

## Testimony in Support of Senate Bill 2036 and Request for Amendment

House Judiciary Committee - March 10, 2025

House Judiciary Committee Members:

My name is Derek Steiner. I am an Assistant State's Attorney for Cass County. I have served on numerous statewide juvenile committees including the Commission on Juvenile Justice, the Juvenile Justice State Advisory Group, and a Juvenile Competency and Criminal Responsibility task force. During my time on these committees, I have had the opportunity to use my experience in the juvenile justice field to play a role in drafting multiple bills which have been passed in prior legislative sessions and multiple bills currently being heard in this session.

One of the bills I worked on for this session is Senate Bill 2036. The task force that worked on this bill included myself, a defense attorney, a district court judge, court administration, multiple representatives from the Department of Health and Human Services, as well as people with expertise in this specific area from the Council of State Governments Justice Center. This bill was a product of months of meetings to determine the best way to handle juvenile delinquency cases where there are competency issues. As of now, this State does not have clear guidance on how to handle competency issues or what should happen when a juvenile is found not fit to proceed. As originally written, this bill had the Department of Health and Human Services providing competency evaluations and remediation services and then allowed the Department of Health and Human Services / Human Services Zones to be involved with the juvenile if ultimately the juvenile could not be adjudicated due to being found not fit to proceed.

The single biggest issue, in my opinion, that needed to be addressed in this bill was what should happen with juveniles who commit delinquent offenses but cannot be adjudicated because the juvenile is not fit to proceed. In adult cases, an individual can be appointed a guardian / conservator, be civilly committed, and/or referred to other services. However, there is currently a gap in the law for what should happen in juvenile cases. The best decision was determined to create what would end up being "Section 4" in the First Engrossment of 2036. Section 4 created an additional definition of what classified a juvenile as a Child in Need of Protection (CHIPS) which stated that a juvenile meets the CHIPS definition if the juvenile was found not fit to proceed within a delinquency case. This additional definition provides clear statutory allowance for the Department of Health and Human Services / Human Services Zones to be involved with juveniles who commit delinquent acts but cannot be adjudicated delinquent because they are not fit to proceed.

2036 passed the Senate Judiciary Committee with a 7-0-0 do pass recommendation. 2036 originally had \$4,580,000 appropriation and allowed the use of \$1,000,000 derived from other federal funds, so it was referred to Senate Appropriations. During the Senate Appropriations Committee process, Section 4 was deleted and the appropriation was reduced to \$500,000. It should be noted that 2036 originally had a delayed implementation date on August 1, 2026, but was amended in the First Engrossment to have an even later delayed implementation date of January 2, 2027. Ultimately, the Second Engrossment as amended in Senate Appropriations passed the Senate floor with a 41-1-0 vote.

If Section 4 is not placed back in this bill, North Dakota will still have a gap within the confines of the juvenile justice system. There is a need for Section 4 to be returned to this bill because without it, if a juvenile commits an offense and is evaluated and determined to not be fit to proceed there are a lack of options. If that juvenile does not otherwise meet the statutory criteria for being a Child in Need of Protection, that case would be dismissed without any other services or government involvement. By adding that the finding of not being fit to proceed, by itself, meets the definition of being a Child in Need of Protection allows the Department of Health and Human Services / Human Services Zones to be involved with those juveniles who are found not fit to be adjudicated delinquent and will allow services to be accessed for the juveniles. I am not a proponent of keeping the State unnecessarily involved with juveniles and their families, but I do think at a minimum there should be a clear statutory framework for when State involvement is necessary in certain circumstances. Therefore, I would respectfully request this committee amend this bill to return Section 4.

**SECTION 4. AMENDMENT.** Subsection 5 of section 27-20.3-01 of the North Dakota Century Code is amended and reenacted as follows:

5. "Child in need of protection" means a child who:

- a. Is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for the child's physical, mental, or emotional health, or morals, and the need for services or protection is not due primarily to the lack of financial means of the child's parents, guardian, or other custodian;
- b. Has been placed for care or adoption in violation of law;
- c. Has been abandoned by the child's parents, guardian, or other custodian;
- d. Is without proper parental care, control, or education as required by law, or other care and control necessary for the child's well-being because of the physical, mental, emotional, or other illness or disability of the child's parent or parents, and that such lack of care is not due to a willful act of commission or act of omission by the child's parents, and care is requested by a parent;
- e. Is in need of treatment and whose parents, guardian, or other custodian have refused to participate in treatment as ordered by the juvenile court;
- f. Was subject to prenatal exposure to chronic or severe use of alcohol or any controlled substance as defined in chapter 19-03.1 in a manner not lawfully prescribed by a practitioner;
- g. Is present in an environment subjecting the child to exposure to a controlled substance, chemical substance, or drug paraphernalia as prohibited by section 19-03.1-22.2; or
- h. Is a victim of human trafficking as defined in title 12.1; or
- i. Was found to lack fitness to proceed by a court in a delinquency case and the delinquency case was dismissed within the six months preceding the filing of the petition.

Respectfully submitted,



Derek Steiner