

Good morning. My name is Lloyd Suhr. I am an attorney in private practice here in Bismarck. I testify in opposition Senate Bill 2107.

I have spent more than 20 years working in and analyzing the criminal justice system in North Dakota from various angles, in both the state and federal courts. I was a prosecutor with the Burleigh County State's Attorney's Office for 11 years. I have been in private practice for 10 years focusing almost entirely on criminal defense practice in both state and federal court. For the last two years I have been an adjunct faculty member with the University of Mary teaching Criminal Procedure. Relying on this experience, I can state with confidence that this bill, if passed, will be very costly and cause more problems than it could ever conceivably solve.

The bill has two primary components. The first is the creation of literally dozens of new, complicated, clumsily written, and overly broad mandatory minimum and "presumptive jail" sentences. The second is a significant expansion of the list of individuals who would not be able to use or possess firearms, in some instances lacking rhyme or reason.

As to the first component, mandatory minimum sentences have come under harsh criticism in the last decade-plus from the judiciary, prosecutors, defense attorneys, and correctional officials alike. Just a few of the commonly seen reasons:

- They force cases to trial (most defendants are not going to plead to offenses that carry a guaranteed minimum sentence) adding significant cost to the judiciary and to the executive branches bringing the cases.
- They divest judges from exercising the very discretion that they are elected to perform and sentence offenders not on the individual facts and circumstances of a case, but in compliance sentencing mandates.
- It operates on the false premise that judges cannot be trusted to sentence people to prison where it is appropriate. That is simply not true. Our judges dutifully apply the sentencing statutes to the facts of each case. People that deserve to go to prison do.
- They strain our prisons and jails, already at or near capacity in many instances, and in a constant need of already limited resources to perform their necessary functions.

According to NDDOCR statistics published on the DOCR website, www.docr.nd.gov, the average daily prison population for FY 2015 – FY 2020 ranged from 1696.26 to 1805.71. Notably, only 5.2% of the prison population was subject to a mandatory minimum. The

number of mandatory minimum sentences that this bill would create is almost infinite, as they reach out to dozens of sections of the criminal code. It is not difficult to see how the inmate population will skyrocket with the implementation of a whole catalogue of mandatory minimum sentences. You will need to invest the resources to keep up with this.

Notably, there is no fiscal note attached to this bill.

As to the second component, this bill has a number of far-reaching restrictions on the use or possession of firearms that quite simply don't make sense. For example, the bill provides that a person who is an unlawful user of, or addicted to, any controlled substance cannot possess a firearm. This would include marijuana, which is still defined as a "controlled substance". Use or possession of marijuana is an infraction yet a conviction would prohibit firearm possession. That just doesn't make sense. It also prohibits someone who has been dishonorably discharged from the service from possessing a firearm, without any regard to the underlying circumstances. The bill defines the term "felony crime of violence" to include multiple non-violent offenses, such as theft and unauthorized entry into a motor vehicle.

If I were to describe this bill in one sentence, it would be "everyone goes to prison". It is going to be costly, ineffective, and I can virtually guarantee you will be looking at this again next session if it passes.

I thank you for your time, and strongly urge you to recommend a DO NOT PASS.