

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1473

2005 HOUSE JUDICIARY

HB 1473

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1473

House Judiciary Committee

☐ Conference Committee

Hearing Date 2/7/05

Tape Number	Side A	Side B	Meter #
1	xx		0-46.3
Committee Clerk Signature <i>Maun Penrose</i>			

Minutes: 13 members present, 1 member absent (Rep. Maragos).

Chairman DeKrey: We will open the hearing on HB 1473.

Rep. Eliot Glassheim: This is a bill to establish a commission to look over alternatives to incarceration. I'm not an expert in this field. I came to this bill from two points. One is noticing that despite the best efforts of the Dept of Corrections to look at alternatives, the cost of prisons are increasing dramatically over the past 5, 6 years. It's nobody's fault. The second thing that caught my attention was Rep. Carlisle has been a strong supporter of drug courts and I had an opportunity last session to go down and see them and they seemed very effective. So I have no way of telling of what we could do more, but I wanted to get professionals in all the fields that pertain to the criminal justice system, incarceration, treatment; to get them together and see what recommendations they could make for increasing our emphasis on alternatives to incarceration. To see if we could both save money, do better in treatment and rehabilitation and still preserve public safety. That's what I hope will come out of such a commission as has been proposed

here. There are some amendments that were suggested by the Governor's office and we've incorporated them in, incarceration replaces prison, and the make-up of the committee is slightly altered. The amendments are fine with me. Also, the expiration date is removed in the amendment and it becomes a permanent committee for as long as the legislature feels it is needed so it's not just a one recommendation deal but a continuing commission that would look at the results of the pilots and the efforts that are recommended and tried.

Chairman DeKrey: Do you know what the differences are between the February 2nd and February 4th amendments.

Rep. Eliot Glassheim: .0202 is the February 4th amendments. I believe the 2/2/05 have been incorporated into the 2/4/05 amendments.

Representative Delmore: Isn't this something that the Governor can already do, he's established different commissions on, for example, sexual predators. Do we need to have legislation to carry this through. You look at it as more permanent.

Rep. Eliot Glassheim: That did occur to me. It seems to me that having the legislature behind it, to say that this is the policy direction that we want to go in, would help. It would help all the agencies know that the legislature would like them to get on the same page and come up with something. Some of the recommendations will cost some money, or it would be a transfer of money, it would be good to have the legislature say that it wants such a thing to happen. I imagine the Governor could do it, the sexual predator thing was so on top of everybody's mind, it was easier for the Governor to do, it was during the interim, it had to be done then.

Representative Klemin: Why not a study resolution, instead of a commission. We had a very good process with the Indigent Defense study. The legislature did a study at the same time, as

there was a tax force that was put together to work with the legislature on that issue, and I'm wondering why it wouldn't work in this kind of thing, rather than putting a commission into law.

Rep. Eliot Glassheim: I didn't want a study resolution because sometimes they're chosen and sometimes they're not. If we want this to happen, then I want the legislature to say that we want this to happen. Usually study resolutions have to do with the legislature studying something, whereas it seems to me that the legislature is just one part of a multi-professional agency that needs to be involved in this kind of happening, rather than have the agencies come and testify before a legislative interim committee, they would be on the committee that would making the recommendations.

Representative Koppelman: In looking at the types of people on the commission, it talks about "2 of whom must be academic researchers, with specialized knowledge of prison and criminal behavior". Academic researchers are people who are college or university level teaching, researching, I have no idea of how many of those people there are in ND, how many are there and where do they come from.

Rep. Eliot Glassheim: The amendments change it to one, and they are to have knowledge of the criminal justice sentencing practices and sentencing alternatives or an addiction professional. I just want somebody whose expertise is in research. There are criminal justice degrees at both of the major universities. There may be sociology folks who are expert in this field and others.

Representative Koppelman: I didn't know a researcher was in that category, the language in the amendment changes that.

Rep. Eliot Glassheim: Yes.

Representative Klemin: On subsection 4, on page 2, line 10, the commission shall provide to the Governor information, recommendations in time for inclusion of the recommendations in the biennial executive budget. Do you know what time period that is. So the commission is going to have to get work and make recommendations in time to get into the executive budget. At what point in time would that be.

Rep. Eliot Glassheim: It seems to me that would be in the March-April-May time frame of 2006. The commission would have 10 months to make preliminary recommendations to the Governor, before the Governor's budget is finalized, I'd imagine that there's another 4-6 months after a preliminary. If you want to operationalize any of the results, they need to be in the Governor's budget; if it has to be, we can always add it, but it would be good if there were proposals for alternatives that required money, it would be good if the Governor would agree with the recommendations and have them in the budget.

Chairman DeKrey: Thank you. You and I have been touching base with the Governor's office in working on this and I support the bill also.

Sen. Connie Triplett: I support this bill, a sponsor of the bill. This bill is not intended to be a criticism of the Dept of Corrections or any of the initiatives that they are currently undertaking. It is our perception that this problem of having too many prisoners in the state of ND, is a larger problem than the Dept of Corrections can handle. It has to do with the meth problem which is a law enforcement problem, it has to do with mandatory sentences, which the Dept of Corrections has no control over and I think it may be time for a commission of this sort to look at whether or not we have too many mandatory minimum sentences in our code. It has to do with policies of local correctional institutions. I think that most of you know, for many years county jails acted as

overflow to the state prison system, and with county jails filling up and in overload themselves, that's not available to our state system anymore. I think it is a larger problem than just the Dept of Corrections and I think that's why it needs this kind of broad look that we're proposing here. From my own perspective on the Grand Forks County Commission, we are currently in the process of contemplating building a new correctional center, which we really don't want to do, and we wish there were other things we could do, so we didn't have to spend upwards of \$20 million building a new county jail. We're thinking that if we just step back and take a broad overview look at this, that maybe there are ideas that could come forward that would help in the long run to prevent spending for more prisons and more county jails.

Chairman DeKrey: Thank you.

Wayne Stenehjem, Attorney General: I support HB 1473. The issue of sentencing becomes one of increasing and very strong feelings by a number of people. Probably you, as legislators, when you talk about the drug problem, or any other issue, the question of what happens to these people, what kind of sentencing are they getting, why is there such a disparity from one area of the state to another, always rises to the front. It seems to me that something along the lines of what you're seeing in HB 1473 makes a lot of sense. We have had a hard time getting around this massive issue because the question goes beyond just the drug and alcohol issue, it goes into the property crimes and the other mandatory minimum sentences that you have. This bill makes sense. You have a couple of bills that are around this session, that I hope will pass. One of them is a bill that came from the drug and alcohol commission that provides for mandatory treatment options for first time felony offenders. That's a pilot project and that's one that will be up in Walsh, Pembina and Grand Forks county. I think that if that is developed this commission could

watch and see what's happening with that program. There's another bill that's also over in the Senate that provides for treatment options for people who are not in the criminal justice system, through the civil commitment process. Those that have not been arrested, who have family members who are concerned about them. That's a second item that's around in the legislature right now. I think that the legislature needs to give its stamp of approval, to the establishment of this kind of a commission rather than just a study resolution. I think this is something that is very important. Alabama and a number of other states have adopted laws that provide for this kind of a commission and has resulted in legislation that has really been for the betterment of the system as a whole. You may want to consider adding an emergency clause to the bill, simply because if it passes, you'll want this commission to be established, up and running and doing its work before August of this year, because the time frame is very short, before the budgets have to be prepared.

Representative Delmore: Have you had a chance to look over the two sets of amendments.

Wayne Stenehjem, Attorney General: No, I think they adjust the membership of the commission. That's fine. Who actually serves on it is not as much a concern to me as that. Some of the experts are on it, and a number of legislators who have influence, are also members of the commission.

Representative Delmore: I would like you to look at both of the sets of amendments, the second one sets out the parameters of the commission, and sometimes I worry a little about that, because then you start a laundry list of what people can look at.

Wayne Stenehjem, Attorney General: I'll do that. I think you need to make sure the commission has rather far-ranging authority to look at all of the things that the commission might feel are relevant to deal with the issue.

Chairman DeKrey: I think the 2nd set of amendments is from the mental health association.

Okay.

Wayne Stenehjem, Attorney General: Anything we can do in our office, we'll help you as you fine tune the legislation.

Chairman DeKrey: Thank you. Further testimony in support of HB 1473.

D'Joyce Kitson Smutzler: (see written testimony).

Chairman DeKrey: Thank you. Further testimony in support of HB 1473.

Ted Gladden, State Court Administrator: (see written testimony).

Representative Charging: Currently there isn't anything, this is a loophole in the system.

Ted Gladden: It is a loophole, we in the judiciary have worked with the Governor's office directly, and with Elaine Little from the Dept of Corrections and Carol Olson, Dept of Human Services, just in the area of looking at drug courts or problem solving. It didn't bring together the broad base that you really need if you are going to make policy issues about where we're going, do we want to have the resources committed. I think it is a loophole and when I saw the bill come through, I visited with the Chief Justice, this might be the vehicle to bring together the three branches of government to provide a substantive way of looking at these issue that we're all grappling with.

Chairman DeKrey: I was pretty excited when Rep. Glassheim brought it to me, because I thought that the success we had seen with the sexual predators task force and the commission that Rep. Delmore is on, looked to me like a pretty good way to come to some solid consensus on what we can do. Thank you for appearing. Further testimony in support.

Sheree Spear, Mental Health Association in ND: We strongly support the formation of this commission (see written testimony).

Representative Klemin: The amendments we have dated 2/4/05, this set has some duties of the commission that replace subsection 4 of this bill, and in the amendment there is quite a bit of reference to the pilot projects. That's the only place I see these pilot projects are mentioned, it seems to be in the context of establishing standards for these pilot projects and then monitoring what they're doing and receiving reports from these pilot projects, etc. It seems to me like this is an ambitious requirement for a commission like this to be putting together all these standards and doing monitoring and reporting. Is this commission really going to have the time to be able to do this kind of stuff with the pilot projects and what pilot projects are we talking about, because I don't see it mentioned anywhere else in the bill.

Sheree Spear: There are a number of pilot projects and initiatives. There are a lot of good things happening in the state. The bill that the AG mentioned, they're talking about piloting that up in the Grand Forks area that would be looking at court-based diversions for chemical addictions. That's one pilot. There's good things going on in Williston. There are some treatment components to be proposed in Rugby. We are part of a pilot that has already started in Cass County. It is called the jail intervention coordinating committee. This is a collaboration of a broad number of people within the community, the chair of this JICC is Chief Deputy Ellingsburg, who is the head of the jail, the vice-chair is Scott Stenerson, from the Fargo Police Dept., we have a human service center, housing authority, the hospitals and so on that are all looking at this issue of how do you do a real comprehensive jail diversion strategy for people to experiment. That project was recently awarded a technical assistance grant from the National

Institute of Corrections, and they paid for a consultant who came to Fargo for a couple of days to evaluate the whole program. There are some pilot activities taking place, and from the perspective of that particular pilot, that group does plan to pilot alternative sentencing options for people with severe mental illness. They will have a work group that will do all of the research, and so on. I really believe that it would be beneficial to the state and everyone, if there is a higher level advisory group, that these people can present information to, just to get a higher level buy in, to ensure that everything is done appropriately.

Representative Klemin: It seems like the one you mentioned for the drug and alcohol commission, it seems like we have this commission, which apparently provides oversight for that commission. Not only oversight, we look at b, c, and d of these amendments, sounds like we're making a lot of requirements on the other commissions that are in charge of these other projects to follow and really isn't that the job of these other commissions to do.

Sheree Spear: I would agree with you. The way the bill is written, in terms of the commissions, we're certainly not looking for some other body to be formed that would have authority over commissions and groups that are already in place that are doing an excellent job. I think that one of the reasons that kind of language came about, is because part of the original bill, and that remains in all the amendments, is that this commission would actually be able to make recommendations to the Governor, with respect to what do we need in terms of facilities, services and so on, in preparation for the next biennium. I think that in order for that commission to really be able to make recommendations, they will need to have an examination of the programs and initiatives, an in depth understanding and be able to have some way of

comparing the effectiveness to be able to make recommendations regarding where we should put our funding.

Representative Delmore: I think what you're trying to get at, if I'm reading it correctly, is we've got a lot of piecemeal, it doesn't necessarily mean that commission will govern somebody else, but they'll know what the right hand is doing and left hand, so that they can put it together and do the best thing in the interests of all the players, be it your association, be it drug and alcohol people, whatever, they can at least collect the data and be aware of what is going on.

Sheree Spear: Exactly, there are good things going on, this is not intended to be a negative thing; but again, we've got this going on here and there. It's just a way for one group to know what is going on everywhere in this area and can endorse and support with some real substantial data, the kinds of budget requests that are probably going to come forward next session.

Representative Charging: You talked about mental illness. One of my concerns is the lack of facilities in ND, wouldn't this put another burden on top of, or will it help to build those facilities, as well.

Sheree Spear: There are a lack of community based services in some area for people with severe mental illness. I would hope that any of those gaps would be addressed, be recognized, by this commission, identified, and to the extent that they can aid people in getting the appropriate treatment that they need, rather than just sitting in jail, then they get out and nothing's different. I believe this commission would be very helpful in doing that.

Representative Charging: Are we at full capacity now in the group homes, or some of the areas where continued care would be available.

Sheree Spear: We have gaps in those areas. When you look at different levels of treatment required for different people at different stages of their illness. They are the people who need in-patient care. There are times when they need a crisis bed for a couple of weeks. We do not have the capacity to support these kinds of things. The State Hospital, the admissions, are going up dramatically, in large part because of chemical addiction, and yet we're not asking for any additional staffing or funding for those traditional services. Human Service centers do have funds to pay for in-patient hospitalization and local hospitals. But what has happened so far is the funds only lasted for a quarter of the biennium, half of the biennium, so what is happening is we have a lot of people who are just turned out onto the streets, who are real fragile and vulnerable. We need permanent supportive housing, we need a lot of different things.

Representative Charging: So in your best estimate, this commission would help identify that, and provide some opportunity for federal funding.

Sheree Spear: I believe so, because I believe the answers are not quick and simple. Let's allow judges to order alternative treatment and that's going to solve the problem. We find out that the services and the need for services in the community is an underlying issue, and until we really address that, we're never going to address the issue of how many people with chemical addictions are in prison.

Chairman DeKrey: Thank you. Further testimony in support, testimony in opposition. We will close the hearing.


2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1473

House Judiciary Committee

☐ Conference Committee

Hearing Date 2/9/05

Tape Number	Side A	Side B	Meter #
1		xx	31.9-43.9
Committee Clerk Signature 			

Minutes: 14 members present.

Chairman DeKrey: What are the committee's wishes in regard to HB 1473. I have an amendment from the AG's office, the Governor's office and the Supreme Court has agreed upon.

Representative Maragos: I would move the amendment, 0203 dated February 8, 2005, for Rep. DeKrey.

Chairman DeKrey: If you remember the lady from the Mental Health Association had some things she wanted in the bill, and AG talked with her and they boiled it down to what you see on this amendment that I am proposing. Further discussion on the amendment.

Representative Klemin: I wanted to look at what they did on page 2, line 8.....so they removed the sunset clause.

Sandi Tabor, AG's office: We are removing the sunset clause, at the Governor's request.

They want it to be ongoing. I know that some of those amendments were worked on with the Governor's office...

Chairman DeKrey: I know, a collaboration, all three are happy with it; the Governor, Supreme Court and AG.

Representative Charging: I recall when Joyce d'Kittson spoke, and I wondered if there was consideration for her request for the minorities on the committee.

Chairman DeKrey: It wouldn't appear so.

Representative Charging: No?

Chairman DeKrey: Doesn't appear so. Further discussion.

Representative Kretschmar: I really like the expiration, the sunset clause because if the thing works well, I'm sure that they will be here in the 2007 session to get that removed, if it doesn't work well, we'll put it back on. .

Chairman DeKrey: Let's pass the DeKrey amendment and then we'll work on that one.

Representative Kretschmar: Seconded on the DeKrey amendment.

Chairman DeKrey: Motion carried.

Representative Kretschmar: I move an amendment to put a sunset clause on there.

Representative Koppelman: Seconded.

Representative Klemin: With regard to the sunset clause that's there, it expires December 31, 2006, now if we come back into session in January of 2007, this will already have expired, wouldn't we want the sunset clause to be June 30, 2007.

Representative Kretschmar: I agree, I would put that in the amendment.

Representative Delmore: We all talked about putting an emergency clause on this so we could get this started right away.

Representative Kretschmar: I put that in the amendment too.

Sandi Tabor: Regarding the sunset clause, I don't know what the original intent of that was, but having worked with the Drug and Alcohol Commission now for four years, if you really want this to have a meaningful life, sunseting it isn't the way to do it. If the cost of this commission is minimal, why have a sunset clause. Why don't you let us do our work over the course of the time that it takes, we'll be reporting regularly to the Governor and I believe to LC, I haven't looked at that bill lately, but I just am not sure why you are sunseting this commission. I'll tell you right now, it is going to take more than two years to do what we need to do.

Representative Koppelman: Sandi, I think to answer your question, my opinion as to why we do sunset things like this occasionally, is because there is somewhat of a mood among some legislators to say if we don't do that, we kind of lose track, and I'm not saying that it will happen here, you say you are going to be reporting, but we expand government and create boards and commissions everywhere. Some people have the opinion to say, let's sunset it, all that does is force us to come back and look at it, if it's going well, it's proceeding along the path intended, we would remove the sunset.

Sandi Tabor: I understand that, nobody has more of a problem with escalating government than I, but in this particular instance, my concern is that, in the bill, I believe there are reporting requirements. So I don't know that you are going to have a commission running amok. I think that when you have a sunset, it implies to everyone who is working on it, that there's an ending date and that would be the end, and given the scope and nature of what you're asking this commission to do, I'll almost guarantee you we're not going to get it done in two years, because these are big issues. What if the sunset were 4 years instead of 2.

Sandi Tabor: That would be fine, I guess. I mean if there is a dire need to have a sunset on it, I'd much rather have four years than two. I can see us ready to report some interim things for the next session and maybe some bigger package things two years after that.

Representative Klemm: Just to comment on the sunset clause, I think the sunset clause can have the opposite effect of what you've described, in that the commission will have to say okay, we're going to have to prove that we really need to do something, to justify our existence, or they'll put us out of existence, I think that is the point of the sunset clause, to make sure that this isn't just a big commission that we appointed that doesn't actually accomplish anything. If we want to have this commission and we really want them to do something to justify their existence, that's what I see as the reason for the sunset clause.

Sandi Tabor: Again, I understand that philosophy, I just don't think it's the way it works in the real world for these types of issues. My basis for that is really the work we've done on the Drug and Alcohol Commission, which I think has been very diligent, we have now brought a package of bills for the legislature. It's been based on our studies over the last biennium, but these are big issues and they are going to take time to look at, and I'm just fearful if you have a sunset clause in two years, or not even two years, I am just concerned about that. Four years, I am willing to go with that.

Representative Koppelman: I move to amend the amendment to four years instead of two with the summer date.

Representative Maragos: Seconded.

Chairman DeKrey: Motion carried. Now we have the amendment before us as amended.

Representative Klemin: Just to clarify, we have a sunset clause of June 30, 2009, plus we have an emergency clause.

Chairman DeKrey: Yes. Further discussion on the amendment.

Representative Delmore: That way they can start their work right away.

Chairman DeKrey: Voice vote on the amendment as amended. Motion carried. Now we have the bill before us as amended.

Representative Delmore: I move a Do Pass as amended.

Representative Zaiser: Seconded.

Chairman DeKrey: Discussion. Clerk will call roll.

14 YES 0 NO 0 ABSENT DO PASS AS AMENDED CARRIER: Rep. Kingsbury

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1473

Page 1, line 1, replace "prison" with "incarceration" and after the semicolon insert "and"

Page 1, line 2, remove "; and to provide an expiration date"

Page 1, line 4, replace "prison" with "incarceration"

Page 1, line 5, replace "prison" with "incarceration" and replace "twenty" with "eighteen"

Page 1, line 7, replace "Five" with "Three", replace "two" with "one", and after "be" insert "an"

Page 1, line 8, replace "researchers" with "researcher" and replace "prisons or prisoner behavior" with "criminal justice sentencing practices and sentencing alternatives"

Page 1, line 10, replace "The" with "Two members appointed by the" and remove "or the chief justice's designee"

Page 1, line 12, after "e." insert "The director of the department of human services; f.", replace "Two" with "One", replace "officers" with "officer", and replace "attorney general" with "peace officers association"

Page 1, line 13, replace "f." with "g. One state's attorney appointed by the North Dakota state's attorney's association;

h."

Page 1, line 17, replace "g." with "i."

Page 1, line 20, replace "h." with "j."

Page 1, line 21, after the semicolon insert "and"

Page 1, line 22, replace "i." with "k."

Page 1, line 23, remove "; and"

Page 2, remove line 1

Page 2, line 2, remove "and rehabilitation"

Page 2, line 5, replace "least four times at such" with "the"

Page 2, line 9, replace "expansion" with "expanded use" and replace "drug" with "problemsolving"

Page 2, line 12, remove "make a"

Page 2, line 13, remove "final" and remove "of"

Page 2, line 14, remove "at its"

Page 2, line 15, remove "biennial meeting in November 2006"

Page 3, remove lines 3 and 4

Renumber accordingly

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1473

Page 1, line 1, replace "prison" with "incarceration" and after the semicolon insert "and"

Page 1, line 2, remove "; and to provide an expiration date"

Page 1, line 4, replace "prison" with "incarceration"

Page 1, line 5, replace "prison" with "incarceration" and remove "of twenty members"

Page 1, line 7, replace "two" with "one" and after "be" insert "an"

Page 1, line 8, replace "researchers" with "researcher", replace "prisons or prisoner behavior" with "criminal justice sentencing practices and sentencing alternatives, one of whom must be a psychiatric treatment professional, and one of whom must be an addiction treatment professional"

Page 1, line 10, replace "The" with "Two members appointed by the" and remove "or the chief justice's designee"

Page 1, after line 11, insert:

"e. The director of the department of human services;"

Page 1, line 12, replace "e." with "f.", replace "Two" with "One", replace "officers" with "officer", and replace "attorney general" with "peace officers association"

Page 1, line 13, replace "f." with:

"g. One state's attorney appointed by the North Dakota state's attorney's association;

h."

Page 1, line 17, replace "g." with "i."

Page 1, line 20, replace "h." with "j."

Page 1, line 21, after the semicolon insert "and"

Page 1, line 22, replace "i." with "k."

Page 1, line 23, replace "; and" with a period

Page 2, remove lines 1 and 2

Page 2, line 5, replace "least four times at such" with "the"

Page 2, replace lines 8 through 15 with:

"4. The commission shall:

- a. Study sentencing alternatives, mandatory sentences, treatment options, the expanded use of problem-solving courts, home monitoring, and other related issues;
- b. Ensure that consistent performance measurements are established for alternatives to incarceration pilot projects and programs and determine the substantiating data to be collected and monitored by state and county agencies and private service providers;
- c. Ensure that alternatives to incarceration pilot projects, including alternatives to incarceration projects for individuals with severe mental illness, are based upon nationally recognized best practices and effective models;
- d. Require quarterly reports from the alternatives to incarceration pilot projects and programs;
- e. Provide to the governor information and recommendations for the governor's consideration in time for inclusion of the recommendations in the biennial executive budget; and
- f. Report its findings and recommendations, together with any legislation required to implement those recommendations, to the legislative council."

Page 3, remove lines 3 and 4

Renumber accordingly

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1473

Page 1, line 1, replace "prison" with "incarceration" and after the semicolon insert "and"

Page 1, line 2, remove "; and to provide an expiration date"

Page 1, line 4, replace "prison" with "incarceration"

Page 1, line 5, replace "prison" with "incarceration" and remove "twenty members as"

Page 1, line 6, remove "follows"

Page 1, line 7, replace "Five" with "Three", replace "two" with "one", and after "be" insert "an"

Page 1, line 8, replace "researchers" with "researcher" and replace "prisons or prisoner behavior" with "criminal justice sentencing practices and sentencing alternatives"

Page 1, line 10, replace "The" with "Two members appointed by the" and remove "or the chief justice's designee"

Page 1, line 12, after "e." insert "The director of the department of human services;

f."

Page 1, line 13, replace "f." with "g. One state's attorney appointed by the North Dakota state's attorney's association;

h."

Page 1, line 17, replace "g." with "i."

Page 1, line 19, after the semicolon insert "and"

Page 1, remove lines 20 and 21

Page 1, line 22, replace "i." with "j."

Page 1, line 23, replace "; and" with a period

Page 2, remove lines 1 and 2

Page 2, line 5, replace "least four times at such" with "the"

Page 2, line 9, replace "expansion" with "expanded use" and replace "drug" with "problem-solving"

Page 2, line 12, remove "make a"

Page 2, line 13, remove "final" and remove "of"

Page 2, line 14, remove "at its"

Page 2, line 15, remove "biennial meeting in November 2006"

Page 3, remove lines 3 and 4

Renumber accordingly

Date: 2/9/05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1473

HOUSE JUDICIARY COMMITTEE

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Amended

Motion Made By Rep. Delmore Seconded By Rep. Zaiser

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Representative Delmore	✓	
Representative Maragos	✓		Representative Meyer	✓	
Representative Bernstein	✓		Representative Onstad	✓	
Representative Boehning	✓		Representative Zaiser	✓	
Representative Charging	✓				
Representative Galvin	✓				
Representative Kingsbury	✓				
Representative Klemin	✓				
Representative Koppelman	✓				
Representative Kretschmar	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Kingsbury

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1473: Judiciary Committee (Rep. DeKrey, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1473 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "prison" with "incarceration" and after the semicolon insert "and"

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Page 1, line 5, replace "prison" with "incarceration" and replace "twenty" with "eighteen"

Page 1, line 7, replace "Five" with "Three", replace "two" with "one", and after "be" insert "an"

Page 1, line 8, replace "researchers" with "researcher" and replace "prisons or prisoner behavior" with "criminal justice sentencing practices and sentencing alternatives"

Page 1, line 10, replace "The" with "Two members appointed by the" and remove "or the chief justice's designee"

Page 1, line 12, after "e." insert "The director of the department of human services; f.", replace "Two" with "One", replace "officers" with "officer", and replace "attorney general" with "peace officers association"

Page 1, line 13, replace "f." with "g. One state's attorney appointed by the North Dakota state's attorney's association;

h."

Page 1, line 17, replace "g." with "i."

Page 1, line 20, replace "h." with "j."

Page 1, line 21, after the semicolon insert "and"

Page 1, line 22, replace "i." with "k."

Page 1, line 23, remove "; and"

Page 2, remove line 1

Page 2, line 2, remove "and rehabilitation"

Page 2, line 5, replace "least four times at such" with "the"

Page 2, line 9, replace "expansion" with "expanded use" and replace "drug" with "problemsolving"

Page 2, line 12, remove "make a"

Page 2, line 13, remove "final" and remove "of"

Page 2, line 14, remove "at its"

Page 2, line 15, remove "biennial meeting in November 2006"

REPORT OF STANDING COMMITTEE (410)
February 10, 2005 8:43 a.m.

Module No: HR-27-2363
Carrier: Kingsbury
Insert LC: 50482.0201 Title: .0300

Page 3, remove lines 3 and 4

Renumber accordingly

2005 HOUSE APPROPRIATIONS

HB 1473

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1473

Alternatives to Incarceration

House Appropriations Full Committee

☐ Conference Committee

Hearing Date February 15, 2005

Tape Number	Side A	Side B	Meter #
2	X		#48.1 - #end
2		X	#0 - #4.4
Committee Clerk Signature <i>Chris Alexander</i>			

Minutes:

Rep. Ken Svedjan, Chairman opened the discussion on HB1473.

Rep DeKrey explained that this bill uses the sexual predators study that was done during the interim as a model to study the alternatives to incarceration. The appropriation is \$5000 from the general fund but am unaware which budget this will be attached to.

Rep. Keith Kempenich asked about an earlier study done on this

Rep DeKrey answered that there have been other studies done on bits and pieces of this but this would be a comprehensive study to help us determine a direction for the state. It is a needed study.

Rep. Jeff Delzer asked if there was anything in the corrections budget on this We need the legislative body to look at the whole policy on corrections and decide where we are going with all of this.

Rep. Jeff Delzer asked if the Governor's office already put a commission together for this and did your committee discuss why this study would be housed in the legislative branch when there are a lot of citizens and executive branch people on the commission.

Rep DeKrey answered that legislators need to bring in folks from the areas under discussion because the legislators are not that well versed in all of these areas. It adds a real dimension to have these people on the commissions. (meter Tape #2, side B, #1.0)

Rep. Ron Carlisle asked if the Drug and Alcohol Commission couldn't do this

Rep DeKrey answered that the Drug and Alcohol Commission is out of the Attorney General's office and the idea for this commission is to have it work from the end result side of the issue that the judiciary, the Attorney General and the Governor's office would all be involved with.

Rep. Mike Timm, Vice Chairman moved to remove the \$5000 from HB1473.

Rep. Jeff Delzer seconded

Rep. Ken Svedjan, Chairman called for a voice vote on the motion to amend HB1473. Motion carried.

Rep. Eliot Glassheim moved a Do Pass As Amended motion to HB1473

Rep. Keith Kempenich seconded.

Rep. Ken Svedjan, Chairman called for a roll call vote on the Do Pass As Amended motion for HB1473. Motion carried with a vote of 17 yeas, 2 nays, and 4 absences. Rep Glassheim will carry this bill to the house floor.

Rep. Ken Svedjan, Chairman closed the discussion on HB1473.

Rep DeKrey answered no this was nothing being done that I know of but at some point the bill in the Senate will have to marry with these two bills in the House..

Rep. Jeff Delzer asked what the recommendation from the committee is on this

Rep DeKrey answered that we should take out the appropriations and go talk to the agencies and see who wants it badly enough to pay for it.

Rep. Jeff Delzer commented that this bill actually sets up a commission rather than letting the legislative council to decide whether they want to do this or not.

Rep DeKrey answered that the reason for this is that in a regular interim study the group is made up mostly of legislators and the idea behind this study is to involve people who are most closely related to these problems working in conjunction with legislator to come up with a plan.

Rep. Ken Svedjan, Chairman commented that if you remove the money then you don't have a commission. (meter Tape #2, side A, #52.2)

Rep. Jeff Delzer commented that he believed that this was different because he saw a need for legislators to make some decisions and this is more about the commission itself rather than a discussion about alternatives to incarceration.

Rep. Mike Timm, Vice Chairman commented that \$5000 couldn't fund a commission for a two year period anyway.

Rep DeKrey commented that he questioned the money as well because the idea of the commission was that it would continue beyond the two year period.

Rep. Eliot Glassheim commented that most of the money is in travel and most of the people on the commission live in Bismarck and the ones who don't are from the legislative council who get reimbursed anyway, so \$5000 should be enough.

Date: February 15, 2005
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1473

House Appropriations - Full Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 50482.0301

Action Taken **DO PASS AS AMENDED**

Motion Made By Rep Glassheim Seconded By Rep Kempenich

Representatives	Yes	No	Representatives	Yes	No
Rep. Ken Svedjan, Chairman	X		Rep. Bob Skarphol	AB	
Rep. Mike Timm, Vice Chairman	X		Rep. David Monson	X	
Rep. Bob Martinson	X		Rep. Eliot Glassheim	X	
Rep. Tom Brusegaard	AB		Rep. Jeff Delzer		X
Rep. Earl Rennerfeldt	X		Rep. Chet Pollert		X
Rep. Francis J. Wald	X		Rep. Larry Bellew	X	
Rep. Ole Aarsvold	X		Rep. Alon C. Wieland	X	
Rep. Pam Gulleeson	X		Rep. James Kerzman	AB	
Rep. Ron Carlisle	X		Rep. Ralph Metcalf	X	
Rep. Keith Kempenich	X				
Rep. Blair Thoreson	X				
Rep. Joe Kroeber	X				
Rep. Clark Williams	X				
Rep. Al Carlson	AB				

Total Yes 17 No 2

Absent 4

Floor Assignment Rep Glassheim

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1473, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (17 YEAS, 2 NAYS, 4 ABSENT AND NOT VOTING). Engrossed HB 1473 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "to provide an"

Page 1, line 2, remove "appropriation;"

Page 2, remove lines 24 through 28

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment removes the \$5,000 general fund appropriation to the Legislative Council for funding the Commission on Alternatives to Incarceration.

2005 SENATE JUDICIARY

HB 1473

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1473

Senate Judiciary Committee

☐ Conference Committee

Hearing Date March 14, 2005

Tape Number	Side A	Side B	Meter #
1	X		0.0 - 1650
Committee Clerk Signature <i>Marn L. Solberg</i>			

Minutes: Relating to the Commission on alternative to incarceration; emergency.

Senator John (Jack) T. Traynor, Chairman called the Judiciary committee to order. All

Senators were present. The hearing opened with the following testimony:

Testimony In Support of the Bill:

Rep Glassheim, Dist. #18 Introduced the bill. This is a bill creates a commission on alternatives to incarceration. The committee would last till 2009. There are many members from all the diversities of the prison system. This is the results of the observation over the last sessions. With the rising costs of the prison in our state budget. This is the trend. There are many "short term" prisoners, under two years. This also includes the Drug Courts efforts to get people back on track. The purpose is to have all components get together to discuss what needs to be done with the guarantee of the safety of our public population. This is also about changing the behavior at less cost while still protecting ourselves. Submitted a MN article on "Boot Camp" -

Att. #1

Sen. Traynor asked why it was called a "commission" and not a "task force" or a "committee"?

This is not just a "legislative" committee. I thought of it as a blue ribbon panel brining different entities of the same purpose. Commission is the higher level. I did not want it to be permanent but last long enough to have results and time to work.

Sen. Trenbeath questioned the Academic person being of high enough caliper for the ND pool.

Discussion of this. This qualification is very important for this and would we want to seek this out in a nation wide basses on a contractual basses. Rep. Glassheim wants to keep cost down but would try to include this. While it is important to have the experience on the National Level he would like to keep the "work" of the committee with the ones actually enforcing it so they may have the "ownership and commitment" of it.

Sen. Traynor asked if the problem solving courts were similar to drug courts? Yes originally I had drug courts and they changed it to problem solving courts so it may be broader.

Rep. Dekrey, Dist. #14 (meter 615) Early on in the session I was asked to sign on to this bill and was happy after my time with the indigent defense task force. This system sounds like a good way to come up with viable solutions. The Governors office, the Attorney Generals office and the Supreme Court called me and said that not only do they support it but would like to participate in it. They offered there amendments in the house. If you have any ideas that will help this bill we are opened to it.

Ted Gladden, ND State Court Administrator (meter 750) Gave Testimony - Att. #2

Senator Syverson question why there was not a fiscal note? The discussion was that the people on the commission had paid positions that benefit this and are on as part of there current position the only costs would be nominal travel costs. Discussion of a fiscal note (meter 990). Originally

Page 3

Senate Judiciary Committee

Bill/Resolution Number HB 1473

Hearing Date March 14, 2005

there was a fiscal note of \$5000. Possible funds being available through other funds. This is not a legislative Study and would not be funded by council this is the set up of a statutory commission, with out any dollars.

Testimony in Opposition of the Bill

None

The motion was made to do pass, committee will hold the motion upon research of future funding for this.

Senator John (Jack) T. Traynor, Chairman closed the Hearing

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1473

Senate Judiciary Committee

☐ Conference Committee

Hearing Date March 16, 2005

Tape Number	Side A	Side B	Meter #
2	X		311 - 880
Committee Clerk Signature <i>Maria L. Salberg</i>			

Minutes: Relating to the commission on alternative to incarceration: emergency.

Senator John (Jack) T. Traynor, Chairman called the Judiciary committee to order. All

Senators were present. The hearing opened with the following committee work:

Senator Triplett stated that she has had a conversation with Sherry Mills Moore, President of the Bar Assoc. While Sherry would still have to take the issue to her board members she thought that this is a topic her group would be interested in and if we were to amend the bill to generically authorize the commission to receive grant funds. She stated that the IOLTA Fund, and the Trial Lawyers Assoc. may have grants available.

Sen. Traynor upon discussion with appropriation that if the fund was for \$4999 it did not have to go to appropriations. The committee discussed to include both.

Jeff Ubben, the intern will set up the amendment with legislative council.

Senator John (Jack) T. Traynor, Chairman closed the Hearing

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1473

Senate Judiciary Committee

☐ Conference Committee

Hearing Date March 21, 2005

Tape Number	Side A	Side B	Meter #
1	X		691 - 1400
Committee Clerk Signature			

Minutes: Relating to the commission on alternative to incarceration; emergency.

Senator John (Jack) T. Traynor, Chairman called the Judiciary committee to order. All

Senators were present. The hearing opened with the following committee work:

Sen. Traynor opened with the finding of funds in legislative council that could be used to assist this program. Last biennium the did not use all the funds. If we adopt this amendment they may be able to access these funds.

Sen. Trenbeath stated that there is also a Concurrent Resolution to Study this matter coming into our committee. HCR 3047.

Senator Triplett made the motion to do pass the amendment (50482.0402) seconded by **Sen.**

Nelson. All members were in favor and motion passes.

Sen. Nelson made the motion to Do Pass As Amended and **Sen. Trenbeath** seconded the motion. All members were in favor and the motion passes.

Page 2

Senate Judiciary Committee

Bill/Resolution Number HB 1473

Hearing Date March 21, 2005

Carrier: **Sen. Traynor**

Senator John (Jack) T. Traynor, Chairman closed the Hearing

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1473

Page 2, line 7, after the period insert "If the commission determines that consultant services are necessary to assist the commission in conducting its assigned studies, the commission may request funding for consultant services from the legislative council and other interested entities."

Renumber accordingly

Date: 3/21/05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1473

Senate Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Amendment Do Pass 50482.0402

Motion Made By Senator Triplett Seconded By Senator Nelson

Senators	Yes	No	Senators	Yes	No
Sen. Traynor	✓		Sen. Nelson	✓	
Senator Syverson	✓		Senator Triplett	✓	
Senator Hacker	✓				
Sen. Trenbeath	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 3/21/05
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1473

Senate Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken No Pass As Amended

Motion Made By Senator Nelson Seconded By Senator Trenbeath

Senators	Yes	No	Senators	Yes	No
Sen. Traynor	✓		Sen. Nelson	✓	
Senator Syverson	✓		Senator Triplett	✓	
Senator Hacker	✓				
Sen. Trenbeath	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen Traynor

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1473, as reengrossed: Judiciary Committee (Sen. Traynor, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1473 was placed on the Sixth order on the calendar.

Page 2, line 7, after the period insert "If the commission determines that consultant services are necessary to assist the commission in conducting its assigned studies, the commission may request funding for consultant services from the legislative council and other interested entities."

Renumber accordingly

2005 TESTIMONY

HB 1473

**TESTIMONY OF D'JOYCE KITSON SMUTZLER
TO THE HOUSE APPROPRIATIONS COMMITTEE
HUMAN RESOURCES SUBCOMMITTEE
JANUARY 20 2005**

CHAIRMAN DELZER AND MEMBERS OF THE HOUSE
HUMAN RESOURCES
SUBCOMMITTEE, MY NAME IS D'JOYCE KITSON
SMUTZLER AND I APPEAR
TODAY IN SUPPORT OF HB 1012, THE DEPARTMENT OF
HUMAN SERVICES BUDGET. HOWEVER, I DO NOT
BELIEVE THIS BUDGET GOES FAR ENOUGH IN THE
TREATMENT OF PERSONS WITH MILD TO MODERATE
CLOSED HEAD INJURIES, AND I ALSO APPEAR IN THEIR
BEHALF TODAY.

THE HUMAN SERVICE CENTERS ACROSS NORTH
DAKOTA PROVIDE ONLY MINIMAL SERVICES TO THOSE
WITH MILD TO MODERATE CLOSED HEAD INJURIES AND
THESE SERVICES DO NOT MEET THE NECESSARY DAY-
TO-DAY NEEDS OF THESE FOLKS.

CASEMANAGEMENT SERVICES ARE PROVIDED TO
THOSE WITH ONLY THE MOST SEVERE DISABILITIES.
OTHERS, WITH MILD TO MODERATE DISABILITIES
CANNOT RECEIVE CASEMANAGEMENT SERVICES
WHEN, IN FACT, THIS IS THE SERVICE THEY NEED THE
MOST. OFTEN TIMES, THESE FOLKS "LOOK" NORMAL
AND ARE GIVEN MEDICATION LIKE ANTI-DEPRESSANTS
AND SENT ON THEIR WAY. THESE PEOPLE, 60 OF WHOM
I KNOW PERSONALLY, NEED ORGANIZATIONAL HELP,
DAILY LIVING SKILLS HELP AND COPING SKILLS
PROVIDED THROUGH CASEMANAGEMENT. WHEN
THESE SERVICES ARE NOT PROVIDED, MANY
UNINTENDED OUTCOMES OCCUR. THESE INCLUDE:

- FAMILIES ARE EXPECTED TO ASSUME THESE RESPONSIBILITIES FOR THEIR FAMILY MEMBERS AND OFTEN ARE UNABLE TO DO SO BECAUSE THEY MUST WORK TO MEET THE FINANCIAL NEEDS OF THEIR FAMILY MEMBER.
- PEOPLE WITH MILD TO MODERATE HEAD INJURIES ARE OVER-MEDICATED WITH ANTI-DEPRESSANTS, ADHD MEDICATION AND ANTI-PSYCHOTICS, CAUSING OTHER AND ADDITIONAL SYMPTOMS.
- THESE CLIENTS END UP IN MORE COSTLY PLACEMENTS LIKE JAIL, PRISON AND/OR OTHER INSTITUTIONS.

HUMAN SERVICE STAFF ARE NOT TRAINED, OR CHOOSE NOT TO RECOGNIZE THE SYMPTOMS OF SOMEONE WITH A MILD TO MODERATE HEAD INJURY WHO IS ALSO ABUSING ALCOHOL AND OTHER DRUGS, INCLUDING PRESCRIPTION DRUGS.

THIS INATTENTION CAUSES EVEN MORE SYMPTOMS, PROBLEMS AND MISUNDERSTOOD BEHAVIOR CHANGES IN THE CLIENT, ULTIMATELY REQUIRING MORE AND COSTLY CARE SUCH AS INSTITUTIONALIZATION AND/OR EMERGENCY ROOM CARE. ADDITIONALLY, IF A PERSON WITH A HEAD INJURY REQUESTS ASSISTANCE FOR DOMESTIC VIOLENCE, THEY ARE TURNED AWAY AS "TOO SEVERE."

IT ISN'T FAIR THAT A PERSON CAN BE TOO SEVERE FOR ONE SERVICE BUT NOT SEVERE ENOUGH FOR ANOTHER. THAT'S NOT FAIR AND IT'S NOT RIGHT.

IN ORDER TO MAKE THIS RIGHT THERE NEEDS TO BE TWO PRIMARY COURSES OF ACTION TAKEN

IMMEDIATELY. FIRST IS THAT ALL HUMAN SERVICE CENTER CLINICIANS AND THERAPISTS NEED TO BE TRAINED IN THE APPROPRIATE TOOLS AND METHODS FOR WORKING WITH PEOPLE WITH CLOSED HEAD INJURIES THAT ARE MILD TO MODERATE THAT WILL ALSO INCLUDE THEIR FAMILIES. TRADITIONAL THERAPIES AND TREATMENTS DO NOT WORK IN THESE CASES AND IT IS NOT ENOUGH TO PROVIDE MEDICATIONS AND NO MONITORING OR FOLLOW-UP.

SECONDLY, THE STATE MUST MANDATE THE TREATMENT OF ANY PERSON WITH A HEAD INJURY, REGARDLESS OF THE LEVEL OF SEVERITY.

THE RESULTS OF THIS ACTION WILL INCLUDE CITIZENS WHO ARE BETTER ABLE TO DEAL WITH THEIR LIVES, FAMILIES WHO ARE NOT OVERWHELMED WITH RESPONSIBILITY AND ULTIMATELY, COST SAVINGS BY OFFERING COMMUNITY BASED TREATMENT RATHER THAN INSTITUTIONALIZATION.

THANK YOU FOR THIS OPPORTUNITY TO PROVIDE TESTIMONY TO THE COMMITTEE. I WOULD BE HAPPY TO ANSWER ANY QUESTIONS YOU MAY HAVE.

COMMON EFFECTS OF BRAIN INJURY

1. Memory impairment - short or long term.
2. Learning deficits.
3. Poor problem solving, planning and decision making skills.
4. Lack of insight into own behaviors and deficits.
5. Loss of inhibitory controls resulting in inappropriate behaviors.
6. Changes in sexuality (hyper-sexuality, impotence, inappropriate behaviors).
7. Impulsivity.
8. Low tolerance for frustration.
9. Impaired socialization skills.
10. Difficulties with concentration, short attention span and staying on task.
11. Impaired cognitive abilities - difficulty processing new information, poor reasoning.
12. Expressive and receptive communication deficits (verbal and written).


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Traumatic brain injury: No one pathway to recovery

 By [Mayo Clinic staff](#)

The brain is your body's command center. It's where billions of nerve cells come together to control your sensations, movements, thoughts and behaviors. When a physical force damages the brain, it's known as a traumatic brain injury (TBI).

TBI causes normal brain processes to be altered and threatens your quality of life. But with treatment and rehabilitation, it's possible for most people with a TBI to recover and live fulfilling lives.

A multitude of causes

TBI occurs when a sudden, physical blow to the head causes damage to the brain, changing its structure or function. In an open head injury, an object penetrates the skull and damages the brain tissue directly. In a closed head injury, brute force or fierce shaking injures the brain. Depending on the type of force that involves the head, varying injuries can result:

- Breaking of the skull (skull fracture)
- Jarring of brain within the skull
- Temporary loss of consciousness (concussion)
- Bruising of the brain (contusion)
- Stretching or tearing of nerve cells (diffuse axonal injury)
- Bleeding in the brain (hemorrhage)
- Swelling of the brain tissue (edema)
- Collection of blood causing pressure on the brain (hematoma)

Both open and closed head injuries can cause severe brain damage, resulting in the need for immediate medical attention. An unresponsive (comatose) state is a definite sign of brain injury, but there are other signs as well, including:

- Persistent confusion or delirium
- Speech or breathing difficulties
- Partial paralysis
- Seizures (convulsions)
- Severe headaches
- Sleep disturbances

Mild injuries are most common

According to the Centers for Disease Control and Prevention, nearly 1.5 million cases of TBI occur each year. More than 70 percent of those injuries are considered mild.

"Mild traumatic brain injuries are the most common," says Allen Brown, M.D., medical director of Brain Rehabilitation Services at Mayo Clinic, Rochester, Minn. "These patients likely won't require hospitalization, but they can have long-term disabilities as a result of the injury."

People with mild brain injuries often experience subtle symptoms, such as headaches or problems sleeping, and can go for days or weeks without seeking treatment.

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"In less severe injuries, the patient may not connect their symptoms with the trauma," says Dr. Brown. "It may be days or weeks later before it occurs to them that their headaches or sleep disturbances might be related to the head injury. Sometimes that connection is never made."

Once an individual seeks medical attention, neurologic testing, computerized tomography (CT) scans and X-rays may be used to determine the extent of the injury. The type and severity of the injury determine the extent and nature of further medical care, which may involve just a period of observation.

Aftereffects

How people react to TBIs is dependent upon many factors, including the extent of the injury, the area of the brain that was damaged and past medical, psychological and family histories.

"Each patient brings a different set of circumstances to their injury," says Dr. Brown. "Previous injuries or diseases and a patient's overall state of health can play a role in what problems occur as a result of the injury."

Though each person's experience is different, certain problems are common among people with TBI:

- Inability to independently perform daily living tasks, such as eating, dressing and bathing
- Short- and long-term memory problems
- Confusion about past and present
- Difficulty concentrating
- Ineffective problem solving
- Difficulty showing or expressing emotions
- Problems with communication and speech
- Excessive fatigue
- Sleep disturbances
- Depression
- Headaches
- Seizures

These problems may interfere with a person's independence and ability to care for himself or herself, drive a car and return to work or school. Some problems may improve with time, but others may persist indefinitely.

- Winning the battle against traumatic brain injury: One woman's fight for life

Recovery and rehabilitation

People with TBI sometimes need surgery to help control swelling or bleeding, for removal of bone fragments, blood clots or damaged tissue, or to control pressure inside the brain (intracranial pressure).

Depending on the severity of the injury, people with TBIs may experience a variety of problems and may need different types of treatment and rehabilitation. The path to recovery is unique to each person.

"Even though we have a lot of experience managing all kinds of acquired brain problems, we can't reliably predict the outcomes, length of rehabilitation or extent of recovery very well, particularly early on," says Dr. Brown.

A team of physician specialists, neuropsychologists, therapists and nurses work together to develop a rehabilitation program suited to the individual's needs. Many people require a combination of speech, recreational, occupational, psychological and physical therapies in addition to medical and surgical treatment.

Offering support

It's often necessary to make large adjustments when someone you love

may have or lost. The recovery of brain pla-

Many of the pathways used on the brain. When an injury and damage to the connective cells, you are able to use the pathways using a different connective had previously unused. Your brain of the future have lost injury.

Your brain is able to use the pathways existing and allow you some of the may other lost.

There is an emerging kinds of the migrate from the brain response. Because haven't yet a particular functional able to manage injured and take functional damage.

The brain organ that don't fully. The idea of plasticity new, and methods altered and understanding phenomena.

experiences a TBI. The many roles that each person fulfills — parent, child, employee, friend — can change when a brain injury occurs. This is difficult not only for the injured person, but also for family and friends.

Dr. Brown offers these tips to help you cope with changes that may occur when someone you love experiences a TBI:

- Be supportive.
- Be patient.
- Become involved in the rehabilitation process. Ask for help and clarification when needed.
- Be realistic in your expectations for your loved one's recovery. Understand that recovery from this injury may be a lifelong process.
- Keep an open mind.
- Celebrate small accomplishments.
- Join a support group if needed.

Related Information

- [Brain pain: Recognizing a subdural hematoma](#)
- [Brain & Nervous System Center](#)

Additional Resources

- [Brain Injury Association](#)
- [Centers for Disease Control and Prevention: Traumatic brain injury in the United States](#)

August 26, 2002

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HELPFUL SUGGESTIONS TO ASSIST IN DEALING WITH THE HEAD INJURED

I. Avoid Frustration

Stimulation is needed but too much can be frustrating. The client is thinking in slow motion. Too many people talking at once or too much T.V. is very difficult for his/her mind to think about. If his/her senses are overloaded, they may "short circuit" and 1) "shut down" or 2) "explode", cry or become combative.

If this happens, provide a quiet environment to let the client rest.

II. Keep conversation simple.

Communication is important to the client. Although he may not be able to speak, he/she should be kept in as normal a social environment as possible.

A. Remember the client is thinking in slow motion.

1. Speak slowly as it takes the client a long time to process what is being said and how to respond. Use short, simple sentences.
2. Give the client enough time to respond.
3. Present only one idea at a time.

B. Try to include the client in every conversation.

1. Don't talk over the client or down to them. They are adults and will become annoyed or frustrated causing withdrawal or rebellion.
2. Do not speak to the client as if they were deaf. Unless this was a pre-existing condition, generally a hearing loss does not accompany a head injury.

C. Ask simple questions.

1. Where is _____
2. Point to _____
3. Show me _____

D. Ask affirmative questions rather than negative ones. "Do you want a drink?" is better than "Don't you want a drink?"

E. Encourage the use of appropriate greetings and social exchanges.

F. Do not tease or encourage the client to respond inappropriately.

G. Allow the client to search for the word he/she wants; however, give him/her the word before they become completely frustrated or get the wrong word which is better than for him/her to practice mistakes. Clients need successes in order to continue to try. Sometimes it is better to change the subject rather than to pursue a response beyond the client's frustration tolerance.

H. Support and encourage speech efforts. For instance, if the client begins "I want to ..." it helps to repeat the phrase, since in searching for the next word, the client may have forgotten the first ones.

I. Discourage rambling, meaningless repetitions but give the client an opportunity to express themselves in a meaningful way. The client may repeat a word, phrase, or activity over and over. Avoid making an issue of this, get the client interested in another activity.

- J. Remember the client's inability to find a word to express themselves does not mean that they have lost their intelligence or knowledge.
- K. Speak to the client as would any reasoning adult.
- L. Do not, under any circumstances, put the client on display or force them to speak. Such remarks as, "say it for them," may upset or embarrass the client.
- M. Do not ridicule or insist that the client give accurate responses, correct pronunciation or "talk right." There is nothing the client wants more than to do just that.
- N. Ask direct questions requiring a simple "yes" or "no" rather than those requiring complex answers. It is better to say, "was dad here last night?" rather than, "who was here to visit last night?" You need to know the correct answer in order to help orient the client.
- O. Encourage gestures and talking with hands whenever and if possible. Tell the client to describe or show you what they mean, frequently this will enable them to say the word itself.
- P. Be prepared for bizarre, inaccurate use of language and for swearing.
 - 1. Such responses are very common to the brain injured person.
 - 2. Accept this without amusement or anger.
 - 3. Help the client by providing the correct word without display or emotion.
- Q. Don't ever-estimate the client's capability to understand what is said to them.
- R. Don't act like you understand when you don't.
- S. Don't talk for the patient unless absolutely necessary.
- T. Don't use sarcasm or abstract jokes with the client. The client is very concrete and will take everything you say literally. "I'll be back in a minute," means just that to the client - you will be back in one minute.

III. Keep in touch with the real world.

- A. When the client repeats themselves, tell them so, but talk to them in a matter of fact way.

IV. Attitudes

- A. Be generous with approval of appropriate behavior, immediate feedback and reinforcement are necessary.

IV. Attitudes (continued)

B. Don't laugh at the client.

1. Laugh with the client when it is appropriate.
2. Disregard laughter when a situation is not funny by not laughing with the client or ignoring it.
3. Often, the client is not able to know what is really humorous.

C. A client may laugh or cry easily. They may be embarrassed by their uncontrolled behavior. Suggest another activity until they calm down.

D. Remember that no client's problem is exactly like another's, so avoid making comparisons.

E. Do not argue with the client. This is exhausting to them and may increase anger and resentment.

F. By your mannerisms, patience, and attitude of acceptance, create an air of relaxation. Avoid direct expressions like "relax!"

G. Do not rely on what the clients say they can do - be sure that what they do is done safely. Check with the therapist.

**TESTIMONY OF D'JOYCE KITSON SMUTZLER
TO THE SENATE APPROPRIATIONS COMMITTEE
REGARDING SB 2027
FEBRUARY 2, 2005**

**CHAIRMAN HOLMBERG AND MEMBERS OF THE
SENATE APPROPRIATIONS COMMITTEE, MY NAME IS
D'JOYCE KITSON SMUTZLER AND I APPEAR TODAY
IN SUPPORT OF SENATE BILL 2027. IT IS IMPORTANT
FOR NORTH DAKOTA TO ESTABLISH AN
INDEPENDENT COMMISSION ON LEGAL COUNSEL
FOR INDIGENT PEOPLE.**

**I WISH TO OFFER THE FOLLOWING
RECOMMENDATIONS TO THE COMMITTEE
REGARDING THE MEMBERS OF THE PROPOSED
COMMISSION:**

- 1. I BELIEVE THAT IT IS CRITICAL TO INCLUDE A
PERSON OF COLOR ON THIS COMMISSION, TO BE
APPOINTED BY THE NORTH DAKOTA INDIAN
AFFAIRS COMMISSION.**
- 2. I ALSO BELIEVE THAT IT IS IMPORTANT TO
INCLUDE A PERSON WITH A DISABILITY ON THIS
COMMISSION, APPOINTED BY THE PROTECTION
AND ADVOCACY PROJECT.**

**BY INCLUDING PEOPLE THAT OFTEN NEED THE
SERVICES OF DEFENSE COUNSEL, THEIR VOICES AND
PARTICIPATION ON THE COMMISSION WILL ASSURE
THEIR REPRESENTATION.**

**THANK YOU AND I WOULD BE HAPPY TO ANSWER
ANY QUESTIONS YOU MAY HAVE.**

**Testimony Before the
House Judiciary Committee
on HB 1473
by Ted Gladden, State Court Administrator**

Chairman DeKrey and members of the House Judiciary Committee, I am appearing today in support of HB 1473. The objectives contained in this legislation are needed. One aspect of this commission's work needs to be the consideration of where the state should be going with problem-solving courts. We now have five drug courts in place in Bismarck, Fargo, and Grand Forks. There is interest in having drug courts extended into other parts of the state. Beyond drug courts, there has been discussion of the need for mental health courts, domestic violence courts, reentry courts, and family courts. They are meritorious concepts, but each requires resources. The required resources is an issue for not only the judiciary, but also for treatment providers and the correctional personnel necessary to handle the defendants that come through these courts. We need a group of knowledgeable individuals to address the issues of where the state should commit scarce resources. Problem-solving courts are but one aspect of issues related to incarceration that the commission would address with passage of HB 1473.

Sentencing alternatives, mandatory sentences, and treatment options for offenders have a huge impact on how we expend scarce resources. We need to develop an approach to address these public policy issues involving a broad spectrum of stakeholders.

This commission will bring together key decisionmakers to provide policy direction and create a strategic planning process to address issues impacting the entire criminal justice community.

Thank you.

**Testimony
House Judiciary Committee
Chairman Duane DeKrey
Mental Health Association in North Dakota
February 7, 2005**

Chairman DeKrey and members of the House Judiciary Committee, my name is Sheree Spear. I'm the director of public policy and advocacy for the Mental Health Association in North Dakota. Our organization strongly supports the formation of a commission to examine alternatives to incarceration for people who have chemical addictions or severe mental illness, for a number of reasons.

At the end of October, President Bush signed into law the "Mentally Ill Offender Treatment and Crime Reduction Act" that would award federal planning and implementation grants to states for establishing court-based jail/prison diversion programs for non-violent offenders whose severe mental illness (likely untreated) was the reason for their contact with law enforcement. Funds are also to be used for law enforcement training regarding mental illnesses. The funding was not in the Appropriations for 2005 because the law was passed so late in the year. However, if funds become available for 2006, the plan our state submits must be developed by a task force identified by our Attorney General and head of Dept. of Human Services, to include at least one agency of the Dept. of Corrections, and others. It makes sense to form this Advisory body now to examine the issues relating to alternative sentencing for people with treatment needs.

And when people dig into the issue of alternatives to incarceration for people with severe

mental illness, they'll find there are eight key areas that must be addressed in each community for a comprehensive jail diversion strategy. The court-based component is only one aspect of any over-all effective program. Just having a process in place for identifying appropriate candidates and offering Alternative Treatment Plans rather than incarceration isn't enough. Because if community-based services aren't in place to support those plans they will not be implemented effectively. Birch Burdick, President of the States Attorney Association said that if medication monitoring doesn't happen for some people, they just end up right back with them again. An individual in judiciary expressed that their concern with specialty courts is the community services needed to support them. Available housing and case management are examples of necessary supports.

And so, a higher-level examination of what facilities and services are needed and where would be valuable in creating a long-ran plan, and would help ensure that we're applying dollars to the right types of things in the right locations. With respect to chemical addictions, we know that all the components are needed: a safe secure place for chemical withdrawal, treatment, and after care – which may include residential treatment for an extended period of time. Do we want a facility in a central location, or would it be better to have these services in the communities where people live so they can stay connected to their natural support systems? We have a shortage of addiction counselors, so if we need to recruit from other states, where are we most likely to be able to attract people to? These are all issues this commission could address.

Lastly, we strongly support a state commission that would look at how pilots and

programs in this area are aligned with national recommendations and effective models.

And, that consistent performance measurements are established for pilots/programs state-wide.

We respectfully ask for a do-pass recommendation for House Bill 1473. Thank you for allowing the Mental Health Association to present testimony on this bill.

Glassheim

HH #1

MINNESOTA

Giving meth the boot

■ Drug abusers get chance in treatment camp

By Martiga Lohn
Associated Press



Associated Press

▲ Inmates adhere to boot camp discipline Feb. 4 at the Challenge Incarceration Program in Willow River, Minn. For a select group of nonviolent offenders, the camp is a chance to shave years off their prison sentences, mostly for methamphetamine crimes, by toughing out six months of military training and drug treatment.

WILLOW RIVER, Minn. — Under towering Norway pines, six prisoners wearing khaki fatigues and red caps stand at attention on the road leading to a boot camp.

For a select group of nonviolent offenders, the camp is a chance to shave years off their prison sentences — mostly for methamphetamine crimes — by toughing out six months of military training and drug treatment.

"This criminal life has come to an end/we'll do what's right through thick and thin!" chants a 16-man squadron on a march. Others attack a pile of logs with two-man saws. If spoken to, they answer with "Sir" or "Ma'am" — or they have to drop and do push-ups.

"The longer you're in here, the easier it is to stay out of trouble," said Allen Wirgau, a Rockford man hoping to trim almost three years off a nearly 11-year sentence for making meth.

The boot camp is drawing interest as lawmakers grapple with ways to fight meth's spread across Minnesota. The number of state prisoners doing time for meth crimes ballooned from 139 in 2001 to more than 1,000 last July. Legislators and Gov. Tim Pawlenty are considering longer sentences for meth crimes, limiting access to common household items used to make the potent drug and searching for better ways to treat meth addiction.

With 168 prisoners on a waiting list for boot camp, corrections offi-

CAMP: See Page 8A

CAMP/

Continued from Page 1A

cials want \$380,000 from the state to add at least 24 beds for men. Female inmates were moved to a separate 24-bed camp in Togo, north of Hibbing, last year. Boot camp costs about \$78 a day per inmate — close to the average for all state prisoners — but that doesn't account for the earlier release of boot camp graduates.

"We save a pile of bed days here," Deputy Corrections Commissioner Dennis Benson said.

For prisoners, the stakes are high. If they fail any phase of the Challenge Incarceration Program — which includes boot camp and a year of strict monitoring in the community — they return to prison with no credit for time in the program. Fewer than half the 1,983 inmates admitted to CIP since 1992 have successfully completed the whole program.

Of those who do finish, history suggests 8 percent will return to prison. Only 2 percent will be convicted of new crimes.

Motivation

The prospect of serving less time is what motivates most inmates.

"I came here solely because it was going to cut my sentence shorter," said Timothy Ruzek, a 39-year-old Lakeville man sentenced to about 6½ years for meth possession. "I didn't really associate it with changing my life as much as doing hard labor to get out of prison early."

But the discipline and treatment Ruzek found in the camp had unexpected effects. In-

mates are required to attend group chemical dependency sessions to talk about their addictions — mostly to meth, but crack and powder cocaine for some. Ruzek is now hopeful he can kick a meth habit he started almost 15 years ago that took over his life.

He had a job installing floors, but when his employer told him he needed drug treatment, he quit and started selling meth. After an informant turned him in, he landed in St. Cloud state prison for three months before being transferred to a medium-security facility in Moose Lake.

"That's when the reality of your crime sets in, when you get to St. Cloud and they close the cell doors," said Ruzek, who's slated for release more than three years early at the end of February. Methamphetamine "basically took me away from everything. . . I lost everything."

At Willow River, there's nothing special about Ruzek's story.

Wirgau said his meth habit cost him a welding business and custody of his children.

"It was controlling my whole life," he said. "When I wasn't making it, I was either sleeping, planning the next batch or selling it. Everyone around me was selling it."

He had tried treatment before but said it wasn't until he got to boot camp that he realized he couldn't quit on his own. Getting up at 5:30 a.m. wasn't easy at first, and the work was hard.

"When I first got here, a couple of officers told me if I didn't straighten up, I could possibly go back to Moose Lake," Wirgau said. "I was scared. It really made me focus on what I was supposed to do."

Camp program

The structure of boot camp — where people are never alone and must account for every minute of the day — is used in many drug treatment programs, including those without a military flavor, said Steve Dnistrian, executive vice president of the Partnership for a Drug-Free America.

"Tough love has been a central ingredient to a lot of the successful programs," he said. "The group dynamic is absolutely central. These guys are living with each other 24 hours a day, seven days a week. When they exhibit negative behavior, the others will call them on the mat."

Sen. Julie Rosen, R-Fairmont, said she'd like to see the boot camp program expanded.

"I like the fact that if they participate in CIP, their sentence is knocked down," she said. "It's going to cost us less."

Treating drug addicts when they're imprisoned saves money, Dnistrian said.

"It's not only the humane thing to do, it's also cost effective," Dnistrian said. "Prison-based treatment programs will become more and more important in the next decade or two."

Getting out

Sixteen prisoners in the boot camp are scheduled for release at the end of February.

For the first six months, they'll be subject to a strict curfew, frequent urine tests for drugs and unannounced drop-in visits from CIP agents. They'll have more freedom of movement in the second six months but still have to take random drug tests and account for their time.

Several said they're nervous about making it on their own.

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on HB 1473
by Ted Gladden, State Court Administrator**

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