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January 22, 2023

The Honorable Lawrence R. Klemin
Chair, ND House Judiciary Committee
600 East Boulevard Avenue
Bismarck, ND 58505

Submitted electronically only:

Re: Testimony in support of HB 1280

Dear Chairman Klemin and members of the House Judiciary Committee,

I write individually in support of HB1280. I am an attorney in private practice in Fargo. I am a lifelong North Dakota resident, currently residing in Legislative District 45. Prior to law school, I served as a Bismarck Police officer. I retired from the North Dakota Army National Guard after serving twenty-four years. I have served on the East Central Judicial District Adult Drug Court Advisory Board for more than 15 years.

I am familiar with the origin of House Bill 1208, which resulted from recommendations of drug court programs across the state. Probation officers, treatment providers, participants, and judges overseeing adult drug court programs continue to experience substantial difficulty in obtaining driving privileges for drug court participants. Effective treatment and rehabilitation depend on a participant's ability to drive to meet the rigors of these intensively supervised programs. This bill is designed to correct those ongoing problems.

North Dakota "drug courts" are hybrid. They include drug and DUI offenders. Probation officers, who are licensed peace officers, supervise participating probationers. Also included in the drug court team are the State's Attorney, defense counsel, treatment providers, law enforcement, and community service providers. Detailed information is available on the North Dakota Courts website at this address: <https://www.ndcourts.gov/other-courts/adult-hybrid-dwi-drug-court>.

A. Section 1

If adopted, Section 1 would require the director of the department of transportation to fully reinstate the driving privileges of a drug court graduate with a waiver of any reinstatement fee. The director would be required to do so only if ordered by the district court. Drug court is

intensive, restrictive, and participants are intensively supervised. The program is a minimum of fourteen months in duration but may be longer. Completing drug court is far more challenging than serving a sentence for the underlying offense. Reinstating driving privileges as a reward for successful completion of this intensive programming provides incentives for enrollment, continued participation, and successful completion.

B. Sections 2 and 3

Sections 2 and 3 are intended clarify that the director of the department of transportation must issue a temporary restricted license to offenders who are participating in and compliant with the twenty-four seven sobriety program. Although the Assembly has made clear that drivers who comply with programming and maintain sobriety will be rewarded with restricted driving privileges, drug court participants regularly experience denials of their applications. Clarifying this statutory language will preclude unsupported denials of restricted license applications for those with suspensions or revocations for out-of-state offenses and for those suspended or revoked prior to initially obtaining a North Dakota license.

Section 3 is intended to prevent the director from denying temporary restricted driving privileges for a driver participating in the twenty-four seven sobriety program who also has an out-of-state suspension or revocation which cannot be resolved in this state. Upon close review, I believe the existing language is ambiguous and arguably creates a conflict with the language outlined in Section 1. I would urge the Committee to instead consider amending the statute as follows:

Notwithstanding any out-of-state license suspension or revocation, if an offender has been charged with, or convicted of, a second or subsequent violation of section 39-08-01 or equivalent ordinance, or if the offender's license is subject to suspension suspended or revoked under chapter 39-20 and the offender's operator's license is not subject to an unrelated suspension or revocation in this state, the director shall issue a temporary restricted license to the offender upon the restriction the offender participate in the twenty four seven sobriety program under chapter 54-12. The offender shall submit an application to the director for a temporary restricted license along with submission of proof of financial responsibility and proof of participation in the twenty four seven sobriety program to receive a temporary restricted license.

Studies show more than seventy five percent of suspended drivers continue to drive despite a license suspension. Most insurance companies will not insure drivers with suspended licenses. The risk to the motoring public is significant. Those with DUI offenses who are successfully participating in the twenty four seven sobriety program are not drinking. Extending temporary driving privileges to these offenders who submit proof of liability insurance enhances the work force and protects the public from suspended, uninsured drivers.

C. Section 4

This section would permit a drug court judge to order the issuance of a temporary restricted license for an offender undergoing intensive supervision in an approved adult drug court program. A court ordering the issuance of a restricted license can establish conditions and limitations on the restricted license. An applicant receiving a restricted license under this section would be required to provide proof of liability insurance to the director.

Unlike restricted licenses issued by the director, a restricted license under this section would be subject to continuous monitoring by a licensed peace officer as part of intensive supervision within the drug court.

D. Section 5

This section would allow a drug court judge to partially suspend participation in the twenty four seven sobriety program for participants. The twenty-four seven sobriety program is much like a safety net. Historically, when drug court participants graduate, they are simultaneously removed from the twenty-four seven sobriety program. As a result, the safety net is gone, and the participant is no longer under intensive supervision.

Drug court professionals are recommending this proposal so that near the end of treatment, the participant can transition off the twenty-four seven sobriety program while still under intensive supervision, and while still actively participating in treatment. This transition would take place only if ordered by the court.

CONCLUSION

Completing drug court is far more challenging than serving a sentence for the underlying offense. Incentives for enrollment, continued participation, and completion are appropriate. Removing roadblocks to recovery will provide treatment providers and participants with the tools necessary to meet the rigors of the program. I respectfully ask the Committee to consider the proposed amendment, and to thereafter recommend “do pass.”

Respectfully submitted,

/s/ Mark A. Friese

Mark A. Friese

cc: Sen. Ronald Sorvaag, *via email only*
Rep. Carrie McLeod, *via email only*
Rep. Scott Wagner, *via email only*