

**Robert Vallie-Assistant State's Attorney
Cass County State's Attorney's Office
Testimony Concerning Senate Bill 2273
January 27, 2021**

Madam Chair and members of the Senate Judiciary Committee,

My name is Robert Vallie and I am an Assistant State's Attorney with the Cass County State's Attorney's Office and a licensed attorney in the State of North Dakota. I stand in support of the passage of Senate Bill 2273, a bill to elevate the crime of Inhalation of Vapors to a Class A Misdemeanor for a third or subsequent offense within a one year period and a mandatory minimum requirement of a chemical dependency evaluation.

First and foremost, I want to thank Senator Jim Roers and the sponsors of this bill for helping to bring this important issue before the North Dakota Legislature. As a prosecutor having seen the impacts and limitations of our current law, I am appreciative to those willing to sponsor this legislation. This proposal provides additional resources and options to our court system to rehabilitate those involved in this offense.

Inhalation of Vapors is North Dakota's criminal offense relating to the more commonly known action of huffing. This involves an individual inhaling a volatile chemical or chemicals to achieve a high. Our current statute lists twenty-seven chemicals that would qualify to this offense. These volatile chemicals can be found in items any one of us could acquire at the local hardware, auto repair, or grocery store. These chemicals can be found in common products such as antifreeze, cleaning supplies, cosmetics, printing inks and surface coatings. Inhalation of Vapors is a Class B Misdemeanor. A Class B Misdemeanor provides maximum possible penalties such as thirty days in jail and a fifth teen hundred dollar fine. A Class B Misdemeanor does not allow for supervised probation.

For the last three years, I have had the privilege of working as an Assistant State's Attorney with Ward County and now with Cass County. I have also prosecuted individuals of this offense and have interacted with other prosecutors who have prosecuted defendants for this offense. In my experience, the number of individuals prosecuted for this crime is small, compared to other crimes, like Driving Under the Influence. However, while the numbers of individuals prosecuted may be small, the number of offenses committed is anything but that. In my experience, there have been those who have plead guilty or have been convicted of this crime dozens of times over, in a matter of months or a year timeframe. Unlike some of our criminal statutes, such as Driving Under the Influence, where repeat offenders face an increased offense level and mandatory minimums, Inhalation of Vapors does not. Whether a first-time offender or an offender with dozens of convictions, the law does not provide for options for supervised probation, or a chemical dependency evaluation. Under the current statute, being able to properly deal with the underlying addiction issues relies on the defendant being able to overcome that hurdle alone, or to be convicted of a more serious offense to open the door to additional resources. Given the Legislature's continued efforts towards rehabilitation and addressing underlying substance abuse issues, this change is a necessary one.

While the amount of defendant's impacted by such a modification may be small, it will have a positive one for those impacted. This legislation allows the opportunity to catch those with substance abuse issues early on or within a shorter timeframe. By doing so, it allows for the protection of valuable court resources and taxpayer dollars. It also allows an opportunity to provide additional resources, like supervised probation, to repeat offenders.

Madam Chair and members of the Committee, thank you for the opportunity to provide testimony to this important issue. I urge a Do Pass Recommendation and happy to address any questions you may have as you deliberate this matter.

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