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House Judiciary Committee

Re: Proposed House Bill 1492

Good morning Chairman Klemin & Members of the Committee,

My name is Stephenie Davis, I serve as a Ward County Assistant State's Attorney. Over the ten years I have been an attorney, I have handled far too many cases involving domestic violence where children are unrecognized. House Bill 1492 provides prosecutors with another tool in protecting the vulnerable by defining mental injury in the context of child abuse.

I want to share one heartrending story that exemplifies the importance of this bill. I had a young family ripped apart by domestic violence. The parents fought frequently, both physically and verbally, in front of their 2 year old daughter a beautiful child I nicknamed Dora. The night law enforcement, social services, and my office became involved mom and dad were once again fighting. Dora was lying between them on their bed when it got physical. Mom, who was very pregnant at the time, stabbed dad and she had marks where he punched her. Thankfully, the baby and Dora were miraculously uninjured. Both parents were ultimately arrested for domestic violence and Dora was taken into care.

Before social services arrived to take custody of Dora, one of the deputies tried to interact with her. He described Dora as almost feral in her behavior. She literally pulled up her dress, squatted in the middle of the living room floor and urinated. The deputy, who was a father to children around the same age was aghast at this. He was furious at the trauma Dora suffered. But Dora showed no physical signs of abuse. She was fed, clean, and clothed. Her parents may have been physically abusive to each other but it is clear they were not physically abusive to her.

Fast forward a few months, Dora was still in foster care, but her new sibling was in the care of her biological parents. The foster family Dora was staying with have two older children. One day her

foster brother and foster father were wrestling around, what you and I would consider normal horseplay. Dora became hysterically, screaming “no fight, no fight” and crying uncontrollably. Her foster father and foster brother immediately stopped the rough housing and the family rushed to assure Dora no one was being hurt, even with those reassurances, she was inconsolable. At the age of two it was clear Dora suffered the very type of mental injury House Bill 1492 addresses. Dora’s story has a happy ending – her foster family became her forever family. My last update is that she was a well-adjusted 5 year old who was adored by her older siblings and was blossoming in school. Thankfully, her trauma was experienced while she was very young and she could recover without many of the hurdles older children struggle with. I do not know what happened with Dora’s younger sibling and I wonder if I had been able to charge the biological parents with child abuse could social services have immediately take her into custody? Instead was another child be exposed to a domestic dispute between these parents?.

I have had other cases where the outcome has ultimately not been positive. Too often, when the only recognized victim is the person who suffered physically, domestic violence cases become practically impossible to prosecute when the party does not want to hold the abuser accountable. The physical victim ultimately allows the children to also continue to be victimized. This bill gives prosecutors a tool to hold the abuser accountable. When children experience mental and emotional abuse caused by domestic violence, begin to suffer and it shows in their behavior, school work, sleep patterns, physical health and in a myriad of other ways.

I dealt with one family constantly in upheaval. The father would drink, become verbally abusive, and sometimes violent toward his wife. They had four sons living in the house, three minors and one barely 18. The last domestic I dealt with on him got even uglier than normal. Not just fists and words were thrown, but also a knife. The boys were terrified. The oldest called 911 and reported his mom was in danger and if his step-dad knew he was on the phone, he would be too. All the kids were present in the house when the events unfolded, they all heard the fight. The two youngest did not see anything, the older two saw the knife being thrown. I charged terrorizing against the father for the immediate fear he placed his wife and the two oldest boys in. I charged child abuse against him for the mental trauma caused to all three of the minor boys. Between when I charged out the case and the preliminary hearing, mom wanted all the charges dropped and the North Dakota Supreme Court handed down the decision in Castleman. I had to drop the child abuse charges and of course once mom stated she did not want dad charged with terrorizing, both the older boys followed her lead. I literally had NOTHING of consequence I could charge him with. This bill rectifies this situation because this was a family where there was a lengthy record of how the boys were being impacted by

the domestic violence. It was evident in how the youngest suffered separation anxiety, his next youngest brother was unable to cope with stress without getting overly emotional and in the flat effect of their older brother and his emotional detachment. Their oldest sibling was determined to never drink, moved out of the house and stopped talking with the family after mom wanted to drop the charges.

These are just two of thousands of cases prosecutors across this state deal with every day. We are in the trenches and see the child abuse happening and are currently helpless to be a voice for these victims. The loophole created by the Castleman decision has emboldened that defendant. He continues to cause trauma to his minor children because he knows there is currently nothing the State can do to hold him accountable for his behavior.

Please members of the committee, I implore you give House Bill 1492 a favorable recommendation of DO PASS. It will give the prosecutors of this state a clear definition of mental injury as it relates to child abuse. This will allow us to better protect some of the most vulnerable members of society. Thank you for your time.