

TESTIMONY OF REP. LAWRENCE R. KLEMIN
SENATE JUDICIARY COMMITTEE
HOUSE BILL NO. 1425
MARCH 19, 2025

Members of the Senate Judiciary Committee. I am Lawrence R. Klemin, Representative for District 47 in Bismarck. I am here today to testify in support of House Bill 1425, relating to prosecution-led diversion programs, deflection process, and supervision for presentence programs. This bill is the first in a package of three bills you'll hear today that represent North Dakota's next phase of criminal justice reform.

Overview: How these bills fit into ND's Justice Reinvestment Journey

For the last eight years, North Dakota has been on a journey to reform our criminal justice system – to maximize public safety, use taxpayer dollars more efficiently, and help people who are justice involved become more productive citizens.

North Dakota's journey started in 2015 when we started a data-driven Justice Reinvestment Initiative. The result of that work was a set of reforms the ND Legislature passed in 2017, which aimed to contain ND's growing spending on correctional facilities, reduce recidivism and increase public safety. The legislation reduced penalties for certain low-level, non-violent offenses and reinvested some of the savings to create Free Through Recovery, a successful outcomes-driven program to address the fact that most incarcerated individuals have addiction and mental health issues.

The three bills you'll hear today are the next step on our Justice Reinvestment journey.

Two years ago, this Legislature passed HCR 3026 to study how we can further improve reentry outcomes for people leaving incarceration. North Dakota has a wide range of strong reentry efforts from public entities such as the Department of Corrections and Rehabilitation, the Department of Health and Human Services and Job Service, as well as private entities such as F5 and Ministry on the Margins. Even with these efforts, ND's recidivism rate is about 40%. Existing reentry services aim to connect people to services to help with their transition but can be an insufficient patchwork.

Roughly 95% of people who are incarcerated in North Dakota's prisons and jails are eventually released – so they return to being our neighbors. North Dakota releases about 1,400 people from its state prison system every year, plus thousands more from our county jails. The state has a strong interest in ensuring our neighbors can be as successful as possible, becoming part of the workforce and thriving in their communities and with their families.

The reentry study occurred in 2024 with assistance from the Crime & Justice Institute (CJI), a national non-partisan policy-focused organization. The assistance was funded by a federal Justice Reinvestment Initiative grant from the U.S. Department of Justice.

We formed a Reentry Study Work Group, a team of 15 leaders from the legislature, DOCR, DHHS, court system, county jails, community reentry service providers, and other entities. The Work Group discussed the research conducted by CJI, which included a deep data analysis and 100+ stakeholder interviews. The Final Report dated October 2024 was uploaded to the testimony on HB 1425 on February 9, 2025, and is available online

Key findings from the report included:

- ND's prison population is rising while nationally it is declining.
- Admissions to prison are going up and drug and alcohol offenses and revocations are the primary drivers of the increase.
- People of color, particularly Black and Native individuals, are disproportionately represented.
- People leaving incarceration face barriers to success such as affordable housing, behavioral health care, gaps in Medicaid access, and a lack of state-issued IDs.

The Reentry Study Work Group then evaluated and prioritized research-based best practices that could address these findings. It identified about two dozen proposals to address the issues highlighted by the report. Some of those proposals will be implemented as policy or practice changes within state agencies, other proposals require a state statute change by the legislature, and some ideas will not move forward until more stakeholder conversations occur. The three bills before you today represent a sub-set of the recommendations that require a change to state law.

All three bills share these common goals:

- Ensure public safety
- Make the best use of our prison and jail beds so we have capacity for our most serious offenders
- Save taxpayer dollars by controlling the expected ongoing growth of admissions
- Improve the lives of justice-involved individuals

HB 1425 targets the "front-end" of reentry. There are three parts to this bill:

- Prosecution-led Diversion Program
- Deflection Process
- Pretrial Services

Prosecution-Led Diversion Program

A prosecution-led diversion program gives eligible defendants an opportunity to have their prosecution suspended and their charges dismissed if they do not commit a new offense during the duration of their program participation. HB 1425 strengthens counties' ability to do prosecution-led diversion programs.

Section 1 codifies court Rule 32.2 of the North Dakota Rules of Criminal Procedure, which authorizes county prosecutors to offer a diversion program. The bill also says that any county that establishes such a program must have written guidelines and eligibility criteria.

Section 3 gives the DOCR the authority to provide supervision to people who participate in this and other pre-sentencing programs.

Section 4 sets up a **pilot program in three counties** for the supervision of the prosecution-led diversion program.

Section 6 requests an **appropriation to DOCR of \$1 million** for 1 FTE to staff the supervision of the pilot program, to oversee the development of the pilot program, to facilitate the collaboration between stakeholders, collect data, and to administer contracts with third-party providers (\$270,314). The appropriation will also cover a charge for software (\$50,000). Local third-party providers paid from the appropriation (\$679,686) would monitor the participants' compliance with the diversion program in the counties and would connect them to behavioral health and treatment services.

Section 8 requests an **appropriation to DHHS of \$750,000** for the services aspect of the pilot program.

Deflection

Deflection is a process that can be used by law enforcement, behavioral health providers and other community partners to connect a person who has behavioral health needs with treatment and other services rather than putting them in jail.

The deflection process is covered in **Section 2:**

It defines "deflection process" and creates the authority for local communities to establish a deflection process.

It says that if a local community does establish a deflection process, law enforcement and behavioral health must collaborate on that process and establish minimum standards for protocols, training and data collection.

The bill also exempts law enforcement, first responders and behavioral health providers who engage in deflection from civil liability with the purpose of encouraging them to use deflection when appropriate. There is a proposed amendment to this provision from Rep. Porter that expands upon the first responders covered by this exemption. We have no objection to this proposed amendment.

Pretrial Services:

The pretrial services aspect of HB 1425 is covered in **Sections 5 and 7:**

Section 5: requests Legislative Management to consider studying the cost savings resulting from ND's current pretrial services program. The study will identify opportunities for improvements so we can address any concerns.

Section 7 appropriates \$55,000 for a third-party to conduct the study.

The Pretrial Services Program enables eligible defendants to be in the community so they can continue to work, be with their family, and get treatment if needed. The program screens potential participants and establishes community supervision strategies and opportunities to connect defendants to resources.

Closing

In summary, HB 1425 targets the "front-end" of reentry, by strengthening our state's deflection process, diversion programs, and pretrial services program, so we can expand pathways to alternatives to incarceration. The goals of this bill are to ensure public safety while saving tax dollars, making the best use of our overcrowded prison and jails, and improving lives.

A wide variety of stakeholders had input on these proposals, and you'll hear testimony from many of them today. I will try to answer any questions you have. The Crime & Justice Institute is also available to answer detailed questions about the Work Group's process, analysis and findings, and best practices in other States.

Response to Opposition Testimony on HB 1425 is attached as Appendix A for your review.

Rep. Lawrence R. Klemin
District 47, Bismarck