HB 1130
68th Legislative Assembly
House Judiciary Committee
January 10, 2023
Testimony of Travis W. Finck, Executive Director NDCLCI in Support

Chairman Klemin, members of the House Judiciary Committee, I rise today on behalf of the Commission on Legal Counsel for Indigents in support of HB 1130. The Commission on Legal Counsel is the state agency responsible for the provision of legal services for individuals when there is a constitutional, statutory or rule based right to counsel.

HB 1130 provides an option for a defendant who has been convicted for a first offense disorderly conduct to have the conviction sealed if they have no similar conviction for a period of five years. Currently, North Dakota Century Code 12.1-60 requires a defendant to file a petition in the criminal case and the Court may seal the record if it finds certain factors by clear and convincing evidence. HB 1130 provides the court shall seal the record upon motion of the defendant after the five year time period.

By requiring the matter to be sealed if no subsequent offense, we believe this provides indigent defendants access to a mechanism to seal a low-level misdemeanor that does not require a hearing. Currently, 12.1-60 requires a hearing and for several factors to be shown. Indigent defendants convicted of a first offense disorderly conduct who may not be able to afford an attorney to assist with sealing a record would no longer face the daunting task of proving several factors by clear and convincing evidence. They simply need to remain law abiding and file a motion. For all the reasons stated herein, we support HB 1130.

Respectfully Submitted:

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