

## **Senate Judiciary Committee**

### **House Bill 1263 – April 3, 2023**

Testimony of Daniel Gulya, North Dakota Protection and Advocacy Project (P&A)

Greetings, Chair Larson and members of the Senate Judiciary Committee. My name is Dan Gulya and I'm an attorney with the North Dakota Protection and Advocacy Project (P&A). P&A protects the human, civil and legal rights of people with disabilities.

P&A would like your support for this bill which includes the Individual Justice Plan process, or the IJP as we call it, in the Juvenile Court Act. The IJP is a voluntary, collaborative tool to create a plan to address the behaviors of persons with diagnosed cognitive or functional disabilities when their disabilities manifest in a way that might lead or has led to at-risk behavior. The IJP is used for juveniles with cognitive disabilities tied to behavior presenting as delinquent (criminal) or identifying the youth as a Child in Need of Services (CHINS). Eligibility for an IJP is based upon a mental/cognitive impairment presenting in a youth with a:

- Developmental disability; or
- Brain injury; or
- Neurodevelopmental disorder that affects brain function; or
- Mental illness.

The IJP process brings together a team involved in a juvenile's life. Depending on circumstances and need, this could include family, educators, social services case managers, medical professionals- anyone in the areas of a juvenile's life touched by this behavior. The process starts by assessing the impairment at the root of the behavior,

then creates recommendations from that with an identifiable outcome and a review process.

For the past biennium, P&A has been involved in an effort to modernize our IJP educational materials and raise awareness. In 2021 and 2022, P&A revised the informational manual and did presentations that reached 514 individuals in the broad spectrum of parties interested in juvenile justice, from education to social services to the justice system, including to the 2021-2023 Interim Judiciary Committee.

P&A believes that the IJP process adds value at the intersection of the educational and human services systems with the justice system, by tying together services and outlining a proactive path for the diversion of individuals with disabilities who manifest disruptive behaviors due to that disability.

I can give you concrete examples of how this process helps people.

- a) One of our juvenile clients with Disruptive Mood Dysregulation Disorder and ADHD was charged with a C felony for assaulting emergency personnel at an emergency room. The client was referred to Protection and Advocacy for assistance with an Individual Justice Plan (IJP). When the client appeared in court, the attorney informed the court that the client was working with Protection and Advocacy on developing an Individual Justice Plan. The client agreed to work with an agency to monitor the IJP, which will be in effect for a year, and the charge was modified to a misdemeanor. As a result of the IJP, the client has an individualized plan of action, and consequences resulted for the crime that are in alignment with the mental health condition. In addition, the client will have access to supports and services to meet their mental health needs and assist them in avoiding further engagement in criminal activity.
- b) P&A received a referral regarding a Native American juvenile who had become involved in the juvenile justice system as a result of disability-related behavior. The juvenile has a neurological impairment related to a brain tumor. Services were provided

to the juvenile to address behavioral support needs that were primarily stemming from challenges at school. P&A supported the juvenile's team to complete an IJP assessment, which identified additional supports that would be helpful to the juvenile, along with the formal development of an individual justice plan (IJP). The continuing services plan in the juvenile's IJP was accepted by the court as an appropriate remedy and the formal charges were dismissed.

These results may not occur without the IJP as a roadmap to suggest how and who to coordinate services. This bill aims to find a permanent home for this concept and to express its potential importance in helping to plan the diversion of juveniles from justice services to social services.

Despite P&A's efforts to raise awareness, the utilization of IJPs in many cases depends on the individual actors in systems that often are somewhat siloed. Over the past year, P&A has worked on over 90 adult and juvenile requests for assistance on IJPs. While that is a tremendous step forward, the statistics on juvenile referrals from the Department of Public Instruction indicate that on average 30% are special education students or have IEPs. From your other work, you know that the CHINS and delinquency referral numbers are thousands per year, which tells us there is a population that might benefit from increased awareness of this process. This bill, in conjunction with our prior efforts, will hopefully give the IJP process a lasting presence in efforts to properly address some of the behavior of youth with cognitive disabilities.

I respectfully request the Committee support HB 1263. Thank you for your time and I'd be happy to address any questions.

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