

January 26, 2021

Testimony to the **House Judiciary Committee**

Submitted By: Jackson J. Lofgren

Testimony in **Support of HB 1302**

Chairman Klemin and Members of the Committee:

My name is Jackson Lofgren. I live in District 35 with my wife, Alicia, and our two children. I am an attorney and small business owner. Since 2013 I have been in private practice in Bismarck with the Suhr & Lofgren law firm. My practice is devoted almost entirely to criminal defense. I support House Bill 1302 and request a **Do Pass** recommendation from this committee.

Compromise of a misdemeanor has existed in North Dakota since before statehood. The concept is fairly simple. In a misdemeanor case where the victim feels fairly compensated by the defendant the victim can ask the judge to stop the prosecution. If the judge agrees the case is dismissed. It is only available in misdemeanor cases and cannot be used for domestic violence or sexual offenses. It is essentially a form of alternative dispute resolution based on the wishes of the victim.

Section 29-01-19 was amended during the 2003 legislative session by adding the words "*and with the consent of the state*" to the end of the statute. This effectively ended compromising misdemeanors in North Dakota. I was a prosecutor for nearly five years. It is a hard job. Many prosecutors fear failing to meet the expectations of law enforcement, face pressure from advocacy groups, know fines and fees have to be collected, and do not want to appear lenient by dismissing a case.

For over one hundred years the defendant and victim could present the compromise directly to the judge. It was up to the judge to decide if the case should be dismissed. This placed victim's rights over arbitrary prosecutorial discretion. House Bill 1302 would allow parties to once again compromise misdemeanors and seek the dismissal of charges no one wants. I would ask for a **Do Pass** recommendation from this committee.

Thank You,

Jackson J. Lofgren