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To: House Judiciary Committee
Hon. Chairman Klemin
Hon. Vice-Chair Karlse
Members of the Committee

From: Wade G. Enget, Mountrail County State's Attorney

Re: HB 1213

Chairman Klemin, Vice-Chair Karls, Members of the House Judiciary Committee:

I am submitting this testimony in OPPOSITION to HB 1213.

Committee Members, I have several concerns with this Bill as written that have prompted me to request a DO NOT PASS.. I will summarize the reasons for my opposition :

- 1) I looked at the fiscal note attached to the Bill, and note the following on Subsection 4 of the fiscal note:

“The fiscal impact cannot be determined. The source of funding for the reimbursement awarded is not specified in the bill. Generally, if a county official or prosecutor was responsible for the harm, the county would be responsible for the damages. The “state” as an entity has no input over those decisions.”

This would appear to be a unfunded mandate upon all counties, as there is not a mechanism put forth within the language of the Bill to have the State pay for potential damages, so the potential cost would fall totally upon the Counties.

- 2) I don't think that NDIRF (county's insurance carrier) would cover the potential damages imposed, as they would want the ability to have a seat at the table and be represented prior to any damages being awarded;
- 3) Who is the “trier of fact” referred to in this Bill...the jury that just found the defendant “NOT GUILTY”, the judge in that same trial, or a separate judge or jury?

- 4) In criminal cases that are tried a jury, the jury is not asked to answer a question as to why they found the defendant "NOT GUILTY". If this is passed, it appears that this Bill would require that the jury make a finding that they are finding the defendant "NOT GUILTY" due to justification of self-defense. In almost all cases, the jury returns a verdict of simply guilty or not guilty. The only time other questions are asked of the jury is when they first find the defendant "GUILTY", with the additional findings required of the jury involving: whether a firearm was used, whether the defendant possessed/sold drugs within X amount of feet from a school, etc.
- 5) The potential for the imposition of all these costs against the county could be a real problem and will have be contemplated prior to us charging out domestic violence cases, assaults, kidnapping, felonious restraint, negligent homicide, manslaughter and murder cases.

Thank you for your time, and again I would request a DO NOT PASS recommendation from this Committee on HB 1213.

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