

January 4, 2023
Testimony to the **Senate Judiciary Committee**
By Jackson J. Lofgren
Testimony in Opposition to S.B. 2107

Madam Chairman and Members of the Senate Judiciary Committee:

My name is Jackson Lofgren and I reside in District 35. I have had the pleasure of practicing law in North Dakota for sixteen years. I spent the first seven years of my career working as a Special Assistant Attorney General and Assistant Morton County State's Attorney. For the last nine years I have been in private practice in Bismarck. My law practice is focused almost entirely on criminal defense. I am a past president of the North Dakota Association of Criminal Defense Lawyers. **I oppose S.B. 2107.**

Senate Bill 2107 attempts to insert sections of federal law into the Century Code where they do not fit or belong, establishes many new mandatory prison sentences, and expands who cannot possess a firearm under state law. The North Dakota Legislature has worked hard over the last several sessions to make well researched and meaningful changes to our criminal code. This bill goes in the opposite direction.

Mandatory prison sentences increase incarceration rates but do not reduce crime. During the 1980s and early 1990s the Federal Government and many states added mandatory prison sentences to their criminal codes. Between 1990 and 2005 a new prison opened in the United States every ten days. Over the last forty years the prison population in America has increased by 500%. There are currently two million Americans in prisons and jails. One in twenty-eight children has an incarcerated parent. But, there is nothing to show lengthy prison sentences decrease crime. Just the opposite. Since 2008 thirty-five states have managed to reduce both their prison populations and crime rates.

Any suggestion that elected North Dakota judges are soft on crime is patently false. Defendants who deserve to go to prison are going to prison. The population of male inmates in the custody of the North Dakota Department of Corrections and Rehabilitation is nearly at capacity. The population of female inmates is at capacity. Senate Bill 2107 will cost the State of North Dakota millions of dollars as the North Dakota prison population swells. Our current correctional facilities will require significant expansion if not a whole new prison.

Finally, the bill's insertion of federal firearm law into the Century Code is highly problematic. The bill is not written well. For example, Section 6 makes it a state felony for a person to possess a firearm after a conviction for a "misdemeanor crime of domestic violence." This phrase comes directly out of the Federal criminal code where it has a lengthy statutory definition. The Century Code has no matching definition leaving law enforcement and the courts to struggle over the meaning under state law. It allows tribal court convictions to be used to trigger mandatory sentences even though tribal courts are not subject to the Bill of Rights. It allows firearm owners who smoke marijuana, or who are addicted to medication, to be charged

with a state felony. Senate Bill 2107 will cause problems for many well-meaning gun owning North Dakotans.

For these reasons I urge you to vote **DO NOT PASS** on Senate Bill 2107.

Thank You,

Jackson J. Lofgren

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