

TESTIMONY OF DAVID HOGUE IN SUPPORT OF SB 2248

2 SENATE JUDICIARY COMMITTEE

3 JANUARY 30, 2023

4
5 Good morning Madam Chair Larson and members of the Senate Judiciary
6 Committee. My name is David Hogue. I am a North Dakota state senator representing
7 District 38, which includes northwest Minot and the city of Burlington. I appear before
8 your committee to seek support for Senate Bill 2248.

9 SB 2248 is a criminal justice reform bill that seeks to address the growing and
10 alarming problem of overdose deaths related to ingestion of fentanyl and other illicit
11 drugs in North Dakota. You no doubt have heard anecdotal evidence about the scourge
of fentanyl drug abuse in our communities. Let me share some data with you.

12
13 Overdose deaths in North Dakota exceed deaths related to motor vehicle
14 fatalities for 2022. I attach to my testimony a Grand Forks Herald article that details the
15 alarming rise in overdose deaths.

16 I also attach to my testimony the analysis of the North Dakota Department of
17 Corrections related to probationers that are under its supervision. The analysis looks at
18 the overdose deaths within the small population of individuals who are under
19 supervision with DOCR.

20 The fentanyl epidemic is overwhelming many components of our criminal justice
21 system. We could not possibly have places for all of the juveniles from out of state that
traffic fentanyl. Often these youth are members of a gang from a distance metropolitan

1 area that come to North Dakota to make a delivery. As DOCR representatives will likely
2 opine, there is no room for fentanyl dealers in existing facilities when you begin to attach
3 mandatory minimum sentences to dealers. We are now learning that fentanyl is
4 incorporated into almost every illicit drug that is sold on our streets. Incorporation of
5 fentanyl is designed to foster addiction and dependence. This cold but calculated
6 technique ensures that the sellers will have a loyal supply of buyers, but it also ensures
7 that we as a state will have a difficult social and criminal justice issue well into the
8 future. I admit the task of addressing this problem is overwhelming from a policy
9 maker's perspective.

10 Since introduction of this bill, I have visited several state's attorneys, criminal
11 defense attorneys, and jailers. They have provided valuable input in terms of modifying
12 this bill. That is why I will be offering amendments that seek to target the principals of
13 the fentanyl drug distribution network, rather than the users and distributors of small
14 amounts.

15 Under section 1 of the bill as amended, I do eliminate the mandatory minimum in
16 favor of a new provision that creates an enhanced sentencing provision for dealers who
17 cause death or serious life injury. The enhanced sentence is a class A felony. The
18 objective is to target those dealers whose sales lead to loss of life or injury. My rationale
19 for the change relates to deterrence. The foot soldiers will not be deterred because
20 there is a seemingly endless supply of their ranks.

21 I have also added funding for public education. I think we can have the greatest
22 impact when we reduce demand for this insidious substance. One way to reduce

1 demand is through public education. North Dakota and other states have recently
2 entered into settlement agreements with manufacturers of opioids. Those settlements
3 provide for direct payments to the states for the impacts of opioid addiction of our
4 citizens. I think an appropriate use of those funds is to provide public education about
5 both the danger and prevalence of fentanyl drugs in our communities.

6 Our public campaigns against driving under the influence of alcohol have a
7 promising track record of effectively reducing DUI arrests, and I remain confident that a
8 similar expenditure for highlighting the perils of fentanyl use will make progress and
9 reduce fentanyl prevalence as well.

10 Madam Chair Larson and members of the Senate Judiciary Committee, I urge
11 your support of SB 2248.

12

13

14

15