



JUDICIARY COMMITTEE

Tuesday, August 26, 2025
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator Janne Myrdal, Chairman, called the meeting to order at 9:00 a.m.

Members present: Senators Janne Myrdal, Ryan Braunberger, Claire Cory, Dick Dever, Diane Larson, Dean Rummel; Representatives TJ Brown, Nels Christianson, Liz Conmy, Karla Rose Hanson, Ben Koppelman, Gregory Stemen, Bill Tveit, Steve Vetter

Members absent: Senator Jose L. Castaneda; Representative Lawrence R. Klemin

Others present: Sara Behrens, Sally Holewa, Cammie Schock, and Don Wolf, Supreme Court; Pat Helfrich, Bureau of Criminal Investigation

See [Appendix A](#) for additional persons present.

Mr. Austin Gunderson, Counsel, Legislative Council, presented a memorandum entitled [Supplementary Rules of Operation and Procedure of the North Dakota Legislative Management](#).

ASSESSMENT OF COURT FINES AND FEES STUDY

Mr. Gunderson presented a memorandum entitled [Assessment of Court Fines and Fees - Background Memorandum](#).

Mr. Don Wolf, Finance Director, Supreme Court, presented information ([Appendix B](#)) regarding criminal fines and fees assessed and collected by the court system. He noted:

- During the 2023-25 biennium, the court system collected approximately \$6.9 million in court fees.
- The criminal court administration fee was the largest source of court fees, contributing approximately \$3.8 million.
- The criminal court administration fee varies between \$125 to \$900 per case depending upon the charge.
- The indigent defense administration and court facility fee was the second largest source of court fees, contributing approximately \$1,945,000.
- Of the total indigent defense administration and court facility fees collected, \$1,117,000 was distributed to the Indigent Defense Administration Fund and \$827,000 was distributed to the Court Facilities Improvement and Maintenance Fund.
- As of June 30, 2025, the court system has an outstanding accounts receivable balance of \$31,550,000, which includes \$12.2 million in traffic fines, fees, and forfeitures.

In response to questions from committee members, Ms. Sally Holewa, State Court Administrator, Supreme Court, noted:

- An order to show cause must be filed by the state's attorney and cannot be filed by the judge. Prior to the court taking any judicial action, the prosecution must show the defendant had the ability to pay the fine and fees and chose not to.

In response to questions from committee members, Ms. Sara Behrens, Staff Attorney, State Court Administrator's office, Supreme Court, noted:

- Fines and fees are not a deterrent to repeat offenders.
- In extreme circumstances, appropriations may be needed if fees dedicated to specific funds go unpaid.

Mr. Travis Finck, Executive Director, Commission on Legal Counsel for Indigents, presented information ([Appendix C](#)) regarding the impacts of fines and fees on criminal defendants and an update regarding indigent defense services during the pretrial service process. He noted:

- Approximately 80 percent of felony cases nationwide are handled at public expense. Public defenders are appointed in roughly 80 percent of felony cases across the state.
- Research conducted in Alabama found individuals required to pay court-imposed fines and fees often face significant financial hardship.
- 83 percent of respondents reported forgoing basic necessities such as rent, food, medical care, and child support obligations to pay their court fines and fees.
- 50 percent of those surveyed had been incarcerated due to nonpayment, 44 percent had turned to payday loans, and 38 percent committed a new offense to pay their court debt.

Mr. Tom Erhardt, Director, Parole and Probation, Department of Corrections and Rehabilitation, presented information ([Appendix D](#)) regarding court fines and fees relating to individuals under the supervision of the Department of Corrections and Rehabilitation (DOCR). He noted:

- An internal analysis conducted by DOCR evaluated the administrative costs associated with collecting supervision and related fees.
- The estimated cost to collect fees totaled \$820,039, before the repeal of the \$55 monthly supervision fee during the 2023-25 biennium.
- The total costs included staff time spent interacting with defendants, completing paperwork, processing payments, and other expenses.
- DOCR estimated billing \$6 million in supervision fees for the 2023-25 biennium with a collection rate of approximately 25 percent, resulting in the collection of \$1.5 million.

EXPANDING CRIMINAL RECORD SEALING STUDY

Mr. Gunderson presented a memorandum entitled [Expanding Criminal Record Sealing](#).

Ms. Behrens presented information ([Appendix E](#)) regarding the committee's study on expanding criminal record sealing. She noted:

- According to a study by Search Group in 2023, no state has enacted blanket criminal record sealing provisions.
- In every state, human identification and validation must be completed before sealed criminal records are removed from public access. Each state has a list of agencies that may access the records.
- Implementing clean slate laws requires 2 to 3 years of intensive planning, programming modifications, multiple complex agency case management information systems, upgrades in technology, and changes in business practices and workflow.
- In 2018, Pennsylvania passed the first clean slate law regarding automation of record sealing.
- Connecticut passed automated criminal record sealing in 2021, but due to necessary expansions and upgrades the implementation has been delayed with the Connecticut General Assembly being told the implementation is the most complex information technology project in state history.

ASSESSMENT OF PRETRIAL SERVICES PROGRAMS STUDY

Mr. Gunderson presented a memorandum entitled [Assessment of Pretrial Service Programs - Background Memorandum](#).

Mr. Pat Helfrich, 24/7 Sobriety Program Coordinator, Bureau of Criminal Investigation, presented information (Appendices [F](#) and [G](#)) regarding fines and fees relating to the 24/7 Sobriety Program. He noted:

- The 24/7 Sobriety Program started in 2007 as a pilot program and was fully implemented in 2009.
- A client enrolled in the program must either be tested twice per day at a testing site or tested through the use of a continuous alcohol monitoring (CAM) bracelet, remote breath test, drug patch, or a urine analysis. The CAM bracelets and the remote breath tests are owned by the state.
- A client must pay \$2 per day for twice-a-day testing, \$5 per day while on a remote breath test, \$6 per day while on a CAM bracelet, and \$60 for each drug patch.
- Of the 1,379 active clients in the program, 552 clients are using a CAM bracelet, 432 clients are using the drug patch, 279 clients are on twice-per-day testing, 117 clients are on remote breath testing, and 18 clients are on urine analysis.

Ms. Donnell Preskey, Government and Public Relations Specialist, North Dakota Association of Counties, on behalf of the North Dakota Sheriff's and Deputies Association, presented information ([Appendix H](#)) regarding fines and fees relating to the 24/7 Sobriety Program and impacts on county sheriffs' departments. Ms. Preskey noted:

- During the previous legislative session, Senate Bill No. 2365 (2025) proposed an amendment to North Dakota Century Code Section 54-12-30 to prohibit a district court, district court judge, or judicial referee from waiving program fees for offenders enrolled in the 24/7 Sobriety Program.
- The bill was passed by the Senate but was defeated in the House of Representatives.
- Several counties expend more than they collect in fees to operate and support the 24/7 Sobriety Program.
- The program costs Burleigh County approximately \$125,000 more per year than is recovered through fees.
- Sheriff's offices remit a portion of the collected fees to the Attorney General's office to reimburse the cost of electronic monitoring bracelets and remote breath testing devices.
- The sheriff's offices are responsible for the remaining costs associated with administering the program, including expenses related to administration, analysis, recordkeeping, and personnel.

In response to a question from a committee member, Ms. Preskey noted:

- Program expenses exceeding revenues generated through participant fees has occurred since the program's inception.
- Waived program participation fees create unexpected expenses for counties.

Mr. Trent Wangen, Assistant Jail Administrator, Burleigh Morton Detention Center, Major, Burleigh County Sheriff's Department, presented information regarding the effect of pretrial services on admissions to county jails. He noted:

- The Burleigh Morton Detention Center is one of the first pilot locations for pretrial services.
- During the pilot project, the average daily population of the detention center was approximately 262 inmates.
- When inmate populations are low, the cost per inmate per day increases.

- The center houses an average of 350 inmates per day, with an all time high of 370 inmates.
- Costs per day range between \$115 and \$120 to house an inmate.
- The number of inmates housed at the center has been reduced as a result of pretrial services, allowing the center to hold additional contract inmates from other jurisdictions.
- Contract rates at the center are reviewed every 2 years and adjusted accordingly to align with expenses per day.
- Burleigh County is in the process of leasing additional bed space to DOCR to assist with overcrowding at state-run facilities. Leases are intended to start on January 1, 2026.

Mr. Finck provided information ([Appendix I](#)) regarding indigent defense services during the pretrial service process. He noted:

- The division of pretrial services was established in 2017 and received funding in 2019, which led to the development of pilot programs in select jurisdictions across the state.
- Challenges for defendants to obtain counsel at the initial appearances have emerged in pilot jurisdictions.
- A workgroup formed under the Indigent Defense Commission developed Senate Bill No. 2226 (2025), which established a framework to ensure the availability of legal counsel at initial appearances statewide.

Mr. Erhardt provided information ([Appendix J](#)) regarding an update on the pretrial services program. He noted:

- Pretrial services are operational in several judicial districts, including south central, east central, north central, and northeast central.
- In Burleigh and Morton Counties pretrial services are provided 5 days per week.
- Burleigh and Morton Counties have six full-time equivalent personnel, three probation officers, and three case managers.
- DOCR estimates an additional eight full-time equivalent positions would be required to administer pretrial services full-time in Cass County. Pretrial services create positive jail capacity.
- A pilot study examining the Pretrial Services Program was conducted by North Dakota State University in 2021.
- The study found pretrial service defendants had a lower chance of re-arrest and failing to appear in court. Overall findings indicated pretrial services are successful in North Dakota.

In response to a question from a committee member, Mr. Erhardt noted that DOCR's minimum contact standard is once per month for high-risk offenders, once every 2 months for medium-risk offenders, and once every 3 months for low-risk offenders.

COMMITTEE DISCUSSION AND STAFF DIRECTIVES

Chairman Myrdal noted she has been in contact with numerous agencies and criminal justice stakeholders regarding data and statistics to be presented at subsequent committee meetings.

No further business appearing, Chairman Myrdal adjourned the meeting at 2:30 p.m.

Austin Gunderson
Counsel

ATTACH:10