

Unify.**Us**

January 16, 2025

The Honorable Kelly Armstrong
Governor of North Dakota
State Capitol
600 East Boulevard Avenue
Bismarck, ND 58505

The Honorable David Hogue
North Dakota Senate Majority Leader
State Capitol
600 East Boulevard Avenue
Bismarck, ND 58505

The Honorable Robin Weisz
Speaker
North Dakota House of Representatives
State Capitol
600 East Boulevard Avenue
Bismarck, ND 58505

Re: SB 2128

Gentlemen:

Unify.Us is a new addition to the public policy community and is engaged in work across the country to strengthen our economy, our families, and our communities. A merger of economic and faith driven conservatives, we were formed by former principals of the American Conservative Union (better known as “CPAC”) and the Faith & Freedom Coalition.

The founders of Unify.Us have more than 50 years of collective experience as grass roots activists. Our team also has a significant record on criminal justice policy. Unify’s President, Timothy Head, was formerly the Executive Director of the Faith & Freedom Coalition. Prior to that, Tim was one of the key staffers in the Texas legislature that developed the Justice Reinvestment Initiative, a policy framework that changed the way conservatives have dealt with crime, punishment, and incarceration in 33 states across the country.

Our Chief Operating Officer, David Safavian, was formerly the long-time general counsel and executive vice president at CPAC. He served in the George W. Bush White House and as a chief of staff for a Republican Member of Congress from Utah who was senior on the House Judiciary Committee.

For the past ten years I was Director of Legislative Affairs for the Faith & Freedom Coalition where I worked with the first Trump Administration to craft and pass the First Step Act to reduce criminal recidivism and promote public safety. Prior to that I spent three years as Special Assistant to the U.S. Deputy Attorney General where I managed drafting and implementation of regulatory reforms and pilot grant programs and served on the Attorney General's Prisoner Reentry Working Group, the President's Prisoner Reentry Initiative Group, and the Strategic Management Council's Subcommittee on Violent Crime and Gangs.

Given our backgrounds, we wanted to reach out to express our views on SB2128. In short, we have serious concerns about this piece of legislation. Broadly speaking, the bill would do three things:

- (1) *Imposition of Mandatory Minimum Sentences.* SB2128 would reduce the ability of judges to mete out sentences that reflect the individual facts and circumstances of each case before them by establishing mandatory minimum sentences for certain crimes. Our view is that mandatory minimums are an inflexible and formulaic approach to justice. Our criminal justice system relies on judges to oversee court proceedings and apply their own judgment to the circumstances of each case at sentencing. Given North Dakota's political culture, we have no concerns about judges failing to reflect the community ethos on crime and punishment. But SB2128 would create a one-way ratchet on sentence imposition and increase the number of prisoners behind bars, regardless of mitigating circumstances in any individual case.
- (2) *Limit the Ability of Department of Corrections Officials to Effectively Manage ND Prisons.* SB2128 would establish a so-called "Truth in Sentencing" policy that would severely constrain NDDOC. Not only would it essentially lengthen prison terms by not counting time in half-way houses and on home confinement, but it would also prohibit the use of "earned time credits" to encourage good behavior. This latter effect is particularly important. In prison systems across the country, inmates are incentivized to participate in alcohol and drug treatment, mental health programs, and vocational or other educational programs. The incentives often take the form of credits that can be used to reduce the number of days in prison. Such incentives have been shown to reduce recidivism, which makes communities safer. And because earned time credits are generally forfeited if a prisoner violates the rules while behind bars, these incentives also make prisons safer for corrections officers and inmates alike.
- (3) *Increase Government Spending of Taxpayers' Money.* Our understanding is that SB2128 would increase state spending on corrections by approximately \$197 million over four years. Given that there is little recent quality research validating the beneficial impact of either mandatory minimums or Truth in Sentencing, it is difficult to justify the increased spending. Moreover, adding nearly \$200 million in new corrections outlays can only make it more difficult for the legislature to pursue Governor Armstrong's laudable proposal to eliminate property taxes in the state.

We note one area where we agree in principle with the sponsors of SB2128: addressing fleeing or assaulting a police officer. These are serious crimes that put our law enforcement officers – and ultimately the community – at greater risk. The legislature should provide clear guidance to the state’s judiciary that stern sentences are appropriate. So long as judges have the ability to grant departures from sentencing guidelines in the interests of justice (and requiring the rationale for any such downward departures to be put on the public record), we have no problem with increasing the penalties for both evasion of and assault on a police officer.

As you consider SB2128, we appreciate your taking our views into account. We anticipate more regular engagement in North Dakota, and hope to establish an active grassroots presence in the state in the coming months. In the interim, please feel free to contact me at ppurtill@unifyus.us with any questions or comments.

Respectfully,

A handwritten signature in black ink that reads "Patrick D. Purtill". The signature is written in a cursive, slightly stylized font.

Patrick D. Purtill
*Executive Vice President
and General Counsel*