

2025 HOUSE JUDICIARY

HB 1226

2025 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Room JW327B, State Capitol

HB 1226
2/4/2025

A BILL for an Act to amend and reenact section 12.1-31-15 of the North Dakota Century Code, relating to wearing a mask in a public place.

9:00 a.m. Chairman Klemin called the meeting to order.

Members Present: Chairman Klemin, Vice-Chairman Karls, Vice-Chairman Vetter, Representatives Christianson, Hoverson, Johnston, McLeod, S. Olson, Satrom, Tveit, Wolff, Schneider

Members Absent: Representatives Henderson, VanWinkle

Discussion Topics:

- Penalties for crimes involving masked groups and individuals
- Exemptions for medical and religious mask use
- Discerning intentions of mask wearing individuals

9:02 a.m. Representative Lawrence Klemin, North Dakota Representative for District 47, introduces the bill, testified in favor, provided testimony #34058.

9:06 a.m. Hannah Meyers, The Manhattan Institute, testified in favor and provided testimony #34174.

9:42 a.m. Representative Tveit moved a Do Pass.

9:42 a.m. Representative Karls seconded the motion.

9:42 a.m. Representative S. Olson proposed an Amendment to change "individual" to "individuals" on line 15.

9:43 a.m. Representative Tveit withdrew his motion.

9:43 a.m. Representative S. Olson moved to further Amend and change "individual" to "individuals" on line 15.

9:43 a.m. Representative Karls seconded the motion.

9:51 a.m. Representative Schneider moved to further Amend and add "despite the request of law enforcement to unmask" to the end of line 16.

9:51 a.m. Representative Christianson seconded the motion.

9:51 a.m. Roll call vote on Representative Schneider's motion to Amend.

Representatives	Vote
Representative Lawrence R. Klemin	Y
Representative Karen Karls	Y
Representative Steve Vetter	Y
Representative Nels Christianson	Y
Representative Donna Henderson	A
Representative Jeff Hoverson	Y
Representative Daniel Johnston	Y
Representative Carrie McLeod	Y
Representative SuAnn Olson	Y
Representative Bernie Satrom	Y
Representative Mary Schneider	Y
Representative Bill Tveit	Y
Representative Lori VanWinkle	A
Representative Christina Wolff	Y

9:52 a.m. Motion passed 12-0-2

9:53 a.m. Roll call vote on Representative S. Olson's motion to Amend.

Representatives	Vote
Representative Lawrence R. Klemin	Y
Representative Karen Karls	Y
Representative Steve Vetter	Y
Representative Nels Christianson	Y
Representative Donna Henderson	A
Representative Jeff Hoverson	Y
Representative Daniel Johnston	Y
Representative Carrie McLeod	Y
Representative SuAnn Olson	Y
Representative Bernie Satrom	N
Representative Mary Schneider	Y
Representative Bill Tveit	Y
Representative Lori VanWinkle	A
Representative Christina Wolff	Y

9:53 a.m. Motion passed 11-1-2

9:54 a.m. Representative Tveit moved a Do Pass as Amended.

9:54 a.m. Representative Karls seconded the motion.

Representatives	Vote
Representative Lawrence R. Klemin	Y
Representative Karen Karls	Y

Representative Steve Vetter	N
Representative Nels Christianson	Y
Representative Donna Henderson	A
Representative Jeff Hoverson	N
Representative Daniel Johnston	Y
Representative Carrie McLeod	Y
Representative SuAnn Olson	Y
Representative Bernie Satrom	Y
Representative Mary Schneider	N
Representative Bill Tveit	Y
Representative Lori VanWinkle	A
Representative Christina Wolff	Y

9:55 a.m. Motion passed 9-3-2.

9:55 a.m. Representative Tveit will carry the bill.

9:56 a.m. Chairman Klemin closed the hearing.

Wyatt Armstrong, Committee Clerk

2/4/25
1 of 1

Sixty-ninth
Legislative Assembly
of North Dakota

February 4, 2025

PROPOSED AMENDMENTS TO

HOUSE BILL NO. 1226

Introduced by

Representatives Klemin, Heinert, D. Johnston, Motschenbacher, Porter, Rohr

Senators Axtman, Cory, Larson, Paulson

- 1 A BILL for an Act to amend and reenact section 12.1-31-15 of the North Dakota Century Code,
2 relating to wearing a mask in a public place.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 12.1-31-15 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **12.1-31-15. Wearing of masks during commission of criminal offense prohibited.**

- 7 1. An individual may not wear a mask, hood, or other device that covers, hides, or
8 conceals any portion of that individual's face:
- 9 a. With the intent to intimidate, threaten, abuse, or harass any other individual;
 - 10 b. For the purpose of evading or escaping discovery, recognition, or identification
11 during the commission of a criminal offense; or
 - 12 c. For the purpose of concealment, flight, or escape when the individual has been
13 charged with, arrested for, or convicted of a criminal offense; or
 - 14 d. With the intent to conceal the identity of the individual while congregating in a
15 public place with any other individual individuals wearing a mask, hood, or other
16 device that covers, hides, or conceals any portion of the individual's face, despite
17 a law enforcement request to unmask.
- 18 2. Subdivision d of subsection 1 does not apply to public gatherings to celebrate
19 Halloween, a masquerade, or other similar celebration.
- 20 3. A violation of this section is a class A misdemeanor.

**REPORT OF STANDING COMMITTEE
HB 1226**

Judiciary Committee (Rep. Klemin, Chairman) recommends **AMENDMENTS** ([25.0890.01001](#)) and when so amended, recommends **DO PASS** (9 YEAS, 3 NAYS, 2 ABSENT AND NOT VOTING). HB 1226 was placed on the Sixth order on the calendar.



North Dakota House of Representatives

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



Representative Lawrence R. Klemin

District 47
3929 Valley Drive
Bismarck, ND 58503-1729

lklemin@ndlegis.gov

COMMITTEES:

Judiciary, Chairman
Political Subdivisions

TESTIMONY OF REP. LAWRENCE R. KLEMIN HOUSE JUDICIARY COMMITTEE HOUSE BILL NO. 1226 FEBRUARY 4, 2025

Members of the House Judiciary Committee. I am Lawrence R. Klemin, Representative for District 47 in Bismarck. I am here to testify in support of House Bill 1226 relating to wearing a mask in a public place.

House Bill 1226 updates Section 12.1-31-15 of the criminal code, which was enacted in the 2017 Legislative Session in response to the protests over the Dakota Access Pipeline (DAPL) that was being constructed in Morton County. During those protests there were numerous people wearing masks so that they could not be identified by the public and law enforcement while committing criminal mischief related to the pipeline project.

Last year, as a result of the hostilities between Israel and Hamas in Palestine and Gaza, there were numerous protests in the United States on university campuses and other public places resulting in the occupation and damage to public property by the protesters. Many of the protesters wore masks so that they could not be identified by university officials and law enforcement. HB 1226 amends our current law to cover the situation where groups of individuals acting together are wearing masks to conceal their identities. There is an exception for public gatherings to celebrate Halloween, a masquerade, or a similar public celebration. There is no change in the penalty in our law as it remains a class A misdemeanor.

I would like to introduce Hannah Meyers of the Manhattan Institute. I have invited her to speak at this hearing as an expert witness to provide you with more information about the need to update our law on the wearing of masks.

Rep. Lawrence R. Klemin
District 47, Bismarck

Statement Before the North Dakota House Judiciary Committee

“Unmasking Protestors”

*February 4, 2025, 9:00AM CST, North Dakota Capitol, Judicial Wing Room 327B
Bismarck, North Dakota*

Submitted by:

Hannah E. Meyers
Director of Policing and Public Safety, Fellow
Manhattan Institute for Policy Research
52 Vanderbilt Avenue
New York, NY 10017

About the Author

Hannah E. Meyers is the director of policing and public safety and a fellow at the Manhattan Institute. She also serves on the New York State Domestic Terrorism Task Force. Her work has appeared in outlets including the *New York Times*, the *Wall Street Journal*, and *National Review* and she has provided commentary on *CNN*, *Fox*, and other TV, radio, and podcasts. She has discussed public safety policy at Columbia University, Northwestern Law School, and Hunter College, and delivered expert testimony before the Texas State Legislature.

Previously, Hannah was a senior research director at a corporate firm, managing domestic and international investigations. Prior to that, she was a senior intelligence analyst with the New York City Police Department, where she helped achieve two of the first state-level terrorism convictions, and was seconded to the Federal Bureau of Investigations. She has an MA from Yale University in International Relations and a BA from Dartmouth College in Political Theory. She lives in Manhattan with her husband and their three children.

Thank you to Chairman Klemin and the North Dakota House Judiciary Committee for the opportunity to address you.

**The Manhattan Institute for Policy Research does not take institutional positions on federal, state, or local legislation, rules, or regulations. Although my comments draw upon my research and writing about public safety as an Institute fellow, my statement is solely my own, and should not be construed as my employer's.

Statement

Chairman Klemin, members of the committee: thank you for the invitation to discuss the need for North Dakota to strengthen and expand its mask ban. I also want to note that I am here as an expert witness to testify and offer technical public policy guidance. All views I express are my own and not those of my employer.

Around the country, people are exploiting masks to conceal their identities to commit crimes and to menace and terrorize citizens.

Many jurisdictions previously had or still have successful bans on the books, and many are creating new bans, which are both constitutional and effective. North Dakota has been ahead of this curve, with a ban passed in 2017, recognizing that when protesters mask to conceal their identity, it increases violence and disorder. The considered amendments to the bill would strengthen this protection.

Anti-masking laws are essential to preserving the First Amendment right to assemble, petition for redress of grievances, and otherwise express ourselves, while preventing intimidation and harassment and maintaining a society where individuals are accountable for their conduct.¹ Today, the relevance of anti-masking laws is that much starker, since masks are still used to evade identification despite the spread of surveillance and body-worn cameras and facial recognition technology in solving and prosecuting crimes.

Masking Undermines Peaceful Free Speech

Face concealment makes it harder for law enforcement to make arrests and harder for prosecutors to sufficiently identify offenders to bring successful cases. Offenders also tend to behave worse when they are masked, emboldened by being unidentifiable. This is even more true for masked individuals acting in groups, where the added anonymity has been shown to increase irresponsible and violent behavior.²

Masking also reduces overall civic strength and engagement because citizens can't trust people whom they can't identify.

The connection between face concealment and disorder has been made tragically clear over the past year. Ubiquitous masking at anti-Israel demonstrations has permitted them to spiral increasingly into criminality, and contributed to the 200% increase in antisemitic incidents in the year following October 7, 2023 compared to the same period a year earlier.³

For example, thousands of chanting demonstrators, many with their faces concealed, flooded Washington, D.C. in June, some sporting symbols of support for US-designated terrorist groups. They occupied and vandalized Lafayette Square across from the White House, spray painting

¹ <https://manhattan.institute/article/model-legislation-to-modernize-anti-kkk-masking-laws-for-intimidating-protesters>

² https://arch.library.northwestern.edu/concern/generic_works/7w62f865n

³ <https://www.bbc.com/news/articles/c9wkxv9d99vo>

statues and setting off a smoke bomb. U.S. Park Police officers and Secret Service agents attempted to apprehend a protestor, but unidentifiable demonstrators formed a mob, shouting “fuck the police!” and successfully chased them out of the park, preventing any arrests.⁴⁵

Here in North Dakota, concern over a rise in offenders resisting arrest, assaulting officers, and fleeing from police is significant enough to warrant new legislation introduced in the state Senate last month to stiffen the penalties for these offenses. Mandating that mobs be unmasked will help combat resisting arrest.⁶

Similarly, reduced patrol officer ranks in major cities have made it difficult to control unruly demonstrations and make necessary arrests. This, again, is relevant in North Dakota, which is suffering from understaffed police departments. Reporting suggests that at least 57 localities in North Dakota seek police officers, sheriff deputies, or other law enforcement staff, including here in Bismarck.⁷

When the criminal justice system *is* trying to attach consequences for lawbreaking, strong mask ban laws can provide a critical extra tool in the toolbox. Such laws, for instance, could have made a huge difference at Columbia University, when agitators with faces obscured by surgical masks, hoods, and keffiyehs vandalized a campus building, taking two maintenance staff hostage. The inability to identify defendants with certainty because of masking was cited by the Manhattan District Attorney in dismissing for lack of evidence 31 of the 46 associated trespass arrests.⁸ Not only that, but the school administration struggled to justify the presence and the actions of law enforcement.

Mask Bans Help Deter and Solve Crime

In addition to preventing protests from spiraling out of control, mask bans can help reduce crimes like shoplifting and carjacking, that have become harder to deter, solve, and prosecute because of increased face concealment. Highlighting this connection, for example, the Philadelphia Police Department pointed to the surge in face-masking as a driving reason for their 10% drop in homicide clearance rates in 2020.⁹ This was more concretely acknowledged in Washington, D.C., when Mayor Muriel Bowser and the City Council passed an omnibus bill last spring that prevents face masking with a tailored focus on such crimes (rather than on protests).¹⁰

This is very relevant for North Dakota. Attorney General Wrigley recently cited the state’s Department of Corrections and Rehabilitation data indicating a 43% increase since 2014 in

⁴ <https://www.dailywire.com/news/authorities-report-no-arrests-in-anti-israel-protest-that-vandalized-park-near-white-house>

⁵ <https://washingtonreporter.news/op-ed/op-ed-hannah-meyers-washington-d-c-needs-a-broad-anti-masking-bill/>

⁶ <https://legiscan.com/ND/bill/SB2128/2025>

⁷ <https://www.newscoopnd.org/many-towns-struggle-to-recruit-retain-officers/>

⁸ <https://www.nbcnews.com/news/us-news/manhattan-da-drops-charges-columbia-university-protesters-hamilton-hal-rcna157976>

⁹ <https://whyy.org/articles/philly-police-face-masks-are-the-number-one-obstacle-for-homicide-investigators/>

¹⁰ <https://washingtonreporter.news/op-ed/op-ed-hannah-meyers-washington-d-c-needs-a-broad-anti-masking-bill/>

violent crimes against people or robberies.¹¹ North Dakota also struggles with recidivism: reportedly 40% of prison inmates here are incarcerated after violating their probation or parole.¹² Strengthening the existing masking laws might strengthen this deterrent to violent crime and enhance this tool for solving it.

History and Prevalence of Mask Ban Laws

Historically, numerous American jurisdictions passed anti-mask laws in response to the rise in activity by the Ku Klux Klan, whose members wore masks and hoods to hide their identities while committing acts of violence and intimidation against blacks, Catholics, and other minority groups.¹³ The intention behind these laws was clear: to dismantle the Klan's ability to operate anonymously and unpunished. Such regulations greatly contributed to reducing the Klan's influence and enhancing the ability of law enforcement to identify and prosecute perpetrators of hate crimes and public disorder.¹⁴

On January 10, 1923, the North Dakota Senate introduced a bill "banning all citizens over the age of 15 from wearing a mask or any other head covering in front of a public building, in order to conceal their identity."¹⁵ The law was a response to growing KKK violence in southern states and a desire to prevent the Klan from becoming similarly criminal here in North Dakota.¹⁶ Indeed, the KKK died out in North Dakota following the law, which stayed on the books, reportedly, for around 50 years.¹⁷

Other states passed mask bans in response to other politically motivated mob violence. New York passed their ban in 1845 in response to uprisings by masked farmers; disguised in leather masks, they wreaked violence, including murdering a sheriff.¹⁸ New York's effective ban stayed on the books until, like many other states, it repealed its mask ban during the emergency conditions of the Covid pandemic. Currently, a new Democratic bill for a statewide mask ban is making its way through the legislature.

Additionally, many jurisdictions still have their older laws in place, each with their own distinct version for preventing the same abuses.

In Alabama, for example, it's illegal to wear a mask or hood in public places, with a few exceptions, such as for holiday costumes or occupational safety gear. In California, it's illegal to wear a mask or disguise to evade police detection while committing a public offense.

¹¹ <https://www.wdayradionow.com/news/local-news/nd-ag-wrigley-proposes-bill-mandating-violent-crime-convicts-serve-85-percent-of-their-sentences/>

¹² <https://www.wdayradionow.com/news/local-news/nd-ag-wrigley-proposes-bill-mandating-violent-crime-convicts-serve-85-percent-of-their-sentences/>

¹³ <https://brooklynworks.brooklaw.edu/cgi/viewcontent.cgi?article=1586&context=jlp>

¹⁴ <https://manhattan.institute/article/model-legislation-to-modernize-anti-kkk-masking-laws-for-intimidating-protesters>

¹⁵ <https://www.inforum.com/lifestyle/the-rise-and-fall-of-the-kkk-in-a-north-dakota-city>

¹⁶ <https://news.prairiepublic.org/show/dakota-datebook-archive/2022-05-24/kkk-de-masked>

¹⁷ <https://www.nbcnews.com/storyline/dakota-pipeline-protests/pipeline-protesters-decry-north-dakota-bills-criminalize-protests-n706681>

¹⁸ https://nymag.com/intelligencer/2011/09/old_anti-mask_law_foiling_wall.html

In Florida, it's prohibited to wear a mask or hood in public places and on public roads. In Georgia, it's unlawful for any person to wear a mask in public places or on private property without the owner's permission, unless for work safety, theatrical productions, or emergency protection.

In Louisiana, it's prohibited to wear masks in public with the intent to conceal one's identity, except for religious purposes, safety in occupations, or traditional holiday costumes like Mardi Gras. Michigan prohibits people from wearing a mask or any type of face covering that conceals their identity during the commission of a crime.

North Carolina bans masking in public spaces. And Virginia prohibits any person over 16 years old from wearing a mask with the intent to conceal his or her identity in public spaces or on private property without written permission from the property owner.

The Reintroduction of Mask Ban Laws

Many jurisdictions have enacted or proposed new mask bans over the past year in response to anti-Israel protests, which increasingly involve criminality, antisemitism, and overt support for terrorism.

For example, New York's Nassau County enacted its Mask Transparency Act in August, which makes mask-wearing a misdemeanor offense, punishable by up to a year in jail or a \$1,000 fine.¹⁹ Since then, the Nassau Police Department arrested an individual in a ski mask in the summer heat who, it turned out, was concealing a 14-inch knife.²⁰ Nassau officers also used the ban to arrest an individual who was part of a group mobbing a synagogue, and using a keffiyeh scarf to conceal his face.²¹

North Dakota knows better than most states the importance of ensuring safe, peaceful, constitutional protest. Chaotic demonstrations large and small relating to the Dakota Access Pipeline harmed both protestors and law enforcement, and damaged the wellbeing of the state overall by creating distrust, disorder, and enormous financial cost to taxpayers.²² These protests and the continued use of masks to further related lawlessness and disorder, inspired North Dakota's 2017 law. And there is good reason to strengthen this law now.

¹⁹ <https://www.nassaucountyny.gov/AgendaCenter/ViewFile/Item/3192?fileID=247452>

²⁰ <https://spectrumlocalnews.com/nys/central-ny/politics/2024/08/28/police-in-nassau-county-make-arrest-under-new-law-banning-face-masks>

²¹ https://www.timesofisrael.com/liveblog_entry/keffiyeh-clad-protester-outside-synagogue-charged-with-violating-ny-countys-mask-ban/

²² <https://www.nbcnews.com/storyline/dakota-pipeline-protests/pipeline-protesters-decry-north-dakota-bills-criminalize-protests-n706681>

Constitutionality and Other Concerns

Finally, citizens have raised reasonable concerns that a mask ban would infringe on protected religious practices, medical needs, or other rights. However, the constitutionality of these bans has been repeatedly upheld, affirming that the public's right to safety and the state's ability to enforce its laws can supersede individual rights to anonymity and anonymous expression in certain circumstances.²³

For instance, in 2021, Georgia's Court of Appeals upheld a protester's conviction for a mask ban violation where: "the evidence showed that defendant was masked and his arms were interlocked with a group of counter-protesters who were shouting obscenities, chanting anti-police slogans, and banging a [drum], and defendant was asked to take the mask off multiple times but never did."²⁴ Similarly, in 2004, the U.S. Court of Appeals for the Second Circuit upheld New York's anti-mask law.²⁵

Further, many situations require the court to assess the sincerity of claims relating to religious garb or medical protective gear, and judges are well-equipped to make similar adjudications in mask ban cases. Additionally, exemptions like allowing a mask for a Halloween celebration or masquerade ball, but not for other purposes, are categorical (not viewpoint-based), so pass constitutional muster.²⁶ This applies directly to the amendment being considered to North Dakota's current law.

Thank you, Chairman Klemin and committee members for the opportunity to speak today, this concludes my remarks. I'm happy to answer any questions you may have.

²³ <https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=3009&context=flr>

²⁴ <https://caselaw.findlaw.com/court/ga-court-of-appeals/2128016.html>

²⁵ <https://caselaw.findlaw.com/court/us-2nd-circuit/1422873.html>

²⁶ <https://manhattan.institute/article/model-legislation-to-modernize-anti-kkk-masking-laws-for-intimidating-protesters>

2025 SENATE JUDICIARY

HB 1226

2025 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee

Peace Garden Room, State Capitol

HB 1226

3/17/2025

A BILL for an Act to amend and reenact section 12.1-31-15 of the North Dakota Century Code, relating to wearing a mask in a public place.

11:06 a.m. Chair Larson opened the hearing.

Members present:

Chair Larson, Vice Chairman Paulson, Senators: Castaneda, Cory, Luick, Myrdal, Braunberger.

Discussion Topics:

- Rescheduling of bill hearing

11:06 a.m. Chair Larson updated committee, the bill sponsor is not present and will reschedule for a later date.

11:06 a.m. Chair Larson closed the hearing.

Kendra McCann, Committee Clerk

2025 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Peace Garden Room, State Capitol

HB 1226
4/8/2025

A BILL for an Act to amend and reenact section 12.1-31-15 of the North Dakota Century Code, relating to wearing a mask in a public place.

9:59 a.m. Chair Larson opened the hearing.

Members present:

Chair Larson, Vice Chairman Paulson, Senators: Castaneda, Cory, Luick, Myrdal, Braunberger.

Discussion Topics:

- Law enforcement requests
- Public safety concerns
- Criminal identification challenges

9:59 a.m. Representative Klemin introduced the bill and submitted testimony in favor #44701 and #44808.

10:02 a.m. Hannah E. Meyers, Fellow, Director of Policing and Public Safety, Manhattan Institute, testified in favor and submitted testimony #44746.

10:22 a.m. Chair Larson closed the hearing.

10:22 a.m. Senator Myrdal moved a verbal amendment, page 1 line 16-17 after the word face strike despite a law enforcement request to unmask.

10:23 a.m. Senator Luick seconded.

Voice Vote - Motion Passed

10:25 a.m. Senator Myrdal moved a Do Pass as amended.

10:25 a.m. Senator Luick seconded the motion.

10:25 a.m. Committee discussed concealment and law enforcement discretion.

Senators	Vote
Senator Diane Larson	Y
Senator Bob Paulson	Y
Senator Ryan Braunberger	N
Senator Jose L. Casteneda	Y
Senator Claire Cory	Y
Senator Larry Luick	Y
Senator Janne Myrdal	Y

Motion Passed 6-1-0.

10:29 a.m. Senator Luick will carry the bill.

Additional written testimony:

Melissa A. Vosen Callens, submitted testimony in opposition #41917.

Pat Callens, submitted testimony in opposition #42111.

Megan Fuller, submitted testimony in opposition #44760.

Scott Heidinger, submitted testimony in opposition #44761.

10:30 a.m. Chair Larson closed the hearing.

Kendra McCann, Committee Clerk

April 8, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
FIRST ENGROSSMENT**

ENGROSSED HOUSE BILL NO. 1226

Introduced by

Representatives Klemin, Heinert, D. Johnston, Motschenbacher, Porter, Rohr

Senators Axtman, Cory, Larson, Paulson

CO
4/8/25
1041

1 A BILL for an Act to amend and reenact section 12.1-31-15 of the North Dakota Century Code,
2 relating to wearing a mask in a public place.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 12.1-31-15 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **12.1-31-15. Wearing of masks during commission of criminal offense prohibited.**

- 7 1. An individual may not wear a mask, hood, or other device that covers, hides, or
8 conceals any portion of that individual's face:
- 9 a. With the intent to intimidate, threaten, abuse, or harass any other individual;
 - 10 b. For the purpose of evading or escaping discovery, recognition, or identification
11 during the commission of a criminal offense; ~~or~~
 - 12 c. For the purpose of concealment, flight, or escape when the individual has been
13 charged with, arrested for, or convicted of a criminal offense; ~~or~~
 - 14 d. With the intent to conceal the identity of the individual while congregating in a
15 public place with other individuals wearing a mask, hood, or other device that
16 covers, hides, or conceals any portion of the individual's face, ~~despite a law~~
17 enforcement request to unmask.
- 18 2. Subdivision d of subsection 1 does not apply to public gatherings to celebrate
19 Halloween, a masquerade, or other similar celebration.
- 20 3. A violation of this section is a class A misdemeanor.

**REPORT OF STANDING COMMITTEE
ENGROSSED HB 1226**

Judiciary Committee (Sen. Larson, Chairman) recommends **AMENDMENTS** ([25.0890.02001](#)) and when so amended, recommends **DO PASS** (6 YEAS, 1 NAY, 0 ABSENT OR EXCUSED AND NOT VOTING). Engrossed HB 1226 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Subject: Opposition to HB1226 – Impact on Individuals with Chronic Health Conditions

I am writing to express my strong opposition to House Bill 1226, which seeks to amend Section 12.1-31-15 of the North Dakota Century Code concerning the wearing of masks in public places. As someone living with several chronic health conditions that necessitates the use of a mask for personal safety, I am deeply concerned about the implications of this bill.

The proposed legislation could inadvertently ostracize individuals like me who rely on masks to protect our health. By restricting mask usage in public spaces, the bill not only compromises our safety but also subjects us to potential discrimination and misunderstanding. Masks have become essential for many, especially those with compromised immune systems or respiratory conditions, to navigate public environments safely.

Furthermore, this bill may deter individuals from taking necessary precautions, leading to increased health risks. This is an important consideration in the wake of ongoing COVID infections, measles outbreaks, and the bird flu.

It is crucial that legislation considers the diverse health needs of all citizens and does not inadvertently marginalize vulnerable populations. We deserve to be able to attend a concert or community event safely.

I urge you to consider the unintended consequences of HB1226 on individuals with chronic health conditions and vote against this bill. Protecting public health should encompass the well-being of all community members, including those who require masks for their safety.

Thank you for your attention to this important matter.

Sincerely,

Dr Melissa Vosen Callens

106 Woodland Drive N

Fargo, ND 58102

Melissavosen@gmail.com

[701.361.7473](tel:701.361.7473)

Please vote no on the bill relating to wearing a mask in public. Please consider that individuals choose to wear one to protect themselves for medical reasons, such as going through treatment for cancer or have a family member they are protecting. I have a daughter in law that is immunocompromised and doesn't want to contract covid. Another scenario is that perhaps they have a bad cold and don't want to infect anyone. Everyone has the right to wear a mask in public!



North Dakota House of Representatives

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



Representative Lawrence R. Klemin

District 47
3929 Valley Drive
Bismarck, ND 58503-1729
lklemin@ndlegis.gov

COMMITTEES:

Judiciary, Chairman
Political Subdivisions

TESTIMONY OF REP. LAWRENCE R. KLEMIN SENATE JUDICIARY COMMITTEE HOUSE BILL NO. 1226 APRIL 8, 2025

Members of the Senate Judiciary Committee. I am Lawrence R. Klemin, Representative for District 47 in Bismarck. I am here to testify in support of House Bill 1226 relating to wearing a mask in a public place.

House Bill 1226 updates Section 12.1-31-15 of the criminal code, which was enacted in the 2017 Legislative Session in response to the protests over the Dakota Access Pipeline (DAPL) that was being constructed in Morton County. During those protests there were numerous people wearing masks so that they could not be identified by the public and law enforcement while committing criminal mischief related to the pipeline project.

Last year, as a result of the hostilities between Israel and Hamas in Palestine and Gaza, there were numerous protests in the United States on university campuses and other public places resulting in the occupation and damage to public property by the protesters. Many of the protesters wore masks so that they could not be identified by university officials and law enforcement. HB 1226 amends our current law to cover the situation where groups of individuals acting together are wearing masks to conceal their identities despite a request by law enforcement to unmask. There is an exception for public gatherings to celebrate Halloween, a masquerade, or other similar celebrations. There is no change in the penalty in our law as it remains a class A misdemeanor.

I would like to introduce Hannah Meyers of the Manhattan Institute. I have invited her to speak at this hearing as an expert witness to provide you with more information about the need to update our law on the wearing of masks.

Rep. Lawrence R. Klemin
District 47, Bismarck

Statement Before the North Dakota Senate Judiciary Committee

“Unmasking Protestors”

*April 8, 2025, 10:00AM CST, North Dakota Capitol, Peace Garden Room
Bismarck, North Dakota*

Submitted by:

Hannah E. Meyers
Director of Policing and Public Safety, Fellow
Manhattan Institute for Policy Research
52 Vanderbilt Avenue
New York, NY 10017

About the Author

Hannah E. Meyers is the director of policing and public safety and a fellow at the Manhattan Institute. She also serves on the New York State Domestic Terrorism Task Force. Her work has appeared in outlets including the *New York Times*, the *Wall Street Journal*, and *National Review* and she has provided commentary on *CNN*, *Fox*, and other TV, radio, and podcasts. She has discussed public safety policy at Columbia University, Northwestern Law School, and Hunter College, and delivered expert testimony before the Texas State Legislature.

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Thank you to Chairman Larson and the North Dakota Senate Judiciary Committee for the opportunity to address you.

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Statement

Chairman Larson, members of the committee: thank you for the invitation to discuss the need for North Dakota to strengthen and expand its mask ban. I also want to note that I am here as an expert witness to testify and offer technical public policy guidance. All views I express are my own and not those of my employer.

Around the country, people are exploiting masks to conceal their identities to commit crimes and to menace and terrorize citizens.

Many jurisdictions previously had or still have successful bans on the books, and many are creating new bans, which are both constitutional and effective. North Dakota has been ahead of this curve, with a ban passed in 2017, recognizing that when protesters mask to conceal their identity, it increases violence and disorder. The considered amendments to the bill would strengthen this protection.

Anti-masking laws are essential to preserving the First Amendment right to assemble, petition for redress of grievances, and otherwise express ourselves, while preventing intimidation and harassment and maintaining a society where individuals are accountable for their conduct.¹

Today, the relevance of anti-masking laws is that much starker, since masks are still used to evade identification despite the spread of surveillance and body-worn cameras and facial recognition technology in solving and prosecuting crimes.

Masking Undermines Peaceful Free Speech

Face concealment makes it harder for law enforcement to make arrests and harder for prosecutors to sufficiently identify offenders to bring successful cases. Offenders also tend to behave worse when they are masked, emboldened by being unidentifiable. This is even more true for masked individuals acting in groups, where the added anonymity has been shown to increase irresponsible and violent behavior.²

Masking also reduces overall civic strength and engagement because citizens can't trust people whom they can't identify.

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The connection between face concealment and disorder has been made tragically clear over the past year. Ubiquitous masking at anti-Israel demonstrations has permitted them to spiral increasingly into criminality, and contributed to the 200% increase in antisemitic incidents in the year following October 7, 2023 compared to the same period a year earlier.³

For example, thousands of chanting demonstrators, many with their faces concealed, flooded Washington, D.C. in June, some sporting symbols of support for US-designated terrorist groups. They occupied and vandalized Lafayette Square across from the White House, spray painting statues and setting off a smoke bomb. U.S. Park Police officers and Secret Service agents attempted to apprehend a protestor, but unidentifiable demonstrators formed a mob, shouting “fuck the police!” and successfully chased them out of the park, preventing any arrests.⁴⁵

Here in North Dakota, concern over a rise in offenders resisting arrest, assaulting officers, and fleeing from police is significant enough to warrant new legislation recently introduced in this state Senate to stiffen the penalties for these offenses. Mandating that mobs be unmasked will help combat resisting arrest.⁶

Similarly, reduced patrol officer ranks in major cities have made it difficult to control unruly demonstrations and make necessary arrests. This, again, is relevant in North Dakota, which is suffering from understaffed police departments. Reporting suggests that at least 57 localities in North Dakota seek police officers, sheriff deputies, or other law enforcement staff, including here in Bismarck.⁷

When the criminal justice system *is* trying to attach consequences for lawbreaking, strong mask ban laws can provide a critical extra tool in the toolbox. Such laws, for instance, could have made a huge difference at Columbia University, when agitators with faces obscured by surgical masks, hoods, and keffiyehs vandalized a campus building, taking two maintenance staff hostage. The inability to identify defendants with certainty because of masking was cited by the Manhattan District Attorney in dismissing for lack of evidence 31 of the 46 associated trespass

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Mask Bans Help Deter and Solve Crime

In addition to preventing protests from spiraling out of control, mask bans can help reduce crimes like shoplifting and carjacking, that have become harder to deter, solve, and prosecute because of increased face concealment. Highlighting this connection, for example, the Philadelphia Police Department pointed to the surge in face-masking as a driving reason for their 10% drop in homicide clearance rates in 2020.⁹ This was more concretely acknowledged in Washington, D.C., when Mayor Muriel Bowser and the City Council passed an omnibus bill last spring that prevents face masking with a tailored focus on such crimes (rather than on protests).¹⁰

This is very relevant for North Dakota. Attorney General Wrigley recently cited the state's Department of Corrections and Rehabilitation data indicating a 43% increase since 2014 in violent crimes against people or robberies.¹¹ North Dakota also struggles with recidivism: reportedly 40% of prison inmates here are incarcerated after violating their probation or parole.¹² Strengthening the existing masking laws might strengthen this deterrent to violent crime and enhance this tool for solving it.

History and Prevalence of Mask Ban Laws

Historically, numerous American jurisdictions passed anti-mask laws in response to the rise in activity by the Ku Klux Klan, whose members wore masks and hoods to hide their identities while committing acts of violence and intimidation against blacks, Catholics, and other minority groups.¹³ The intention behind these laws was clear: to dismantle the Klan's ability to operate anonymously and unpunished. Such regulations greatly contributed to reducing the Klan's influence and

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enhancing the ability of law enforcement to identify and prosecute perpetrators of hate crimes and public disorder.¹⁴

On January 10, 1923, the North Dakota Senate introduced a bill “banning all citizens over the age of 15 from wearing a mask or any other head covering in front of a public building, in order to conceal their identity.”¹⁵ The law was a response to growing KKK violence in southern states and a desire to prevent the Klan from becoming similarly criminal here in North Dakota.¹⁶ Indeed, the KKK died out in North Dakota following the law, which stayed on the books, reportedly, for around 50 years.¹⁷

Other states passed mask bans in response to other politically motivated mob violence. New York passed their ban in 1845 in response to uprisings by masked farmers; disguised in leather masks, they wreaked violence, including murdering a sheriff.¹⁸ New York’s effective ban stayed on the books until, like many other states, it repealed its mask ban during the emergency conditions of the Covid pandemic. Currently, a new Democratic bill for a statewide mask ban is making its way through the legislature.

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In Alabama, for example, it’s illegal to wear a mask or hood in public places, with a few exceptions, such as for holiday costumes or occupational safety gear. In California, it’s illegal to wear a mask or disguise to evade police detection while committing a public offense.

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In Louisiana, it’s prohibited to wear masks in public with the intent to conceal one’s identity, except for religious purposes, safety in occupations, or traditional

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North Carolina bans masking in public spaces. And Virginia prohibits any person over 16 years old from wearing a mask with the intent to conceal his or her identity in public spaces or on private property without written permission from the property owner.

The Reintroduction of Mask Ban Laws

Many jurisdictions have enacted or proposed new mask bans over the past year in response to anti-Israel protests, which increasingly involve criminality, antisemitism, and overt support for terrorism.

For example, New York's Nassau County enacted its Mask Transparency Act in August.¹⁹ Since then, the Nassau Police Department arrested an individual in a ski mask in the summer heat who, it turned out, was concealing a 14-inch knife.²⁰ Nassau officers also used the ban to arrest an individual who was part of a group mobbing a synagogue, and using a keffiyeh scarf to conceal his face.²¹

North Dakota knows better than most states the importance of ensuring safe, peaceful, constitutional protest. Chaotic demonstrations large and small relating to the Dakota Access Pipeline harmed both protestors and law enforcement, and damaged the wellbeing of the state overall by creating distrust, disorder, and enormous financial cost to taxpayers.²² These protests and the continued use of masks to further related lawlessness and disorder, inspired North Dakota's 2017 law. And there is good reason to strengthen this law now.

Constitutionality and Other Concerns

Finally, citizens have raised reasonable concerns that a mask ban would infringe on protected religious practices, medical needs, or other rights. However, the

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constitutionality of these bans has been repeatedly upheld, affirming that the public's right to safety and the state's ability to enforce its laws can supersede individual rights to anonymity and anonymous expression in certain circumstances.²³

For instance, in 2021, Georgia's Court of Appeals upheld a protester's conviction for a mask ban violation where: "the evidence showed that defendant was masked and his arms were interlocked with a group of counter-protesters who were shouting obscenities, chanting anti-police slogans, and banging a [drum], and defendant was asked to take the mask off multiple times but never did."²⁴ Similarly, in 2004, the U.S. Court of Appeals for the Second Circuit upheld New York's anti-mask law.²⁵

Further, many situations require the court to assess the sincerity of claims relating to religious garb or medical protective gear, and judges are well-equipped to make similar adjudications in mask ban cases. Additionally, exemptions like allowing a mask for a Halloween celebration or masquerade ball, but not for other purposes, are categorical (not viewpoint-based), so pass constitutional muster.²⁶ This applies directly to the amendment being considered to North Dakota's current law.

Thank you, Chairman Larson and committee members for the opportunity to speak today, this concludes my remarks. I'm happy to answer any questions you may have.

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Members of the Senate,

I am asking you to vote DO NOT PASS on HB 1226. I know several folks who wear medical respirators, myself included, because they are necessary to ensure our health and survival. I have a friend currently with cancer, who needs masks so that she doesn't get even sicker, and has a chance of beating the cancer. I have several other friends, immunocompromised, neurodivergent, etc, who mask to protect their own health as well.

Medical masks are not being used to commit crime, and I don't think I should be more subject to scrutiny for the "sin" of protecting myself and my health. Neither should anyone else trying to protect themselves from all the illness going around. I am urging you to DO NOT PASS.

Thank you,

Megan Fuller

Jamestown, ND

I stand firmly against HB1226. This is a “thought crime” bill. HB1226 clearly villainizes disabled and immunocompromised folks in the case they want to practice their first amendment right to freedom of speech and protest protected by the Constitution, while still being protected themselves. Do not pass HB 1226. Thank you.

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²³ <https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=3009&context=flr>

²⁴ <https://caselaw.findlaw.com/court/ga-court-of-appeals/2128016.html>

²⁵ <https://caselaw.findlaw.com/court/us-2nd-circuit/1422873.html>

²⁶ <https://manhattan.institute/article/model-legislation-to-modernize-anti-klk-masking-laws-for-intimidating-protesters>