

House Judiciary Committee
Representative Lawrence Klemin, Chairman
January 13, 2021

Department of Corrections and Rehabilitation

Dave Krabbenhoft, Interim Director

House Bill 1112

Chairman Klemin and members of the Judiciary Committee, I am Dave Krabbenhoft the Interim Director of the Department of Corrections and Rehabilitation (DOCR). I am here today in opposition to House Bill (HB) 1112. If adopted, HB1112 will require the DOCR to pay counties housing and medical costs for inmates awaiting admission to prison due to prioritized admissions.

Section 54-23.3-11 which was enacted by the 63rd Legislative Assembly provides the DOCR with the authority to refuse the admission of people sentenced to the physical custody of the department only when such admission will cause the department to exceed its maximum operational capacity. When the maximum operational capacity is exceeded, the DOCR is required to use a prison population management plan to prioritize future admissions based on sentences and the availability of space in the penitentiary and affiliated facilities. In practice, when the average daily inmate population, specific to gender, for a discrete month exceeds the maximum operational capacity, the DOCR will begin to prioritize admissions to its facilities in the following month. While in prioritization, local correctional facilities are responsible for the care and custody of people awaiting admission to prison. This practice remains in effect until the average daily inmate population, specific to gender, for a discrete month drops below the maximum operating capacity. From the effective date of this section of Century Code

(8/1/2013), the DOCR has exercised this authority only once and was applicable only to women admissions from June 1, 2019 through September 30, 2019.

By requiring both the DOCR and local correctional facilities (Section 12-44.1-07.1) to develop inmate population plans based on authorized budgets, the North Dakota Legislature has recognized that state and local correctional resources are finite and expensive. If HB1112 is adopted in its present form, state corrections will only become more expensive. HB1112 does not address correctional reform and in my opinion may stifle it. Instead of directing additional money towards incarceration, consider access to community resources and programs that work with the jails rather than requiring the State to pay for people sitting in a jail. Jails and prisons without resources will not help people become better citizens.

If the State is going to invest in the criminal justice system in our communities, why wouldn't we focus on resources in our communities that may deter people from having a prison experience. The proposed legislation is only looking at the one resource we know doesn't work and this is simply housing people in jail. The DOCR prison population management plan shouldn't result in a battle between the DOCR and the counties over dollars and cents, but instead should result in a collaborative effort to improve our communities. Our jails got bigger, our prisons got bigger, our budgets got bigger with no impact on successful outcomes. For us to improve the situation for those involved in the criminal justice system, we need to invest, but not invest by expanding the prison through the jails. We need to focus on inmate management plans like Ward County and ask what we can do to help. What else can we do to incentivize our partners to keep people from having the prison experience? How do we keep families together, people working at their jobs and ensuring we don't have to continue to expand high end prison resources?

We have learned from COVID that it is possible to decrease the number of people in prisons and jails. Every facility in the state was on board and made it happen. I know it wasn't without

issues and stress. If we could do it over again, we would have had better communication and more of a team approach. However, it still worked, and our prisons and jails were able to reduce populations quickly and safely. Our county partners have continued to find ways to be successful in their approach to keeping the numbers lower and focused on their individual population plans. Because of their efforts, our prisons have been successful in protecting the most vulnerable in our prisons and not burdening local health resources. COVID forced this work much like it felt when the legislation requiring management of inmate populations was proposed. However, the difference is that COVID made it happen and we have been able to work together on improving the management of our inmate populations. We have an opportunity to use what we have learned during COVID to make existing legislation work better. I'm afraid that if HB1112 is approved in its current form, all the lessons learned from this horrific pandemic will be diminished and the focus on reducing prison and jail capacities will be lost. Don't give a blank check to incarceration, instead effort should be given to increase community resources and programs that will lessen the reliance on incarceration.

Attached Documents

- Prioritization Deferred Admissions – Women
- 21-23 Estimated Population – Women
- 21-23 Estimated Population – Men
- DOCR Inmate Admission
- Ward County Detention Center Inmate Population Plan

Department of Corrections and Rehabilitation

Prioritization Deferred Admissions - Women

	7/1/17 - 6/30/19		7/1/19 - 12/31/20	
County	Deferred Admission - ADP	Deferred Admission - Total Days	Deferred Admission - ADP	Deferred Admission - Total Days
Bottineau	-	-	0.02	9
Burleigh	0.10	70	0.28	156
Cass	0.04	26	0.16	89
Grand Forks	0.04	27	0.12	64
Grant	0.02	12	-	-
McHenry	0.01	9	-	-
McKenzie	-	-	0.02	9
McLean	-	-	0.01	4
Morton	0.04	29	0.03	18
Mountrail	0.01	7	0.03	18
Pierce	0.00	3	0.02	10
Ramsey	-	-	0.05	26
Rolette	-	-	0.03	18
Stark	-	-	0.02	9
Stutsman	0.02	15	0.01	7
Walsh	-	-	0.01	8
Ward	0.04	27	0.16	89
Williams	0.09	66	0.08	45
Total	0.40	291	1.05	579

North Dakota Department of Corrections and Rehabilitation

2021 - 2023 Estimated Population - Women

Based on actual population thru August 31, 2020

Date	Estimated Average Population	Deferred Admission Status	Estimated DOCR Population	---- Traditional Beds ----				---- Nontraditional Beds ----			
				Interstate Compact	DWCRC	DOCR Facilities	Transition	Holds	Total		
July-21	182	-	182	-	113	15	50	4	182		
August-21	183	-	183	-	114	15	50	4	183		
September-21	184	-	184	-	115	15	50	4	184		
October-21	185	-	185	-	85	46	50	4	185		
November-21	185	-	185	-	85	46	50	4	185		
December-21	186	-	186	-	86	46	50	4	186		
January-22	187	-	187	-	87	46	50	4	187		
February-22	188	-	188	-	88	46	50	4	188		
March-22	188	-	188	-	88	46	50	4	188		
April-22	189	-	189	-	89	46	50	4	189		
May-22	190	-	190	-	90	46	50	4	190		
June-22	191	-	191	-	91	46	50	4	191		
July-22	191	-	191	-	91	46	50	4	191		
August-22	192	-	192	-	92	46	50	4	192		
September-22	193	-	193	-	93	46	50	4	193		
October-22	194	-	194	-	94	46	50	4	194		
November-22	194	-	194	-	94	46	50	4	194		
December-22	195	-	195	-	95	46	50	4	195		
January-23	196	-	196	-	96	46	50	4	196		
February-23	196	-	196	-	96	46	50	4	196		
March-23	197	-	197	-	97	46	50	4	197		
April-23	198	-	198	-	98	46	50	4	198		
May-23	198	-	198	-	98	46	50	4	198		
June-23	199	-	199	-	99	46	50	4	199		

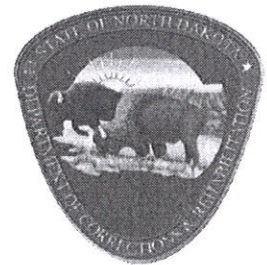
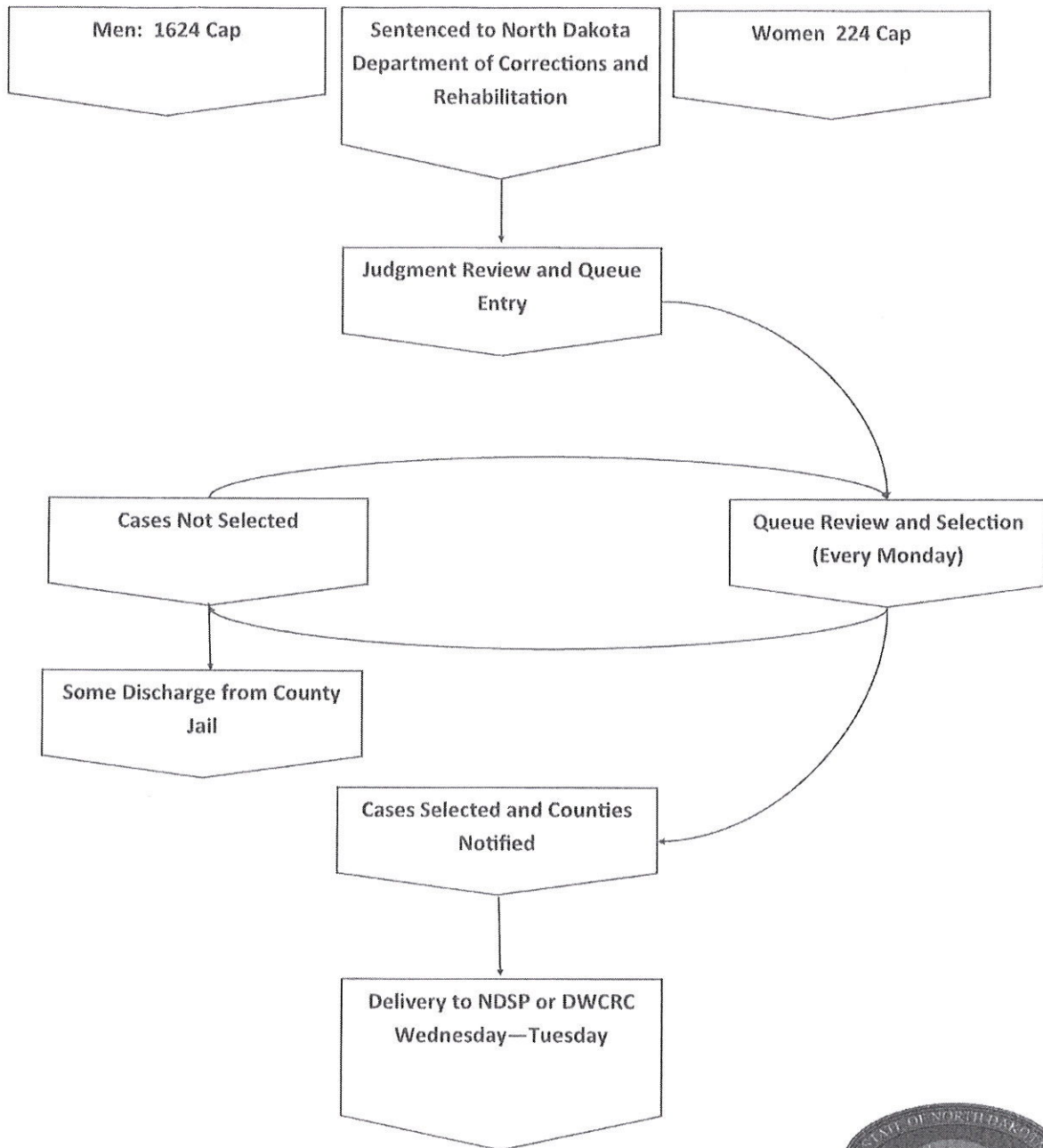
North Dakota Department of Corrections and Rehabilitation

2021 - 2023 Estimated Population - Men

Based on actual population thru August 31, 2020

Date	Estimated Average Population	Deferred Admission Status	Estimated DOCR Population	---- Traditional Prison Beds ----		---- Nontraditional Prison Beds ----		Holds	Total
				DOCR Facilities	Interstate Compact	James River Minimum Unit	Transition 14		
July-21	1,451	-	1,451	1,227	21	60	138	6	1,451
August-21	1,454	-	1,454	1,230	21	60	138	6	1,454
September-21	1,457	-	1,457	1,233	21	60	137	6	1,457
October-21	1,460	-	1,460	1,236	21	60	137	6	1,460
November-21	1,463	-	1,463	1,239	21	60	137	6	1,463
December-21	1,466	-	1,466	1,242	21	60	137	6	1,466
January-22	1,469	-	1,469	1,245	21	60	137	6	1,469
February-22	1,472	-	1,472	1,248	21	60	137	6	1,472
March-22	1,475	-	1,475	1,251	21	60	137	6	1,475
April-22	1,478	-	1,478	1,254	21	60	137	6	1,478
May-22	1,482	-	1,482	1,257	21	60	137	6	1,482
June-22	1,485	-	1,485	1,261	21	60	137	6	1,485
July-22	1,488	-	1,488	1,264	21	60	137	6	1,488
August-22	1,491	-	1,491	1,267	21	60	137	6	1,491
September-22	1,494	-	1,494	1,269	21	60	137	6	1,494
October-22	1,497	-	1,497	1,272	21	60	137	6	1,497
November-22	1,500	-	1,500	1,275	21	60	137	6	1,500
December-22	1,503	-	1,503	1,278	21	60	137	6	1,503
January-23	1,506	-	1,506	1,281	21	60	137	6	1,506
February-23	1,508	-	1,508	1,284	21	60	137	6	1,508
March-23	1,511	-	1,511	1,287	21	60	137	6	1,511
April-23	1,514	-	1,514	1,290	21	60	137	6	1,514
May-23	1,517	-	1,517	1,293	21	60	137	6	1,517
June-23	1,520	-	1,520	1,296	21	60	137	6	1,520

Inmate Admission Prioritization Plan



Level	Priority	Offense Level	Violent or Nonviolent
Level 1	Priority 1	Felony AA	Violent
Level 2	Priority 1	Felony A	Violent
Level 3	Priority 1	Felony B	Violent
Level 4	Priority 2	Felony AA	Nonviolent
Level 5	Priority 2	Felony A	Nonviolent
Level 6	Priority 2	Felony C	Violent
Level 7	Priority 3	Felony B	Nonviolent
Level 8	Priority 3	Misdemeanor A	Violent
Level 9	Priority 3	Felony C	Nonviolent
Level 10	Priority 3	Misdemeanor A	Nonviolent

WARD COUNTY DETENTION CENTER INMATE POPULATION PLAN

The 65th Legislative Assembly of North Dakota under Senate Bill No. 2015 and the North Dakota enacted the following Management of Inmate Population for all correctional facilities.

The governing body of a correctional facility, in cooperation with law enforcement, state's attorney, and the judiciary in the judicial district, in which the correctional facility is located, shall develop an inmate population plan to prioritize admissions and inmate retention based on the correctional facility's authorized budget.

The inmate population plan must take into consideration:

- a. The governing body's authorized budget;*
- b. The inmate offense;*
- c. Whether the inmate has been charged, adjudicated, or sentenced;*
- d. Whether the inmate presents a risk of flight or is a danger to others or self;*
- e. The inmate's medical needs and mental and behavioral health needs; and*
- f. Whether the inmate is subject to mandatory incarceration.*

The Ward County Detention Center (WCDC) along with the Ward County Sheriff's Department, The Ward County State's Attorney's Office and the North Central Judicial District has developed a plan to manage the inmate population. A uniform bond schedule was introduced that has taken the WCDC's budget and all aspects of the inmate's incarceration status as listed above. The uniform bond schedule is as follows:

• Infractions	Promise to appear
• Class B Misdemeanors	Promise to appear
• DUI, except felony	\$750 (cash post 10%)
• Class A Misdemeanors	\$1,500.00 (cash, post 10%)
• Class C Felonies	\$5,000.00 (cash or corporate surety)
• Class B Felonies	\$10,000.00 (cash or corporate surety)
• Class A Felonies	Hold <u>without bond</u> pending an appearance before a judge
• Class AA Felonies	Hold <u>without bond</u> pending an appearance before a judge

Offenses held without bond

- Assault (of any nature)
- Bail Jumping or Escape
- Corruption of a Minor
- Harassment
- Terrorizing
- Felonious Restraint
- Menacing

- Stalking
- Surreptitious Intrusion
- Violation of a Domestic Violence Protection order
- Violation of a Disorderly Conduct Restraining Order
- All Sex Offenses
- All Offenses Against Children, including Child Pornography, and Luring By Computer
- Felony Driving Under the Influence of Alcohol or Drugs
- Felon in Possession of a Dangerous Weapon

Programs Officer

The WDC has added a new position to help monitor all aspects of the Inmate Population plan. Some of the positions duties will include:

1. Monitoring inmates on home monitoring
2. Monitoring inmates on Work release
3. Developing a plan to re-integrate inmates back into society. A plan will be developed for all inmates that are serving more than 30 days. This plan will include employment and housing.
4. Coordinating the volunteer programs at the WDC
5. Run the believe program for female inmates
6. Coordinate Parenting classes
7. Work with Free through Recovery for incarcerated inmates

The inmate population plan must include:

- a. Placement in community setting;***
- b. Work release;***
- c. Home detention;***
- d. Electric home detention;***
- e. Global positioning system monitoring;***
- f. Medical, psychiatric, and drug and alcohol treatment;***
- g. Employment;***
- e. Pretrial risk assessment; and***
- f. Pretrial supervision.***

Placement in Community Setting

The North Central Judicial District has the option of ordering inmates to several community settings around the state. Center Inc. and Teen challenge are being utilized as an alternative to incarceration.

The WDC has also been working with the Sanctuary house in Minot to provide female inmates the opportunity to enter a sober living environment upon release.

The WDC is collaborating with F5 to provide male inmates with a housing option after release.

Work release-Employment

The North Central Judicial District has the option of ordering inmates that are gainfully employed to the Work release program at the WDC. Inmates who qualify are able to work 40 hours per week. This helps the inmate stay employed during their incarceration period, lessening their financial burden after release.

WDC has also implemented work release for Trustee inmates. Inmates who have worked over thirty days without incident are eligible to apply for work release during their last two weeks. The WDC will allow the inmate work release without a fee in order to try to get an inmate a paycheck before they are released. The WDC has also been working with the Command Labor Center in Minot for those trustee inmates that are not employed.

Home Detention-Electronic Home Detention-Global positioning system monitoring

The WDC currently has electronic home detention for sentenced offenders. Satellite Tracking of People (STOP) uses the latest technology in global positioning to keep track of all the clients on this program. Emails are received daily that show exact positions of the clients. The jail staff are notified if the client deviates at all from the zones that they have permission to be in. Using this program also allows the client to remain gainfully employed.

Medical

The WDC has three Nurse Practitioners under contract that conduct sick call Monday-Friday for up to four hours. The WDC also has a weekly appointment set up for dental care. The WDC also employs one full time Corporal to handle all aspects of medical.

Psychiatric

The WDC has a Psychiatric Nurse Practitioner contracted that visits inmates twice weekly for up to six hours. The WDC also uses North Central Human Service Center (NCHSC) for evaluations and crisis situations.

Drug and alcohol Treatment

NCHSC provides day treatment for sentenced inmates ordered by the North Central Judicial District. The last five weeks of an inmate's sentence they are transported to NCHSC to attend treatment Monday-Friday. The WDC has an Alcoholics Anonymous meeting on Monday night and a Narcotics Anonymous meeting on Saturday afternoon. Local volunteers from the community provide both programs.

The WDC has also been working with the Community Medical Services who come into the facility and provide medically assisted treatment for the use of opiates.

The WCDC has been working with Goodman addiction to provide Chemical evaluations within the Detention Center. This speeds up the process of getting into treatment and eliminates the risk of transporting inmates outside the facility

Pre-trial risk assessment

The WCDC is currently a part of the ND Pilot program for Pre-trial release. The ND DOCR employees are using risk assessment tools.

Pre-trial supervision

The WCDC is currently a part of the ND Pilot program for Pre-trial release. The program started in August of 2020.