



North Dakota Association for Justice

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DO PASS - HB 1302

Madame Chair Larson and members of the Senate Judiciary Committee, my name is Jaci Hall and I am the Executive Director of the North Dakota Association for Justice. Today I am here to ask you for a DO Pass recommendation on HB 1302.

HB 1302 amends 29-01-19, removing the consent of the state in a misdemeanor case. This statute is an old compromise statute. The original intent was to allow private citizens to resolve minor squabbles without the involvement of the government.

For example: A young man was out with his friends and upon arriving home, gets trapped in the elevator. The young man calls 911 and it takes over three hours to come and open up the elevator. During that time, the young man relieves himself in the elevator. The young man was charged with a misdemeanor disorderly conduct by the city attorney. His attorney contacted the building owner about the incident. The owner was embarrassed that the elevator did not work properly and signed an affidavit. The case was dismissed.

Around 2003, the statute was changed to require a consent of the state. NDAJ believes that this consent should be removed and returned to the original intent. Adults are capable of making decisions pertaining to minor personal agreements without asking permission of the state or taking up tax payer dollars and trying cases that can be resolved quickly.

Section 29-01-17 already leaves the discretion with the judge, to wit: "If a party injured appears before the court in which a trial for the commission of a public offense is to be had, at any time before the trial, and acknowledges that the party injured has received satisfaction for the injury, the court, on payment of the costs incurred, may order all proceedings to be stayed upon the prosecution and the defendant to be discharged therefrom, but in such a case the reasons for the order must be set forth therein and entered on the minutes. (emphasis added).

Thus, there should be no reason why the State gets to consent under the current version of Section 29-01-19. The proposed amendment striking the language "and with the consent of the State" makes sense.

This amendment does not pertain to cases of sexual assault or domestic violence. Those cases are exempt from misdemeanor compromise.

We ask you to amend this statute by a voting DO PASS on HB 1302. Thank you for the opportunity to provide testimony. I will take any questions you may have at this time.

Sincerely,
Jaclyn Hall
NDAJ