

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

COMMISSION ON ALTERNATIVES TO INCARCERATION

Thursday, September 15, 2011
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator Stanley W. Lyson, Chairman, called the meeting to order at 1:05 p.m.

Members present: Senators Stanley W. Lyson, Connie Triplett; Representatives Eliot Glassheim, Lawrence R. Klemin, William E. Kretschmar; Citizen Members Dr. Gary Rabe, Thomas L. Trenbeath

Members absent: Senator Dave Oehlke; Citizen Members Leann K. Bertsch, Edward Brownshield, Duane Johnston, Paul D. Laney, Judge Lisa McEvers, Justice Mary Muehlen Maring, Carol K. Olson, Keith Witt

Others present: See [Appendix A](#)

At the request of Chairman Lyson, commission counsel reviewed the [Supplementary Rules of Operation and Procedure of the North Dakota Legislative Management](#).

At the request of Chairman Lyson, commission counsel distributed a memorandum entitled [Commission on Alternatives to Incarceration - Background Memorandum](#) and a memorandum entitled [Community Service Programs - Background Memorandum](#). Commission counsel also distributed a document ([Appendix B](#)) prepared by the Department of Corrections and Rehabilitation which relates to the organizational characteristics of the department's facilities.

Chairman Lyson requested commission counsel to inquire with the Department of Corrections and Rehabilitation regarding whether the department maintains statistics regarding inmate counts at county correctional facilities.

Senator Triplett said additional statistics showing inmate populations at the state and county levels over the last 10 years would provide a longer and broader view for commission members.

Senator Lyson said additional information regarding private organizations being used by courts as a sentencing alternative and locations of those organizations, such as halfway houses, would be helpful information to the commission in conducting its work.

Representative Klemin said he would like to see statistics relating to how many individuals under the jurisdiction of the Department of Corrections and Rehabilitation are being treated for drug addictions and how many individuals are being treated for mental health problems.

Senator Lyson said the Department of Corrections and Rehabilitation should be able to provide more data regarding whether drug use was involved when a

crime was committed. He said it is important to determine how many individuals who are sentenced as a result of drug use are in treatment programs or are in alternative programs directed by judges.

Representative Klemin submitted written information ([Appendix C](#)) regarding potential areas of study for the commission. He said House Concurrent Resolution No. 3036 (2011) was passed by the Legislative Assembly but was not prioritized for study. He said changing Class B misdemeanors to a monetary fine and removing the possibility of a jury trial could be considered an alternative to incarceration.

Senator Lyson said he will consult with commission counsel to determine whether the study directed by House Concurrent Resolution No. 3036 is within this commission's scope of authority.

Representative Klemin said the Ohio Legislature passed a bill to reduce the sentences of nonviolent inmates. He said an examination of sentence reduction may be an area this commission could consider for study. He said nonviolent offenders may be sentenced to treatment, job training, and community service programs. He said some of the options used in Ohio may be feasible for use in this state. He said the use of mental health diversion programs may reduce the number of people being sent to prison who should be getting mental health treatment. Another item the commission may want to consider, he said, is the extension of the duration of the commission beyond August 2013.

Senator Lyson said Cass County has been doing a good job identifying mental illnesses through its diversion program. He said the burden for the care of mentally ill offenders is falling on the counties now that offenders with mental health problems are not being sent directly to the State Hospital. He said it may be necessary to look at who is paying and who should pay the cost of treatment for offenders.

Chairman Lyson called on Ms. JoAnne Hoesel, Director, Division of Mental Health and Substance Abuse Services, Department of Human Services, for comments regarding potential areas of study for the commission. Ms. Hoesel said a mental health first-aid program is a program in which first responders are trained in basic mental health intervention strategies. She said such a program was first started in Australia and has been implemented elsewhere. Another area that the commission may desire considering for study, she said, is individual justice planning. She said

individual justice planning is used frequently with developmentally disabled individuals and used minimally in mental health areas. However, she said, individual justice planning may work well with mentally ill individuals because the program is proactive and puts a plan together to address mental health crises.

In response to a question from Senator Triplett, commission counsel said over the last three interims, the commission has received regular updates from a variety of entities and programs that have been the subject of recommendations or statements of support from the commission. He said the background memorandum for the commission demonstrates a number of examples of programs that have reported regularly to the commission over the last three interims.

Chairman Lyson said the commission has had regular updates regarding successful programs, such as Teen Challenge.

Representative Klemin said the commission has reviewed programs such as home detention and electronic monitoring during each interim and has made a number of budget recommendations that have been implemented by the Legislative Assembly.

Senator Triplett requested additional information regarding the use of electronic monitoring directed by district courts.

Representative Klemin said the commission should receive information with respect to the cost of electronic monitoring programs from the Department

of Corrections and Rehabilitation and other entities engaged in the use of electronic monitoring of offenders.

Dr. Rabe said the commission should seek an update on the impact of House Bill No. 1028 (2011), which allows the Department of Corrections and Rehabilitation to authorize work release or education release for offenders that were not previously eligible for participation in those programs. In addition, he said, the commission should consider working with the judiciary to get additional data regarding community service programs.

Mr. Trenbeath said the commission may want to receive another report on the 24/7 sobriety program. He said the program is now listed on the White House website regarding alternatives to incarceration.

Representative Klemin requested commission counsel to invite representatives of the judicial branch to provide the commission additional information regarding the imposition of court fees, particularly with respect to the collection of the fees.

No further business appearing, Chairman Lyson adjourned the meeting at 2:05 p.m.

John Bjornson
Commission Counsel

ATTACH:3