



# North Dakota House of Representatives

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## COMMITTEES:

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### TESTIMONY OF REP LAWRENCE R. KLEMIN HOUSE JUDICIARY COMMITTEE HOUSE BILL NO. 1549 FEBRUARY 5, 2025

Members of the House Judiciary Committee. I am Lawrence R. Klemin, Representative for District 47 in Bismarck. I am here to testify in support of House Bill No. 1549.

House Bill 1549 is the final bill completing this package of reentry-focused criminal justice reform in North Dakota. As I mentioned in my previous testimony on HB 1425 and HB 1417, these bills continue our state's journey 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.

The proposals in HB 1549 stem from an interim study aiming to improve ND's reentry outcomes. Here's a recap of the key findings from the Reentry Work Group's Final Report:

- ND's prison population is rising while nationally it is declining.
- Admissions to prison have grown, and drug and alcohol offenses and revocations are the primary drivers of the increase.
- People of color are disproportionately represented.
- People leaving incarceration face barriers to success such as affordable housing, behavioral health care, gaps in Medicaid access, and a lack of state-issued IDs.

#### Overview of HB 1549

HB 1549 aims to better prepare justice-involved people for a smooth transition back to the community. This includes focusing on programming and practices inside of corrections and detention centers that promote rehabilitation, as well as bolstering the prison release and reentry process to ensure people leaving prison have the support they need to access housing, medical care, and other resources that are critical to their reentry success and reduce the likelihood that they will recidivate.

The bill includes the following proposals:

- Correctional Facility Reentry Programming Grant: The bill creates a grant program to support local county, regional and tribal correctional facilities in expanding access to reentry programming.

- Mitigation of Racial Disparity: This bill creates an in-prison Native reentry program through a partnership between DOCR, North Dakota's five tribes, and the Indian Affairs Commission. The bill also keeps the Legislature apprised on efforts to reduce racial disparities in the court system by requiring DOCR to report on the status of the Native American reentry program and requiring the Supreme Court to report on court-based efforts to mitigate disparity.
- Cross-agency Collaboration to Reduce Recidivism: The bill codifies a partnership between the DOCR and the DOT to provide people leaving incarceration with state-issued identification. It also requires coordination between DOCR and DHHS to streamline access to Medicaid services for people leaving prison. Because data collection and data sharing are critical in understanding recidivism trends and informing how our system needs to be improved, this bill also requires collaboration between DOCR, DHHS, jails, and other entities to examine the data that is being collected throughout the criminal justice system and determine what our state needs to do to improve connectivity and information sharing between these system partners.
- Housing: The bill creates a housing task force and requires an annual report examining housing assistance for people leaving incarceration and individuals with sex offenses, sober living, and other low-barrier housing availability.
- Study Other Opportunities to Reduce Reentry Barriers: The bill recommends an interim study examining expanded access to criminal record-sealing and any costs and benefits associated with automated processes.

### **Correctional Facility Reentry Programming Grant**

Many provisions of this bill focus on programming and reentry practices for people leaving ND's prison system. This proposal aims to make sure jails are also equipped to provide reentry services for people who are detained.

Most people in jail will return to the community after a relatively short period of confinement. That said, even a short detention term can cause a person to lose employment, housing, miss medication, and other unintended consequences that could put them at risk for returning to criminal behavior.

Recommendation 12 of the Reentry Work Group's Final Report (page 28) highlights the finding that jail-based programming and reentry services vary throughout the state, making the reentry process more complicated and inconsistent.

**Section 1** of this bill aims to improve the availability of reentry services in jails by creating a committee to oversee the administration of grants to support evidence-based reentry programming and services in jails, and outlining a process for evaluating such programs, screening applicants, and administering grant money to applicants.

**Section 8** of this bill appropriates \$1,500,000 to DOCR for the purpose of administering correctional facility program grants.

### **Mitigation of Racial Disparities**

The next portion of this proposal responds to the data finding showing the overrepresentation of Black and Native people in ND's criminal justice system. Admissions to prison have generally increased over the past decade, but the increase has been most significant for these two populations. From 2014 to 2023, prison admissions for Native people increased by over 60%, and prison admissions for Black individuals increased by 120%. You can see a pie chart demonstrating this growth on page 14 of the Reentry Work Group's Final Report.

A disproportionate increase in prison admissions for people of color could be a symptom of a variety of factors. The recommendation from the Reentry Work Group is for the ND Supreme Court to keep the Legislature informed about racial disparities evident in the court system and annually report on efforts taking place to mitigate disparities.

This recommendation is outlined in **Section 3** of the bill. There is already a body established under court rule called the Minority Justice Implementation Committee that is responsible for reporting court system findings of racial disparity and recommendations for mitigation to the state supreme court. This section adds Legislative Management as a recipient of that information.

**Section 4** of this bill is related to reentry programming that is tailored to the needs of the population. According to the American Probation and Parole Association's national supervision standards, case planning, interventions, and treatment options should be chosen for individuals based on their "responsivity factors," including cultural background. Given the growth of the Native population inside of DOCR facilities, and the intention of DOCR to prepare people for release and successful reentry, the Reentry Work Group has recommended that DOCR work in partnership with the tribes to develop reentry initiatives that align with tribal culture.

The bill directs DOCR to establish this program in coordination with North Dakota's five tribes and the Indian Affairs Commission and requires an annual report to Legislative Management. This section outlines requirements including that the program assess the needs of participants with the goal of recidivism reduction, identify and provide culturally responsive training to department staff, designate a Native American liaison to operate within DOCR's Adult Parole and Probation Services, and include oversight and evaluation processes. **Section 9** of this bill appropriates \$25,000 to DOCR to facilitate the Native reentry program.

### **Cross-agency Collaborations to Reduce Recidivism**

Several provisions included in this bill establish or formalize cross-agency partnerships to support reentry. Many partners that are referenced in the following provisions are already at the table and participating in meaningful collaboration. The purpose of codifying this collaboration in the North Dakota Century Code is to ensure longevity and solidify them as required practices regardless of future changes in agency or administration leadership.

## **State Identification and Access to Medicaid**

**Section 2** of this bill solidifies the partnership between DOCR and the Department of Transportation in their efforts to provide people leaving prison with identification. Without an ID, people leaving the system face problems with accessing housing, public benefits, employment, and banking. In 2023, 37% of people released from custody did not have a driver's license. This bill directs DOCR to coordinate with the Department of Transportation to facilitate a process for incarcerated individuals to apply for state-issued identification.

Having medical coverage is another critical element of reentry, helping to ensure people can access life-saving medication and behavioral health treatment services that keep them stable in the community. Findings from the Reentry Work Group's study revealed that there are often delays in coverage between someone's release from prison and their re-enrollment in Medicaid benefits. To strengthen this process, **Section 2** of this bill directs DOCR, in coordination with DHHS, to connect all eligible individuals with Medicaid assistance, or other health and human services programs, prior to release from incarceration. This corresponds with recommendation 21 (page 32-33) in the Reentry Work Group's Final Report.

## **Data-Sharing**

Finally, in our efforts to be evidence-based and data-informed when we make decisions related to our criminal justice system, we need to make sure that all the partners who are involved in recidivism-reduction work are collecting good data and sharing that data to help us understand what improvements we need to make to our system.

**Section 6** of this bill directs DOCR to coordinate with DHHS, regional jails, and other criminal justice entities to examine current criminal justice data collection, retention, and dissemination practices. The bill also directs DOCR to provide recommendations for improving these practices, as well as improving data connectivity between system partners, in an annual report to Legislative Management.

## **Housing**

The next provision of HB 1549 focuses on improving access to housing for the justice-involved population. The participants interviewed during the interim study process universally identified housing as an area for North Dakota to think more critically when it comes to reentry planning.

To remain stable and law-abiding, people need to be able to access basic needs, like safe housing. The Reentry Work Group's 18<sup>th</sup> recommendation (Final Report page 31) centers around improving coordination between housing providers and expanding access to housing for individuals with sex offenses.

**Section 5** of the bill directs DOCR to establish a task force that includes representation from other system stakeholder and housing providers, to examine housing for individuals leaving incarceration, housing for individuals with sex offenses, sober

housing, and processes to improve coordination between system partners. These findings will be captured in an annual report to Legislative Management.

### **Study Other Opportunities to Reduce Reentry Barriers**

The final component of this bill, outlined in **Section 7**, relates to the continued study of criminal record sealing and opportunities that may exist to automate the sealing process, or expand the eligibility for record sealing.

North Dakota currently has a process for record sealing that certain people can apply for depending on the severity of their conviction and the amount of time that has elapsed since the conviction took place. Other states have automated this process, eliminating the need for certain individuals to submit an application and navigate the complicated court process to request a record to be sealed.

The Reentry Work Group discussed the lasting impact that a public criminal record can have on people who have turned their lives around following a conviction, specifically the complications it creates for obtaining employment and housing. The group ultimately decided that this topic is worthy of an interim study to evaluate the potential costs and benefits of automating this process in North Dakota or determine if there are other avenues to expanding record sealing opportunities that make sense for the state to pursue.

### **Amendment**

There is one proposed amendment to this bill, which just takes the last two sentences of **Section 9** of the bill, lines 19-22, and moves those into a new **Section 10**.

This language requires the DOOCR to apply for federal grants for the purpose of implementing reentry programs and creating a temporary coordinator position within DOOCR to help oversee elements of the reentry improvements proposed in this bill. The intention was not to limit the scope of federal grant applications to the Native American reentry program, but to use federal funding opportunities to support the implementation of any and all of the reentry policies that are included in HB 1549, HB 1417 and HB 1425.

### **Closing**

In summary, HB 1549 aims to reduce recidivism by better preparing people who are involved in the justice system for a smooth transition back to the community.

The goals of this bill are aligned with the goal I shared for HB 1425 and HB 1417 – as a package, these proposals promote public safety through an intentional focus on reentry, recovery, and rehabilitation that will improve the lives of people exiting the justice system and reduce the likelihood that they find their way back into the system. This is a better use of our tax dollars, correctional space, and a smart approach to maintaining public safety in our state.

Like the previous bills, I'll take any questions you have. The Crime & Justice Institute is also available to answer questions about the study process and the information that led to the proposed policies in this bill.

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