

Sixty-ninth  
Legislative Assembly  
of North Dakota

## PROPOSED AMENDMENTS TO

### HOUSE BILL NO. 1425

Introduced by

Representatives Klemin, Hanson, Stemen

Senators Davison, Larson

1 A BILL for an Act to create and enact a new section to chapter 11-16, a new chapter to title 12,  
2 and two new sections to chapter 54-23.3 of the North Dakota Century Code, relating to  
3 prosecution-led diversion programs, deflection process, and supervision for presentence  
4 programs; to provide for a legislative management study; and to provide for an appropriation.

#### 5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1.** A new section to chapter 11-16 of the North Dakota Century Code is created  
7 and enacted as follows:

#### 8 **Prosecution-led diversion program.**

- 9 1. The state's attorney for each county may create and administer a prosecution-led  
10 diversion program if, after due consideration of any crime victim's rights and subject to  
11 approval from the court, the prosecuting attorney and the defendant agree to suspend  
12 prosecution for a period of time after which the case will be dismissed under rule 32.2  
13 of the North Dakota Rules of Criminal Procedure on condition that the defendant not  
14 commit any new criminal offense during the period of the agreement.
- 15 2. Each county that establishes a prosecution-led diversion program shall establish  
16 written guidelines for the program and minimum eligibility criteria.

17 **SECTION 2.** A new chapter to title 12 of the North Dakota Century Code is created and  
18 enacted as follows:

1        **Definition.**

2        As used in this chapter, "deflection process" means a procedure for facilitating an  
3 assessment, service or treatment in lieu of incarceration, criminal charges, or unnecessary  
4 admissions to the emergency department when a peace officer or first responder is directed to  
5 intervene with an individual ~~requiring treatment~~with a behavioral health condition, including a  
6 substance use disorder or mental health disorder, with or without the presence of criminal  
7 activity.

8        **Individual ~~requiring treatment~~with a behavioral health condition - Assistance -**  
9 **Medical care.**

10       A peace officer, as defined under section 12-63-01, may transport or refer an individual to a  
11 local hospital, detoxification center, community behavioral health center, or other appropriate  
12 treatment facility. A tier 1b mental health professional, as defined under section 25-01-01, of a  
13 local hospital may hold that individual for treatment up to seventy-two hours.

14       **Deflection process - Regional authority and planning.**

- 15       1. A local government, law enforcement agency, or other first responder agency may  
16 establish a deflection process in partnership with one or more licensed providers of  
17 behavioral health services or substance use disorder treatment services, subject to the  
18 provisions of this section. A deflection process must include participation from a law  
19 enforcement agency and behavioral health service provider.
- 20       2. A deflection process must include procedures for:
- 21       a. The identification, screening, and assessment of its participants;
- 22       b. Case management and treatment facilitation;
- 23       c. Participant followups;
- 24       d. Law enforcement, first responder, and treatment provider training;
- 25       e. The collection and evaluation of data for:
- 26           (1) Demographics of program participants;
- 27           (2) The number of law enforcement interactions that result in a treatment  
28 referral; and
- 29           (3) The time between initial law enforcement interaction and treatment service;  
30 and

- 1       3. A deflection process must include a performance management system with key  
2           performance indicators. Key performance indicators may include the:  
3           a. Rate of treatment engagement within thirty days of initial contact;  
4           b. Duration of treatment involvement; and  
5           c. Number of subsequent law enforcement interactions for individuals referred to  
6           treatment.

7       **Exemption from civil liability.**

8       A local government agency, law enforcement agency, peace officer, first responder, or  
9       employee of the agency, a behavioral health provider, or a public or private entity acting in good  
10       faith, is not liable for civil damages as a result of an act or omission in providing services under  
11       this section, unless the act or omission constitutes willful and wanton misconduct.

12       **SECTION 3.** A new section to chapter 54-23.3 of the North Dakota Century Code is created  
13       and enacted as follows:

14       **Supervision for presentence programs.**

15       The department of corrections and rehabilitation has the authority to supervise a defendant  
16       while the defendant is participating in a prosecution-led, or pretrial diversion program under  
17       section 1 of this Act or rule 32.2 of the North Dakota Rules of Criminal Procedure, or any other  
18       pretrial services program.

19       **SECTION 4.** A new section to chapter 54-23.3 of the North Dakota Century Code is created  
20       and enacted as follows:

21       **Prosecution-led diversion supervision pilot program - Report.**

- 22       1. The department of corrections and rehabilitation shall establish a prosecution-led  
23       diversion supervision program as a pilot project in three counties in the state during  
24       the biennium beginning July 1, 2025, and ending June 30, 2027.  
25       2. During the first year of the biennium Beginning July 1, 2025, the department shall  
26       collaborate with the department of health and human services, North Dakota  
27       association of counties, county state's attorneys, the commission on legal counsel for  
28       indigent defense, county and regional correctional facilities, and public and private  
29       treatment providers to develop guidelines and procedures for the administration of the  
30       prosecution-led diversion supervision program.

1       3. The department of corrections and rehabilitation shall select three counties for a pilot  
2       project and ~~implement the program no later than July 1, 2026~~enter contracts with third-  
3       party providers in partnership with the pilot counties to provide supervision, including  
4       monitoring and connection to services.

5       4. The department of corrections and rehabilitation shall implement the program no later  
6       than July 1, 2026.

7       5. Before June 30, 2027, the department, in collaboration with the three pilot counties,  
8       shall report to legislative management regarding the process and outcome of the  
9       prosecution-led diversion program and any recommendations for future legislation.

10       **SECTION 5. LEGISLATIVE MANAGEMENT STUDY - PRETRIAL SERVICE PROGRAMS.**

11       During the 2025-26 interim, the legislative management shall consider studying costs and  
12       savings associated with pretrial service programs operating in the state and opportunities to  
13       reinvest savings to improve re-entry outcomes. The study must include the effect of pretrial  
14       services on admissions to county jail, detention facilities, medical costs of participants, rate of  
15       failure to appear in court, rate of recidivism, and rate of participation in treatment programs. The  
16       study must identify opportunities for counties, courts, and state agencies to invest cost-savings  
17       associated with pretrial services in programs, treatment, and services that will further reduce  
18       recidivism and promote public health. The legislative management shall report its findings and  
19       recommendations, together with any legislation required to implement the recommendations, to  
20       the seventieth legislative assembly.

21       **SECTION 6. APPROPRIATION - DEPARTMENT OF CORRECTIONS AND**  
22       **REHABILITATION - PROSECUTION-LED DIVERSION SUPERVISION PILOT PROGRAM -**  
23       **FULL-TIME EQUIVALENT POSITIONS - ONE-TIME FUNDING.** There is appropriated out of

24       any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of  
25       \$1,000,000, or so much of the sum as may be necessary, to the department of corrections and  
26       rehabilitation, for the purpose of hiring ~~seven~~one full-time equivalent ~~positions~~position and  
27       ~~creating~~contracting with third-party providers for a prosecution-led diversion supervision pilot  
28       program, for the biennium beginning July 1, 2025, and ending June 30, 2027. The personnel  
29       hired pursuant to this section must ~~be dedicated to~~prioritize the prosecution-led diversion  
30       supervision pilot program. The funding provided under this section is considered a one-time  
31       funding item.

1       **SECTION 7. APPROPRIATION - DEPARTMENT OF CORRECTIONS AND**  
2 **REHABILITATION - PRETRIAL SERVICE PROGRAMS COST-SAVINGS STUDY - ONE-TIME**  
3 **FUNDING.** There is appropriated out of any moneys in the general fund in the state treasury,  
4 not otherwise appropriated, the sum of \$55,000, or so much of the sum as may be necessary, to  
5 the department of corrections and rehabilitation, for the purpose of contracting for consulting  
6 services for the study provided in section 5 of this Act, for the biennium beginning July 1, 2025,  
7 and ending June 30, 2027. The funding provided under this section is considered a one-time  
8 funding item.

9       **SECTION 8. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES -**  
10 **PROSECUTION-LED DIVERSION TREATMENT SERVICES - ONE-TIME FUNDING.** There is  
11 appropriated out of any moneys in the general fund in the state treasury, not otherwise  
12 appropriated, the sum of \$750,000, or so much of the sum as may be necessary, to the  
13 department of health and human services, for the purpose of providing treatment services for  
14 participants in the prosecution-led diversion program, for the biennium beginning July 1, 2025,  
15 and ending June 30, 2027. The funding provided under this section is considered a one-time  
16 funding item.