

HB 1425 House Appropriations Rep. Lawrence R. Klemin Feb. 19, 2025

HB 1425 is the first of three bills relating to criminal justice reform. These bills are supported by Governor Armstrong, who mentioned them in his State of the State Address. They are also supported by the Department of Corrections and Rehabilitation, the Department of Health and Human Services, Job Service North Dakota, the North Dakota State's Attorneys Association, the North Dakota Commission on Legal Counsel for Indigents, Ministry on the Margins, and other organizations and individuals.

HB 1425 relates to prosecution-led diversion programs, a deflection process, and supervision for presentence programs.

For the last eight years, North Dakota has been working to reform our criminal justice system – to maximize public safety, use taxpayer dollars more efficiently, and help people who are justice involved become more productive citizens.

Two years ago, the Legislature passed HCR 3026 to study how we can further improve reentry outcomes for people leaving incarceration. ND's recidivism rate is about 40%. We have serious overcrowding in our prison and jails. We can either develop programs to reduce recidivism and divert people from incarceration, or we can spend millions to expand the State Prison and build more county jails.

Roughly 95% of people who are incarcerated in North Dakota's prison and jails are eventually released. North Dakota releases about 1,400 people from the state prison system every year, plus thousands more from our county jails. The state has a strong interest in ensuring the returning prisoners can be as successful as possible, becoming part of the workforce and good neighbors.

All three bills share these common goals:

- Ensure public safety
- Make the best use of our prison and jail beds so that we have capacity for our most serious offenders
- Save taxpayer dollars by controlling the ongoing growth of admissions
- Improve the lives of justice-involved individuals

HB 1425 targets the "front-end" of reentry.

There are three parts to this bill:

- Prosecution-led Diversion Program
- Deflection Process
- Pretrial Services

Prosecution-Led Diversion Program

A prosecution-led diversion program gives eligible defendants an opportunity to have their prosecution suspended and their charges dismissed if they do not commit a new offense during the duration of their program participation.

The prosecution-led diversion program is covered in Sections 1, 3, 4, 6 and 8: HB 1425 strengthens counties' ability to do prosecution-led diversion programs.

The bill would establish a **pilot program in three counties** for a prosecution-led diversion program. To accomplish that end, it authorizes DOCR to supervise these program participants and appropriates funds to DOCR for their supervision. It also appropriates funds to DHHS for treatment and other services for the participants.

- **Section 1** codifies court Rule 32.2 of the North Dakota Rules of Criminal Procedure, which authorizes county prosecutors to offer a diversion program. The bill also says that any county that establishes such a program must have written guidelines and eligibility criteria.
- **Section 3** gives the DOCR the authority to provide supervision to people who participate in this and other pre-sentencing programs.
- **Section 4** sets up a **pilot program** in three counties for the supervision aspect of the prosecution-led diversion program.
- **Section 6** requests an appropriation to DOCR of \$1 million for 1 FTE to staff the supervision aspect of the pilot program, to oversee the development of the pilot program, to facilitate the collaboration between stakeholders, collect data, and administer contracts with third-party providers. Third-party providers would provide monitoring and service connections. **Expense details:** 1 FTE / \$270,314: Program Manager for biennium (\$259,504 salary and benefits + \$10,810 operating expenses).
- **Section 8** requests an appropriation to DHHS of \$750,000 for the services aspect of the pilot program. DOCR estimate based on past work with Free Through Recovery and Pretrial Services pilot in 2019.

Deflection

Deflection is a process that can be used by law enforcement, behavioral health providers and other community partners to connect a person with behavioral health needs with treatment and other services rather than putting them in jail.

The deflection process is covered in **Section 2:**

- It defines "deflection process" and creates the authority for local communities to establish a deflection process.
- It says that if a community does establish a deflection process, law enforcement and behavioral health must collaborate on that process and establish minimum standards for protocols, training and data collection.
- The bill also exempts law enforcement and behavioral health providers who engage in deflection from civil liability with the purpose of encouraging them to use deflection when appropriate.

Pretrial Services:

The pretrial services aspect of HB 1425 is covered in **Sections 5 and 7:**

- **Section 5:** requests Legislative Management to consider studying the cost savings resulting from ND's current pretrial services program.
- **Section 7** appropriates \$55,000 for a third-party to conduct the study based on DOCR estimate.

The Pretrial Services Program enables eligible defendants to be in the community so they can continue to work, be with their family, and get treatment if needed. The program screens potential participants and establishes community supervision strategies and opportunities to connect defendants to resources.

In summary, HB 1425 targets the "front-end" of reentry, by strengthening our state's deflection process, diversion programs, and pretrial services program, so we can expand pathways to alternatives to incarceration. The goals of this bill are to ensure public safety while saving tax dollars, making the best use of our overcrowded prison and jails, and improving lives.