network in place to assist in dealing with addiction. In order to be on supervised probation a defendant would need to be convicted of a more serious offense where supervised probation can be ordered and by extension the resources offered to deal with the probationer's addiction issues can be accessed. Given the Legislature's continued efforts towards rehabilitation and addressing underlying substance abuse issues, this

change is a necessary and appropriate one.

While the amount of defendant's impacted by such a modification may be small, it will have a positive one for those impacted. This legislation allows the opportunity to catch those with substance abuse issues early on or within a shorter timeframe. By doing so, it allows for the protection of valuable court resources and taxpayer dollars, by addressing those who become repeat offenders under this statute in the future. It also allows an opportunity to provide additional resources and support, like supervised probation, to repeat offenders to better address the addiction issues they face and a means of support.

Mister Chairman and members of the Committee, thank you for the opportunity to provide testimony to this important issue. I urge a Do Pass Recommendation and happy to address any questions you may have as you deliberate this matter.

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