

SB 2128

Hearing date: March 24, 2025

Senate Judiciary Committee 2025 ND Legislature

Chairperson Diane Larson
Committee Members

From: Rozanna C Larson
Ward County State's Attorney

RE: Senate Bill 2128

Chairperson Larson and Members of the Committee,

This is my written testimony requesting approval of SB 2128. I am the State's Attorney for Ward County and have been a prosecutor for 27 years.

SB 2128 has been called the "truth in sentencing" bill. I know the concern is the impact this will have on DOCR population and the costs. I am not unsympathetic to the demands that are put on DOCR, both with the rate of incarceration and the number of offenders placed on supervised probation. For as long as I have been a prosecutor, prison/jail space has been an issue. "Catch and Release" has been phrase used over the years. Requests for the expansion of the State Penitentiary were made for several sessions before being approved. In 2013 the new wing was opened, but a 3-tier portion of the old prison was torn down. In 2013, given the increase in crime, it was full nearly the day the doors opened.

Throughout the years, during the interim, legislature has had studies and committees to address the issues relating to inmate population. These studies are related to recidivism, criminology, and risk assessments etc. One of the bigger studies, during my tenure as a prosecutor, was with Justice Reinvestment Initiative. (hereinafter (JRI)). I was part of this committee.

History of legislation addressing incarceration issues

Due to the recommendations of the JRI were several sentencing changes. The focus of these changes was aimed at addressing the prison population. The JRI specifically identified addiction and mental health issues to be a contributing factor to recidivism and criminology. As a result of this "insight", in 2017 changes were made to NDCC 19-03.1-23 and other controlled substance statues. These changes included reducing the level of offense for drug dealers (NDCC 19-03.1-23) from class A felony to Class B felony, for substances other than marijuana. First offense possession of drugs and paraphernalia for controlled substances, other than marijuana, was reduced to a Class A misdemeanor, subsequent offenses remained a Class C felony. In 2019 legislature went further and eliminated all mandatory sentences for drug dealers.

In addition to amending NDCC 19-03.1-23 as part of the reform recommendations by JRI, amendments were made to NDCC 12.1-32-07, the statute that HB 1417 seeks to change in a significant manner. In 2017 legislation amended NDCC 12.1-32-07 to reduce the number of years an offender could be placed on supervised probation. Apart from certain specific types of violent offenders, or offenders identified in 12.1-32-15 (sex offenders), the longest period of time a person can be initially placed on probation for a felony offense was reduced from 5 years to 3 years. There was also legislation that added the authority, as an intermediate measure, to DOCR probation officer to sanction an offender up to 30 days incarceration in lieu of filing a petition to revoke probation. (I'm not certain this intermediate measure has been used).

Another change made in 2017, based upon recommendation of the JRI, was Presumptive Probation, NDCC 12.1-32-07.4. The primary purpose of presumptive probation was to reduce the rate of incarceration. Apart from some specific offenses, and specific "aggravating factors" offenders charged with a Class A misdemeanor or Class C felony presumptively receive probation, no incarceration. Legislature also reduce the level offense for first offense drug and paraphernalia possession. In 2019 class C felony aggravated assault was eliminated from 12.1-32-09.1 (85% rule) making the offense a presumptive probation offense.

As stated, this purpose of this testimony is not to undo the efforts that have been made to address the rate of incarceration or opportunities created to assist offenders to avoid felony convictions and address underlying issues or causes of their criminal behavior.

However, I will point out that despite these efforts, and despite the opportunities created, crime does not stop, the rate or demand on incarceration may have been delayed, but the need continues. This is clearly evidenced by the number of counties that have invested millions of dollars expanding local jails. Williams, McKenzie, Southwest Correctional Center, Burleigh Morton Detention Center, Mountrail, Ward, Grand Forks and Cass Counties have all expended the funds to expand and provide additional incarceration space. This was done to provide for the safety of the respective communities, the demand for incarceration, and the lack of space at DOCR.

Ward County Stats – filings in court

Year	felonies	misdemeanor	trials scheduled	trials held
2011*	990	5,189*	285	11
2016	1,324	2,058	488	40
2018*	1,066	2,185	536	33
2020*	1,246	1,952	834	16
2021	1,169	1,837	677	15
2022	1,048	1,964	797	13
2023	1,097	2,351	792	23
2024	729	1,830	792	23

*2011 Minot flooded, we also had 6 murders, the misdemeanor number includes infractions

*2018 the new laws took effect, presumptive probation,

***2020 COVID**

Probation stats for Ward County

Year	petitions	DOCR	local	prob.	new crimes	absconded
2011	72	23	10	12		30
2016	519/218*				44.5%	129
2018	455	79	44	22	37%	149
2020	274	53	64	18	30.3%	160
2021	252	79	86	10	34.1%	168
2022	290	82	78	37	35.5%	195
2023	318	48	84	16	31.9%	148
2024	244	58	65	23	29.5%	167

***2016 probation records indicated 519 cases closed, there were 218 revocations**

Over the years, as State’s Attorney, my sentencing recommendations have changed. They have changed for several reasons. Some are due because the laws have changed. Presumptive probation has been mandated, most minimum mandatory sentences have been eliminated, some of that change has come from listening to testimony in past legislative sessions. Such as taking into consideration addiction and mental health issues, crafting supervision conditions to address these issues. Criminal history, the type of offense committed, victim input are also considerations. Lack of space is also a consideration. What really impacts recommendations is the actual incarceration time the offender will serve. These factors are considered on probation revocations also. When an offender’s probation is revoked, they can re-sentenced up to the maximum they could have been originally, or something less. On all revocation orders, they receive credit for the time they have already served. For example, if the original sentence committed an offender to DOCR to serve 2 years, the revocation order gives that offender credit for 2 years previously served, no matter if that sentence is served in the community or in a correctional facility.

As a prosecutor my options for sentencing recommendations (for non-life sentences) are: deferred imposition with probation, misdemeanor dispositions (felony becomes a misdemeanor) with probation, felony disposition with probation, serving local jail sentence with probation to follow, or serving a DOCR sentence with probation to follow, flat sentence, or a fine/costs. (currently there is proposed legislation eliminating most of the costs assessed), or a combination of jail/fines/probation. Probation sentences are not all supervised. Most misdemeanor probation is unsupervised. Clearly based on the above numbers, not all recommendations include jail time, local or DOCR.

This testimony is not aimed at undoing or criticizing the efforts made by the JRI study. But it is aimed at the continued theme that has become the mantra against any talk of expansion, “We can’t build ourselves out of the growth.” I am here to tell you, the time has come, we can’t ignore what is resulting from this mantra, offenders are not deterred. Offenders are not deterred because they know if they are sentenced to serve any time at DOCR, they will only serve a fraction of that time in the correctional facility due to the increasing numbers.

I have listened to testimony regarding length of sentences, and incarceration at many sessions. I have heard testimony to this committee that incarceration makes offenders worse, that it doesn't work. I ask you, if this claim is true, then why do offenders want to keep their charges in State court rather than going into Federal court? Federal charges, with sentencing guidelines, the offenders know they will serve significant time. They know if their case stays in the State court, they will serve considerably less time than what is imposed. (this is for certain drug cases, CSAM cases etc).

Prosecutors have been blamed for the growth in the incarceration. We are accused of recommending too harsh sentences. Our state's population has grown, recidivism and public safety are ignored as factors. Prosecutors take all the things I have mentioned into consideration. However, prosecutors only have so much time. We must triage all our cases and balance the safety of the community and victims with resources. You see the number of trials that are scheduled, the number that are held. That comes from recommendations and considerations of all the factors I mentioned, especially keeping in mind the increase in the incarceration rate. Recommendations to DORC are not taken lightly. Those recommendations and sentences are imposed to those that have exhausted local resources, or is fitting for the offense that was committed.

The Courts also take all those factors into account when ultimately sentencing a defendant. Now with the deferred admission set by DOCR, the Courts are taking that into consideration even more with all the sentences. The Courts, especially on probation revocations, want to sentence offenders to a facility where they will be forced to complete services, addiction counseling, anger management, etc. They know a local sentence will not accomplish that goal. Unfortunately, they also know that given DOCR's practice the offender will not receive the services they should be and have been ordered to complete before they are released back into the community.

So, I ask you to support and pass SB 2128. Force DOCR to live up to its name, provide the REHABILITATION the public expects it to provide, before the offender is released. By requiring the offender to serve 50% of the imposed sentence in an actual correctional facility, there will be actual time to complete services. It will also serve as a deterrent that presently doesn't exist.

HP LaserJet Pro M501dn

Job Storage

Job Storage Description

Job Storage allows you to send the print job to the printer and have it stored there until you print it from the printer's control panel. Some Job Storage jobs allow an optional PIN to be associated with the job for extra security.

Job Storage USB Installation

To enable Job Storage, you must first insert a dedicated USB storage device (with at least 16GB of memory) in the rear USB slot. This USB storage device will hold the Job Storage jobs sent to the printer. If this USB storage device is removed, Job Storage will be disabled on the printer.

Insert the USB drive in the rear USB slot and follow the instructions on the control panel. This USB drive will be dedicated to Job Storage. If this device has a front USB slot, The front USB slot will not work for Job Storage.

1. The USB cover may need to be removed to reveal the USB slot on some printer models. If there is a cover, remove it.
2. Insert a USB drive with at least 16GB of memory.
3. Follow the Control Panel messages to format the USB drive for Job Storage.

You may need to update your printer driver if you do not find the "Job Storage" tab after enabling the feature in the printer. Go to the following URL for instructions on how to update the printer driver.

<http://www.hp.com/support/jobstorage>