

Robert Vallie-Resident District 46
Concerning Senate Bill 2128
March 24, 2025

Chairman Klemin and members of the House Judiciary Committee,

My name is Robert Vallie. I am a resident of District 46 in Fargo and in my everyday work, I serve as an Assistant State's Attorney with the Cass County State's Attorney's Office. I have been a licensed attorney in North Dakota since September of 2017 and have spent my entire legal career in criminal prosecution, serving as an ASA in Ward and Cass Counties. While I am testifying today in my individual capacity, it is with those years of experience and my belief in good public policy that I provide this testimony in opposition to Senate Bill 2128.

SB 2128 fails to recognize current realities

Regardless of how members of the Committee may feel about the merits of SB 2128, North Dakota is left with certain realities faced in this current point and time. The reality is that our county jails are at capacity or near capacity, depending on the moment a law enforcement officer calls in to determine if there is available housing for a suspect. While our jails have worked tirelessly to maximize space, from transfers of inmates to other jails as space is available to programs like Cass County's Community Supervision Unit, it can only go so far. Cass County, for example turned 1,491 people away for certain criminal offenses (DUI, DUS etc.) and warrants (failure to pay fine, failure to appear) between the years 2023 and 2024. Even with 348 beds, Cass County has had to balance available resources with the increased demands to their services that can leave prosecutors, law enforcement and other frustrated.

The reality is our prison system is overcapacity. In a post-covid world, the number of inmates in DOCR facilities has grown year by year, with no end in sight. As of March 18th of this year, DOCR reported a total of 2,114 inmates, with a maximum operational capacity of 1,886. DOCR, much like our county jails, have attempted to maximize space, including contracting with local jails for bed space. Much like our county jails, DOCR can only push things so far. As of November of 2024, DOCR implemented its deferred admission plan, where inmates are prioritized based on the nature and level of offense for entry from our county jails. This backlog takes away from available beds to our county jails to accept individuals committing criminal offenses, addressing warrants and serving local sentences. It appears, based on information provided by DOCR to the HR Subsection of House Appropriations that the number of inmates DOCR will be ordered to house will continue to increase going into the Biennium. This anticipated increase will only create greater backlogs to our county jails and further strain DOCR resources, again, without any guarantee of achieving the Bill's aims. To these comments another way: North Dakota is at the point where for every person going into prison, someone needs to come out, by whatever authorized option is available. This will only be further exacerbated if this Bill is passed.

Financial impacts-known and unknown

In the second engrossment of SB 2128, the North Dakota Department of Corrections and

Rehabilitation has estimated the cost of implementing this change at roughly \$43.9 million over this biennium and the next. This includes costs ranging from the hiring of additional staff to address services lost with transitional services and increased bed usage, among others. While less than the original fiscal note when this Bill was before the Senate Judiciary Committee, significant issues remain. The first is, as of the date of this testimony, the estimated costs for the 25-27 biennium to implement this Bill has neither been proposed as an amendment or amended into DOCR's Budget. The second, with the newly adopted revenue forecast, that funds available for new endeavors appear to be moving towards prioritization for State needs. As the legislature debates priorities like funding for highways, flood protection projects, educational programming for K-12 and Higher Ed, such an expenditure places North Dakota in a difficult position. To fully fund the fiscal note takes significant resources away from other state priorities, with no guarantee of achieving the aims of the Bill. To not fund the fiscal note or not fully fund, places DOCR in the position of deciding what objects cannot be funded from their budget, such as recruitment and retention, additional facility services, etc.

Additionally, what the fiscal note does not provide are the increased costs to those political subdivisions and entities involved in the Criminal Justice System. The increases to county jails to house additional DOCR inmates of deferred admission status or to complete the mandatory minimum sentences imposed. The increased cost to taxpayers, as county officials propose additional increases to jail staff, salary and facilities, to ensure continued operations. Increased costs to State's Attorney's Offices and Public Defenders to address cases of defendant's left in the community due to not being brought in on warrants and allowed to commit more offenses, increased trials, etc. At a time where this Legislature is attempting to hold the reins on property taxes, this Bill appears to create a significant conflict in local needs to ensure community safety and Justice is achieved, with the want to cap taxpayer burdens at the local level.

Mr. Chairman and members of the Committee, in review of this Bill and the implications, SB 2128 provides greater strain and difficulties on our correctional system, greater costs to implement with no guarantee that this policy change will deter crime, ensure community safety, or address the balance of paroling individuals who show they are worthy, versus those worthy of being locked up.

Thank you for your time and consideration.

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