

House Bill No. 1137
Senate Judiciary Committee

Testimony Presented by
Karen Kringlie, Director of Juvenile Court
March 7, 2023

Chair Larson and members of the Senate Judiciary Committee. For the record, my name is Karen Kringlie. I am the Director of Juvenile Court for the East Central and Southeast Judicial Districts and a member of the Commission on Juvenile Justice. I have worked in the field of juvenile justice for over 27 years.

I am appearing at Representative Klemin's request to do the bill walk through and cover in more detail the provisions of the bill draft. I am happy to answer any questions you may have about how this bill would change or affect the current activities of the juvenile court.

Most of the 40 sections of Engrossed House Bill 1137 consist of corrected references omitted in error last session during the development of the new juvenile court act or language kept in the Century Code for the transition period of the three delayed portions of last session's House Bill 1035 that are no longer be needed.

There are four more substantive in nature amendments and I will spend a little more time explaining why the Commission found them necessary and included them in the bill before you today. Those substantive in nature sections are:

- **Section 9** - regarding court ordered parental reimbursement of indigent defense fees;
- **Section 11** – regarding release of court records for purposes of the scoring of the detention screening tool;
- **Section 29** – a new section clarifying the process for referral of school-based infractions or misdemeanors; and
- **Section 36** – regarding the court commitment of a youth to the Division of Juvenile Services.

Please feel free to interrupt me at any time you have a question.

Section One: Corrects a missed reference to the older term “deprivation” in the contributing to the deprivation or delinquency of a child and replaces “deprivation” with “child in need of protection”.

Section Two: Corrects missed references in the juvenile guardianship chapter to the older term “deprivation” and replaces with “child in need of protection”.

Section Three: Corrects missed references in the juvenile guardianship chapter to the older term “deprivation” and replaces with “child in need of protection”.

Section Four: Clarifies that only children, subjects of a juvenile guardianship, who are of “sufficient age and competency to assist counsel” are entitled to counsel. This prevents indigent defense attorneys from appointment to very young or infant clients who are unable to express their wishes or assist their attorney.

Section Five: This is the definition section of Chapter 27-20.2, otherwise known as The Juvenile Court Act. This adds a definition of “certified shelter care”, clarifies that the definition of a delinquent child includes children subject to the interstate compact on juveniles, adds “kinship relative” to the definition of relative, and updates the definition of “shelter care”.

Section Six: Removes an unnecessary reference to “child in need of services” that was kept in to bridge the delayed implementation of the transition of CHINS youth from the courts to the human service zones and corrects at line 20 a mistake in reference as adoption proceedings are not governed under the chapter referenced.

Section Seven: Removes unnecessary references to “child in need of services” from the powers and duties of a juvenile court director that were kept in the code to bridge the delayed implementation of the CHINS process.

Section Eight: Corrects a reference to a DUI fine for children left in error last session when House Bill 1035 eliminated DUI fines in formal petition cases. The error was also removing it in the section on informal adjustment. In discussions at the Commission it was agreed to recommend adding the sentence at lines 13-15 which makes clear that the juvenile court can place restrictions on a child’s driving privileges as part of an informal adjustment on a driving-related offense.

Section Nine: Removes the reference to “child in need of services” in the right to counsel since that was left in error last session. A child in need of services case is no longer subject of court proceedings. On Page 10, line 3, changes the “shall require payment” to “may require payment” in regards to parent reimbursement of a child’s constitutional right to counsel.

Section Ten: Adds a sentence indicating that parties can stipulate to the court accepting an affidavit in lieu of testimony from a qualified expert witness in an Indian Child Welfare Act case.

Section Eleven: Adds a new subsection to the statute regarding release of juvenile court records to the staff of a designated juvenile detention center or intake and assessment center for the purpose of performing and scoring the detention screening tool. This was a recommendation that came out of a 2022 workgroup on alternatives to detention.

Section Twelve:

- Adds a definition of “certified shelter care” in the child in need of protection chapter,
- Updates the definition of “referral” to account for the transition to the zones of the child in need of services category,
- Adds “kinship relative” to the definition of “relative”; and
- Updates the definition of “shelter care”

Section 13: Updates the Venue statute by removing the reference to “child in need of services”.

Section 14: Updates the powers and duties of a juvenile court director in the Child Welfare chapter, 27-20.3. This is required to bridge the delayed implementation of the transition of the child in need of services cases to the zones that occurred by law on August 1, 2022.

Section 15: Deletes the carry-over language at lines 18-19 that bridged the delayed transition of child in need of services cases.

Section 16: Corrects a reference to attendant care that was left in error and updates the line to a “shelter care facility or certified shelter care facility”. Attendant care is a site used for youth accused of a delinquent act which is governed under Chapter 27-20.4, not Chapter 27-20.3.

Section 17: Adds the correct time frame for petition filing when a child is in shelter care. This matches Rule 2 of the North Dakota Rules of Juvenile Procedure.

Section 18: Add “shelter care or certified shelter care” as authorized places of shelter care for a child subject to proceedings under Chapter 27-20.3.

Section 19: Removed transition language that allowed juvenile court director or court offices involvement in the intake of a child placed in shelter during the delayed implementation of the process for child in need of services.

Section 20: Removes a reference to “other public agency authorized by law” that was left in error. All children in need of protection are placed in the custody of the director of the local human service zone.

Section 21: Corrects a reference to the wrong section of code regarding permanency hearings.

Section 22: Adds a sentence allowing parties to stipulate to the court accepting an affidavit in lieu of testimony from a qualified expert witness in an Indian Child Welfare Act case.

Section 23: Removes an unneeded reference to a child in need of services adjudication in the termination of parental rights section and replaces with a

reference to delinquency cases that omitted during the splitting apart of the Uniform Juvenile Court Act into distinct chapters by case type. The basis for the reference here to delinquency cases is to cover cases where a child found delinquent is in foster care for more than at least 450 out of the previous 660 nights. This section also eliminates references to “the department” which was left in error since youth the subject of a termination of parental rights cases are in the custody of the human service zone director.

Section 24: New subsection four was added at the request of the Department of Health and Human Services as it was left out of this section in error last session.

Section 25:

- Adds to the definition section of the delinquency chapter the definition of “certified shelter care”,
- includes in the definition of a “delinquent child”, children who are subject to the interstate compact on juveniles,
- clarifies the pick up and hold order definition to include youth who pose a risk to public safety while under community supervision,
- includes “kinship relative” in the definition of relative, and
- updates the definition of “shelter care”.

Section 26: Clarifies the venue statute at the request of the state’s attorneys.

Section 27: Updates the powers and duties of the juvenile court director to clarify that out-of-state runaway referrals subject to the interstate compact on juveniles are subject to the director’s intake and determination of legal proceedings required under the compact.

Section 28: Updates the language to include the term “certified shelter care” or “detention” as a location authorized to hold preadjudicatory delinquent youth who have been taken into custody.

Section 29: Creates a new “Method of making a delinquency referral to juvenile court” statute in order to clarify and address concerns raised by law enforcement about the delayed section of House Bill 1035 regarding diversion of low level school-based offenses. This new section clarifies that certain types of more concerning misdemeanors that occur at schools can be referred to the courts. The list includes all drug-related offenses under Title 19, offenses against a person in chapters 12.1-17, 12.1-31.2, or 14-07.1, sex offense misdemeanors, and any offenses involving firearms, weapons, or dangerous weapons as defined in 62.1-01-01. All other infractions and misdemeanors can be handled by the schools or referred to the courts if school interventions are unsuccessful. The intent of this section is to allow a school to handle low-level school behavior issues without the need to refer such behavior to the juvenile justice system.

Section 30: Clarifies that youth who pose a risk to public safety may be placed in detention both before or after adjudication and at subsection five, deleted “solely” and added “or” to clarify this subsection that has been difficult to interpret in practice.

Section 31: Language added to clarify that youth who have not reached the age of 18 may not be held in adult jails or correctional facilities. This language is to comply with federal law regarding the secure holding of youth.

Section 32: Adds references to “attendant care” as a possible place that youth charged with a delinquency may be held. At subsection five, clarifies language regarding the process if a parent cannot be found when a child has been taken into custody on a delinquent offense. At subsection nine, adds language to comply with federal law regarding the secure holding of youth.

Section 33: Eliminates the two year delayed school behavior section as this was replaced with the language proposed in Section 29.

Section 34: Corrects a reference to a DUI fine for children that omitted last session when House Bill 1035 eliminated DUI fines in formal petition cases. The error was also removing it in the section on informal adjustment. In discussions at the Commission it was agreed to recommend adding the sentence at lines 13-15 which makes clear that the juvenile court can place restrictions on a child’s driving privileges as part of an informal adjustment on a driving-related offense.

Section 35: Corrects a missed reference to “diversion” as a type of proceeding that does not have to be electronically recorded.

Section 36: Clarifies language having to do with when a court can commit a youth to the Division of Juvenile Services. Eliminates the requirement to exhaust all probation extensions prior to placement with the Division in order to allow the court to commit a child to the Division if that is the treatment or rehabilitation the court deems most appropriate and provides for the safety of the community. Note that despite the elimination in this subsection of a risk and needs assessment, a risk and needs assessment is still required of all youth, prior to a court’s disposition, under 27-20.4-15. This change makes the subsection more straight forward to read and interpret.

Section 37: Eliminates a clerical error at subsection 4 and clarifies language at subsection 8 found to be difficult to interpret in practice.

Section 38: Eliminates an error in reference to child in need of services and child in need of protection in the delinquency chapter.

Section 39: Eliminates an error in reference to child in need of services or child in need of protection in the delinquency chapter.

Section 40: Removes the expiration date and the requirement of annual reports to legislative management regarding the Tribal Juvenile Services Cooperative Agreement statute that created by the 66th N.D. Legislative Assembly. This has been a successful collaborative effort and all involved would like to continue.

I passed out an amendment for you to consider. This proposed amendment came to the attention of the Court in the last two weeks. This corrects a

reference in the Child Welfare chapter in the statute regarding limitations of time on orders of disposition. This amendment concerns Section 24 of the current bill form at subsection (8). The first corrected reference is request because the subsection currently refers to a statute that does not exist. The second correction is a missed reference to the termination of parental rights statute.

Thank you for the opportunity to testify in support of House Bill 1137. I will stand for any questions you may have.