

Concurrent Jurisdiction on Military Property

Background:

North Dakota has no mechanism for the federal government to offer jurisdiction back to the state on areas that have exclusive federal jurisdiction a process known as **retrocession of jurisdiction**. Most states have a general retrocession statute in their state code, but North Dakota does not.

Federal exclusive jurisdiction means only federal entities may prosecute offenses committed in that territory. **Concurrent jurisdiction** allows **either** the state or federal authorities to do so. **Without concurrent jurisdiction on military installations there is no access to the state juvenile justice system and the federal government lacks an equivalent juvenile system.**

The Need:

- Without concurrent jurisdiction on military installations there is **a black hole for juvenile justice on military installations**.
- Federal prosecutors routinely decline to prosecute **juvenile-on-juvenile sexual assault**, and local prosecutors lack legal authority to apply state laws to juvenile criminal conduct committed on federal lands. **While these cases are rare**, when they do occur, it is important to have a mechanism to deal with them appropriately and ensure juvenile cases can be adjudicated.
- Each time a military installation wishes to offer jurisdiction back to North Dakota on any parcel of land, a separate statute must be passed.
- This bill **does not automatically confer jurisdiction**, but rather permits it to occur through a specific process which involves both State authorities and military installation participation.
- While the majority of the active-duty installations will not be impacted, there are small areas on Minot AFB and other properties and buildings throughout the state that remain exclusive federal jurisdiction. This retrocession statute streamlines the process and **offers flexibility to both the State and military to negotiate the terms of an offer and acceptance of jurisdiction, to include juveniles**.
- **The State can always decline to accept retrocession through the Governor's office, and even where accepted, local law enforcement and county attorneys would retain autonomy to decide what cases to investigate and prosecute.** This would typically be codified in a statutorily supported memorandum of understanding between law enforcement, prosecutors, and the military installation.