

FISCAL NOTE
Requested by Legislative Council
03/24/2015

Amendment to: SB 2161

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

| | 2013-2015 Biennium | | 2015-2017 Biennium | | 2017-2019 Biennium | |
|----------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
| | General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| Revenues | | | | | | |
| Expenditures | | | \$19,100 | | \$19,100 | |
| Appropriations | | | | | | |

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

| | 2013-2015 Biennium | 2015-2017 Biennium | 2017-2019 Biennium |
|------------------|--------------------|--------------------|--------------------|
| Counties | | | |
| Cities | | | |
| School Districts | | | |
| Townships | | | |

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill creates an Interdisciplinary Committee on Problem-solving Courts.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The court system would incur costs for travel and professional services associated with the committee.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

No impact.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Total committee cost is estimated to be \$19,100.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

The bill does not include an appropriation.

Name: Don Wolf

Agency: ND Court System

Telephone: 328-3509

Date Prepared: 03/25/2015

FISCAL NOTE
Requested by Legislative Council
01/09/2015

Amendment to: SB 2161

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

| | 2013-2015 Biennium | | 2015-2017 Biennium | | 2017-2019 Biennium | |
|----------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
| | General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| Revenues | | | | | | |
| Expenditures | | | \$19,100 | | \$19,100 | |
| Appropriations | | | | | | |

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

| | 2013-2015 Biennium | 2015-2017 Biennium | 2017-2019 Biennium |
|------------------|--------------------|--------------------|--------------------|
| Counties | | | |
| Cities | | | |
| School Districts | | | |
| Townships | | | |

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill creates an Interdisciplinary Committee on Problem-solving Courts.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The court system would incur costs for travel and professional services associated with the committee.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

No impact.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Total committee cost is estimated to be \$19,100.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

The bill does not include an appropriation.

Name: Don Wolf

Agency: ND Court System

Telephone: 328-3509

Date Prepared: 01/12/2015

FISCAL NOTE
Requested by Legislative Council
01/09/2015

Bill/Resolution No.: SB 2161

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

| | 2013-2015 Biennium | | 2015-2017 Biennium | | 2017-2019 Biennium | |
|----------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
| | General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| Revenues | | | | | | |
| Expenditures | | | \$19,100 | | \$19,100 | |
| Appropriations | | | | | | |

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

| | 2013-2015 Biennium | 2015-2017 Biennium | 2017-2019 Biennium |
|------------------|--------------------|--------------------|--------------------|
| Counties | | | |
| Cities | | | |
| School Districts | | | |
| Townships | | | |

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill creates an Interdisciplinary Committee on Problem-solving Courts.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The court system would incur costs for travel and professional services associated with the committee.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

No impact.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Total committee cost is estimated to be \$19,100.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

The bill does not include an appropriation.

Name: Don Wolf

Agency: ND Court System

Telephone: 328-3509

Date Prepared: 01/12/2015

2015 SENATE JUDICIARY

SB 2161

2015 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2161
1/20/2015
22193

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Minutes:

Sen. Armstrong: We will open the hearing on SB 2161.

Sen. Carlisle: Support. The Supreme Court approached us and asked if we would sponsor this bill. My understanding when he approached us about sponsoring this, it is a feasibility to establish problem solving courts in this state. The way I look at it, it is going to end up being a large conference committee to communicate and come up with some ideas of an interdisciplinary approach within the whole system. If you look at the make-up of the group, it will be decided by the chief justice, Gerald VandeWalle, who will be the chairman and vice-chair early on. The only thing we added just before the bill was officially introduced, we added in the head of the Veterans' Affairs. We think we have everybody. This will be a collaborative group to try and put this committee together and if they do need some help, I see Sally Holewa's name in the group, they may ask her to provide some staffing. We think this is a good idea and especially if the Chief took the time to mention it in his speech, he obviously views it as something important.

Sen. Armstrong: Thank you.

Gerald VandeWalle, Chief Justice, ND Supreme Court: The reason for the bill goes back actually to when Sen. Hoeven was governor, and we were talking about some kind of a committee. We had a little problem with one of the drug courts in Fargo about treatment, and whether we had treatment available or not. We really need everyone at the table at the same time, instead of trying broker these courts. It came to a head when Sen. Luick, Judge Cruff, wanted to start a drug court and came to me and asked how they do it. Well, I said that you do it yourself. We really didn't have all the people at the table at that time. Since that time, we have been approached about starting mental health

courts and veteran's courts. We need to have everyone at the table talking to one another, not each one separately so that we know that all the pieces are in place. The judge in drug court is far from the only significant person; treatment, parole and probation, all those other elements needs to be in place in order for the drug court to take off. We'd like everyone at the table. This interdisciplinary committee would do that.

Sen. Armstrong: If you're going to put all of these people on the court and the terms will all begin and end at the same time. Will some of them be rotated out annually, so there is some cohesiveness here?

Gerald VandeWalle: I think you are right. There is some concern, although some of them are permanent, the people that hold positions, appointed positions are permanent. Sometimes it's an attempt to get some fresh blood and a fresh eye in there. I haven't counted how many would turnover at one time. I am amenable to any kind of amendment on that issue.

Sen. Armstrong: Thank you. Further testimony in support.

Jim Gange, with the Office of State Court Administrator: There is one thing I noticed in the bill when we had talked with counsel staff, it was suggested to include the veteran's affairs representative, and in the bill he's identified as the Executive Director of the Veterans Affairs, but that is incorrect. He is a commissioner of the Dept. of Veterans' Affairs. I put these amendments together (see attached #1) we could get his name straight. Lonnie does important work and we should call him by the right title.

Sen. Armstrong: When you are placing these people on the committee, is there any benefit to having "or his designee". This would be in case he couldn't make it; he could send someone from his office.

Jim Gange: I think of that as a practical matter. That may happen anyway. Since the Veterans' Affairs office is such a small office, I would imagine that whoever is Commissioner would make the effort.

Sen. Armstrong: From this bill draft, would this committee actually be able to set the courts up, once they get to a point.

Jim Gange: The primary function of this committee is to recommend to the Supreme Court the establishment of the court. It can do that in one of two ways; it can develop the information itself. That's really a part of it, you will

see some of the duties of the committee is to gather information and analyze the feasibility of establishing a drug court, in a particular area, and then on its home could recommend to the Supreme Court, that it pursue that or the other one as you'll see in its duties, it says "if a presiding judge or a judge in a judicial district wants to set up a specialized court in that district", then that proposal would come to this group for them to look at, everyone discuss it, and then they would forward a recommendation to the Supreme Court, but they couldn't set up the court itself.

Sen. Armstrong: Are drug courts set up in that same manner or are they granted legislative authority.

Jim Gange: The legislative authority has always been limited. There are some references to it in statute. It began as an independent operation, but they are confined within the court system in cooperation with Corrections, Parole and Probation, etc. They sort of sprung up, they petitioned the court for establishment of the court, and then the court finally would approve them; because obviously it takes judicial time and personnel time.

Sen. Armstrong: So they petition the local court, and then the local court petitions the Supreme Court.

Jim Gange: Usually it is the presiding judge of the district that would petition. There would be some ground work done to follow through on the desire to establish a drug court. Once they assembled all their information, then they would submit a petition to the Supreme Court to formally establish the court.

Sen. Grabinger: It says semi-annual meetings. Does it say anything about the chairman of this committee or someone else can decide to call the group together? If something comes up, it does say further down, that they are tasked with taking action if something comes up, but yet it doesn't give them a way to call that special meeting. Is that needed?

Jim Gange: It's been a while since I've looked at that. I am positive that I put in here to meet at least annually, semi-annually. It is the inherent prerogative of the chair to call the meeting, if there is a need for a meeting other than the at least semi-annually. That was just to set the outer limits of the committee to establish a minimum of how many times they should meet. I think it would be in the discretion of the chair to call them more frequently if that were necessary.

Sen. Armstrong: Thank you. Further testimony in support.

Barney Tomanek, Director, ND Parole and Probation, DOCR: Support (see attached 2).

Ch. Hogue: Thank you. Further testimony in support.

Tony Weiler, Exec. Director of the State Bar Association: Support. It doesn't specifically mention that one of the potential types of specialty courts that could be studied would be a family law court. In my time serving as the Exec. Director, that's the kind of court that a lot of practitioners ask or tell me that we need in ND. This doesn't appear to include, as a problem solving court, family law court. I think they could certainly study that. In going to Sen. Armstrong's question earlier about the committee members and the staggering. Often when these types of committees are set up, there is some sort of staggering of the membership so that everyone doesn't leave at once. To me that seems to be prudent. I was concerned at first, that no one was appointed by the State Bar Association, but there appear to be plenty of lawyers represented within the membership already, and I don't need any more committee's to be a part of. I'm okay with that.

Ch. Hogue: Thank you. Further testimony in SB 2161. Testimony in opposition. Neutral testimony.

Sen. Grabinger: (to Sally Holewa) I think the idea of a family court is a good suggestion. Sen. C. Nelson pointed out to me that it is already in here "that other specialized court".

Sally Holewa, State Court Administrator, Supreme Court: You bring up a good point about these other courts, especially like family law court. One of the issues we have, and very instructive of why we need this committee, we did have a family law court at one point in Grand Forks. It was set up by Judge Bowman and run in Grand Forks by the Grand Forks judges. When Judge Bowman left, he was a strong supporter; the court pretty much folded, the court limped on for a while. It went through a number of phases where they weren't sure if it was going to more of a punitive nature, where they were treating people getting divorced as if they were on probation and that they were, for example, sent to counseling and weren't going, bringing them back or whether it should have been a more supportive in getting the family members working together so it really suffered an identity crisis. Eventually it folded on its own. I think it is indicative of why we need these committees.

First of all, they shouldn't be dependent on one person's interest, they should be identified by need and have something in place to make sure that it's going to the right area of the state, where the need is greatest. There is a long list of people or entities that would be involved in this group. We did contact each of these entities ahead of time and asked for their support and received it.

Ch. Hogue: We will close the hearing.

2015 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2161
2/4/2015
23239

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

W Penrose

Minutes:

1,2

Ch. Hogue: We will take a look at SB 2161. Explained the amendments (see attached 1,2).

Sen. Luick: I move the amendment, 15.0440.02001.

Sen. Casper: Second the motion.

Ch. Hogue: We will take a voice vote. Motion carried. We now have the bill before us as amended.

Sen. Armstrong: I move a Do Pass as amended.

Sen. Casper: Second the motion.

6 YES 0 NO 0 ABSENT

DO PASS AS AMENDED

CARRIER: Ch. Hogue

January 23, 2015

1 of 2

TD
2/5/15

PROPOSED AMENDMENTS TO SENATE BILL NO. 2161

Page 1, line 2, after "courts" insert "; and to provide an expiration date"

Page 1, line 6, after "courts" insert "- Report to legislative management"

Page 1, line 17, remove "A member appointed by the governor."

Page 1, line 18, remove "c."

Page 1, line 19, replace "d." with "c."

Page 1, line 21, replace "e." with "d."

Page 1, remove line 23

Page 1, line 24, replace "g." with "e."

Page 2, line 1, replace "h." with "f."

Page 2, remove line 2

Page 2, line 3, replace "j." with "g."

Page 2, remove lines 5 and 6

Page 2, line 7, replace "m. Two members" with:

"h. One member"

Page 2, line 7, remove ", one"

Page 2, remove line 8

Page 2, line 9, remove "enforcement agencies"

Page 2, remove line 10

Page 2, line 11, replace "o." with "i."

Page 2, line 14, remove "Members of the interdisciplinary committee serve for a term of three years beginning"

Page 2, remove line 15

Page 2, line 16, remove "5."

Page 2, line 19, replace "6." with "5."

Page 2, line 19, replace "semiannually" with "quarterly"

Page 2, line 28, after the underscored comma insert "report findings and"

Page 2, line 28, after "recommend" insert "proposed legislation"

Page 2, line 28, remove "presiding judge of a judicial"

Page 2, remove line 29

Page 2, line 30, replace "judicial district should be considered" with "legislative management"

Page 3, line 2, replace "supreme court" with "legislative management"

Page 3, remove lines 6 through 14

Page 3, after line 17, insert:

"SECTION 2. EXPIRATION DATE. This Act is effective through July 31, 2017,
and after that date is ineffective."

Renumber accordingly

Date: 2/4/2015
Voice Vote # 1

2015 SENATE STANDING COMMITTEE
VOICE VOTE
BILL/RESOLUTION NO. 2161

Senate Judiciary Committee

☐ Subcommittee

Amendment LC# or Description: 15.0440.02001

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Sen. Luick Seconded By Sen. Casper

| Senators | Yes | No | Senators | Yes | No |
|----------------|-----|----|----------------|-----|----|
| Ch. Hogue | | | Sen. Grabinger | | |
| Sen. Armstrong | | | Sen. C. Nelson | | |
| Sen. Casper | | | | | |
| Sen. Luick | | | | | |
| | | | | | |

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Motion Carried.

Date: 2/9/15
Roll Call Vote #: 2

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTE

BILL/RESOLUTION NO. 2161

Senate

JUDICIARY

Committee

☐ Subcommittee

Amendment LC# or Description: 15.0440.02001 03080

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Sen. Armstrong Seconded By Sen. Casper

| Senators | Yes | No | Senators | Yes | No |
|----------------|-----|----|----------------|-----|----|
| Chairman Hogue | ✓ | | Sen. Grabinger | | |
| Sen. Armstrong | ✓ | | Sen. C. Nelson | ✓ | |
| Sen. Casper | ✓ | | | | |
| Sen. Luick | ✓ | | | | |
| | | | | | |

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Hogue

REPORT OF STANDING COMMITTEE

SB 2161: Judiciary Committee (Sen. Hogue, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2161 was placed on the Sixth order on the calendar.

Page 1, line 2, after "courts" insert "; and to provide an expiration date"

Page 1, line 6, after "courts" insert "- Report to legislative management"

Page 1, line 17, remove "A member appointed by the governor."

Page 1, line 18, remove "c."

Page 1, line 19, replace "d." with "c."

Page 1, line 21, replace "e." with "d."

Page 1, remove line 23

Page 1, line 24, replace "g." with "e."

Page 2, line 1, replace "h." with "f."

Page 2, remove line 2

Page 2, line 3, replace "i." with "g."

Page 2, remove lines 5 and 6

Page 2, line 7, replace "m. Two members" with:

"h. One member"

Page 2, line 7, remove ". one"

Page 2, remove line 8

Page 2, line 9, remove "enforcement agencies"

Page 2, remove line 10

Page 2, line 11, replace "o." with "i."

Page 2, line 14, remove "Members of the interdisciplinary committee serve for a term of three years beginning"

Page 2, remove line 15

Page 2, line 16, remove "5."

Page 2, line 19, replace "6." with "5."

Page 2, line 19, replace "semiannually" with "quarterly"

Page 2, line 28, after the underscored comma insert "report findings and"

Page 2, line 28, after "recommend" insert "proposed legislation"

Page 2, line 28, remove "presiding judge of a judicial"

Page 2, remove line 29

Page 2, line 30, replace "judicial district should be considered" with "legislative management"

Page 3, line 2, replace "supreme court" with "legislative management"

Page 3, remove lines 6 through 14

Page 3, after line 17, insert:

"SECTION 2. EXPIRATION DATE. This Act is effective through July 31, 2017, and after that date is ineffective."

Renumber accordingly

2015 HOUSE JUDICIARY

SB 2161

2015 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

SB 2161
3/11/2015
Job # 24663

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Marlys Kienzle

Explanation or reason for introduction of bill/resolution:

Relating to the establishment of an interdisciplinary committee on problem-solving courts; and to provide an expiration date.

Minutes:

Attachment #1, 2

Chairman K. Koppelman: Opened the hearing on SB 2161.

No one was there to introduce the bill.

Support: None

Netural: None

Opposition:

Chief Justice Jerry Vanderwall: Senator Hogue was not present during the presentation of the bill. The bill was amended and he had concerns because it referred to problem solving courts needing the Legislature's approval because under the Constitution there is a Supreme Court, District Court and such other courts as prescribed by law. Drug courts are not Drug Courts if they are I want new Judges and staff for them because we are using the same Courts that we are for everything else. They are not separate Courts and in fact there is Legislation recognizing the Drug Courts already on the books. The point of the bill was to bring all the people together at one table so we could discuss if the Drug Court and do they have treatment providers available at this time. There also is a sunset provision on the bill that ends in 2017. So 3 or 4 years from now if we wanted to establish a Drug Court in Crosby we would have to go through the same process of having everyone at the table to discuss this. I had no questions on the bill at all and the bill

Rep. L. Klemin: It really sounds like this bill is a study? We don't have problem solving courts. Maybe the terminology isn't appropriate and we could do something to amend this?

Chief Justice Vanderwall: Some states do have separate courts with separate judges and separate staff, we don't. The term court is what set it off. We do not have the treatment

providers and parole and probation officers, which we would like to, have them at the table at one time so we are all on the same page and hear what everyone has said.

Rep. D. Larson: If we just killed this bill the court already has the ability to put these problem solving solutions together.

Chief Justice Vanderwall: We can put the solutions together the problem is that it is unknown what Human Services has to offer or what parole and probations has to offer and have no control over those agencies. This would bring us all together at the same time. We did have a study group from all the interesting parties and they came up with this bill.

Chairman K. Koppelman: The bill looks like a study now but it is something different as well as it formed this committee. What about turning it into a interim study? Is there legislation needed to do this?

Chief Justice Vanderwall: No. This is just recognition that we put this group together and find the resources.

Rep. K. Wallman: There are other task forces and committees appointed by the Governor and they are required to meet at certain times and come up with an outcome, would that plan be useful here?

Chief Justice Vanderwall: It could be but I am not sure the Governor should be telling the court system what to do. It is an interdisciplinary thing that crosses the 3 branches of government to come together and say that we have the resources to set up this particular court.

Chairman K. Koppelman: We have been asked to develop different courts for every issue.

Chief Justice Vanderwall: Part of this bill is defensive for absolutely what you are saying. It is not only a resources issue. It is also how divisive can the court become.

Barney Tomonic, Director of the Probations Department: Support: That would probably be referring to the original bill. The problem solving courts are good. These are very labor intensive and resource driven. The original intent of the bill was to bring together the resources we need and the DOCR and were in support of.

Rep. K. Wallman: The rising issue is the funding. Is it primarily a resource issue?

Barney Tomonic: It is primary a resource issue.

Chairman K. Koppelman: What are we really driving at?

Barney Tomonic: My understanding of the bill was just to bring in all the players that are involved in the court system on the front end to see first of all if there is a need and next if we have the resources and money to push forward.

Chairman K. Koppelman: Maybe a study might be another way to do that.

Barney Tomonic: As the original bill was put together I support that.

Rep. K. Wallman: Was there a FN attached to the original bill.

Jim Gangie, State Administration: (proposed amendment #1) He went through the amendment proposal and the marked up bill. (17:00-20:30) they would return the bill to the original form.

Rep. G. Paur: Are we going to have a lot of trouble with this in the Senate?

Jim Gangie: I do not know how committed Senator Hogue was to the amendments and if you got the bill to conference those things could be made clear. The \$19,000 for the fiscal note was for committee operation for reimbursing committee members travel to and from meetings. These committees have the ability to get grant funds from the Federal level to alleviate some of the costs.

Rep. L. Klemin: There was one legislature who sponsored the original bill. Do you know has there ever been a non-legislative committee that is required to report and propose legislation to Legislative Management?

Jim Gangie: I am not aware of any. In the bill as introduced there was not that requirement for recommendation to the Legislative Management.

Rep. L. Klemin: So the amendment in the Senate took the one legislature out and then required the committee to report to the Legislative Management.

Rep. Lois Delmore: We do get reports and sometimes the Attorney General will come with Legislation.

Chairman K. Koppelman: This would not be an agency of the government reporting to the Legislature but would be a committee doing the reporting.

Christine Hogan, State employee: (See testimony #2) Was in favor of the original bill but is not in favor of the amended bill.

Chairman K. Koppelman: Closed the hearing

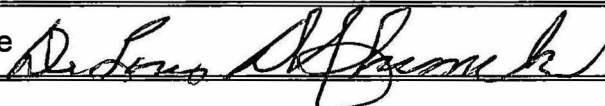
2015 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

SB 2161
3/23/2015
25298

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Minutes:

Chairman K. Koppelman: reopened the meeting on SB 2161. This is the bill involving and interdisciplinary committee on problem-solving courts. The chief justice came in opposed to the bill in its current form and there were amendments offered that would return the bill to its original form.

Rep. Lois Delmore: Which amendments? Are they the same ones?

Rep. Maragos: No they are the same amendments.

Motion made to move the amendments by Rep. Maragos; Seconded by Rep. D. Larson

Voice vote carried.

Do Pass As Amended on SB2161 by Rep. Maragos; Seconded by Rep. Lois Delmore:

Roll Call Vote: 12 Yes 0 No 1 Absent Carrier: Rep. K. Hawken:

March 24, 2015

3/24/15
1/3

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2161

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new chapter to title 27 of the North Dakota Century Code, relating to the establishment of an interdisciplinary committee on problem-solving courts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new chapter to title 27 of the North Dakota Century Code is created and enacted as follows:

Interdisciplinary committee on problem-solving courts.

1. The interdisciplinary committee on problem-solving courts is established as a collaborative mechanism to acquire and analyze relevant information related to the need for and feasibility of establishing problem-solving courts in this state. For purposes of this chapter, a "problem-solving court" is a juvenile or adult drug court, mental health court, veterans court, or other specialized court comprised of interdisciplinary teams, enhanced judicial involvement, court-supervised treatment programs, and other components designed to achieve effective alternatives to traditional case dispositions.
2. The interdisciplinary committee on problem-solving courts consists of:
 - a. A justice of the supreme court appointed by the chief justice.
 - b. A member appointed by the governor.
 - c. A presiding judge elected by the judicial system administrative council.
 - d. The executive director of the department of human services, or the director's designee.
 - e. The director of the department of corrections and rehabilitation, or the director's designee.
 - f. The state court administrator, or the administrator's designee.
 - g. A state's attorney appointed by the state's attorneys' association.
 - h. A defense attorney appointed by the commission on legal counsel for indigents.
 - i. A court administrator appointed by the state court administrator.
 - j. A representative of chemical, mental health, or other treatment providers in the state as agreed upon by the committee members.
 - k. The director of parole and probation services.
 - l. A director of juvenile court appointed by the chief justice.

- m. Two members appointed by the North Dakota peace officers association, one representing city law enforcement agencies and one representing county law enforcement agencies.
- n. A legislator appointed by the chairman of legislative management.
- o. The executive director of the department of veterans' affairs.
- 3. The chief justice designates the chairman and vice-chairman of the interdisciplinary committee.
- 4. Members of the interdisciplinary committee serve for a term of three years beginning January 1, 2016. Appointed members are limited to two consecutive terms.
- 5. With the consent of committee members, the chairman of the interdisciplinary committee may temporarily supplement membership to assist in the review of whether establishment of a problem-solving court should be recommended.
- 6. The interdisciplinary committee shall meet at least semiannually but must timely consider any requests for evaluation of the establishment of a problem-solving court.

Functions and duties.

The interdisciplinary committee on problem-solving courts shall:

- 1. Acquire and analyze information and data, including budgetary requirements and funding sources, regarding whether establishment of a problem-solving court in a judicial district should be considered.
- 2. Determine the feasibility of establishing a problem-solving court in a judicial district, including the availability of judicial and nonjudicial resources.
- 3. Based on relevant data and analysis, recommend to the presiding judge of a judicial district and the supreme court that establishment of a problem-solving court in the judicial district should be considered.
- 4. Review requests to establish problem-solving courts and submit recommendations to the supreme court regarding whether a particular problem-solving court should be established.
- 5. Establish a mechanism for monitoring and evaluating the effectiveness of established problem-solving courts and related treatment services.

Request to establish a problem-solving court - Submission - Review.

- 1. A request for establishment of a problem-solving court must be submitted to the interdisciplinary committee on problem-solving courts for review and recommendation.
- 2. The interdisciplinary committee shall promptly review any information submitted in support of the request and consider the committee's own analysis, if any, regarding the need for a problem-solving court.

- 31
3
3. Following its review, the interdisciplinary committee shall promptly submit to the supreme court its recommendation regarding the need for and feasibility of the requested problem-solving court.

Staff services.

The interdisciplinary committee on problem-solving courts may request appropriate staff services from the office of the state court administrator."

Renumber accordingly

Date: 3-23-15
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB2161

House JUDICIARY Committee

☐ Subcommittee ☐ Conference Committee

Amendment LC# or Description: _____

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep Maragos Seconded By Rep. Larson

| Representative | Yes | No | Representative | Yes | No |
|-----------------------|-----|----|----------------------|-----|----|
| Chairman K. Koppelman | | | Rep. Pamela Anderson | | |
| Vice Chairman Karls | | | Rep. Delmore | | |
| Rep. Brabandt | | | Rep. K. Wallman | | |
| Rep. Hawken | | | | | |
| Rep. Mary Johnson | | | | | |
| Rep. Klemin | | | | | |
| Rep. Kretschmar | | | | | |
| Rep. D. Larson | | | | | |
| Rep. Maragos | | | | | |
| Rep. Paur | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Date: 3-23-15
Roll Call Vote #: 2

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB2141

House JUDICIARY Committee

☐ Subcommittee ☐ Conference Committee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Maragos Seconded By Rep. Delmore

| Representative | Yes | No | Representative | Yes | No |
|-----------------------|-------------------------------------|----|----------------------|-------------------------------------|----|
| Chairman K. Koppelman | <input checked="" type="checkbox"/> | | Rep. Pamela Anderson | <input checked="" type="checkbox"/> | |
| Vice Chairman Karls | <input checked="" type="checkbox"/> | | Rep. Delmore | <input checked="" type="checkbox"/> | |
| Rep. Brabandt | <input checked="" type="checkbox"/> | | Rep. K. Wallman | <input checked="" type="checkbox"/> | |
| Rep. Hawken | <input checked="" type="checkbox"/> | | | | |
| Rep. Mary Johnson | <input checked="" type="checkbox"/> | | | | |
| Rep. Klemin | <input checked="" type="checkbox"/> | | | | |
| Rep. Kretschmar | <input checked="" type="checkbox"/> | | | | |
| Rep. D. Larson | <input checked="" type="checkbox"/> | | | | |
| Rep. Maragos | <input checked="" type="checkbox"/> | | | | |
| Rep. Paur | <input checked="" type="checkbox"/> | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

Total (Yes) 12 No 0

Absent 1

Floor Assignment Rep. Hawken

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

REPORT OF STANDING COMMITTEE

SB 2161, as engrossed: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2161 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new chapter to title 27 of the North Dakota Century Code, relating to the establishment of an interdisciplinary committee on problem-solving courts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new chapter to title 27 of the North Dakota Century Code is created and enacted as follows:

Interdisciplinary committee on problem-solving courts.

1. The interdisciplinary committee on problem-solving courts is established as a collaborative mechanism to acquire and analyze relevant information related to the need for and feasibility of establishing problem-solving courts in this state. For purposes of this chapter, a "problem-solving court" is a juvenile or adult drug court, mental health court, veterans court, or other specialized court comprised of interdisciplinary teams, enhanced judicial involvement, court-supervised treatment programs, and other components designed to achieve effective alternatives to traditional case dispositions.
2. The interdisciplinary committee on problem-solving courts consists of:
 - a. A justice of the supreme court appointed by the chief justice.
 - b. A member appointed by the governor.
 - c. A presiding judge elected by the judicial system administrative council.
 - d. The executive director of the department of human services, or the director's designee.
 - e. The director of the department of corrections and rehabilitation, or the director's designee.
 - f. The state court administrator, or the administrator's designee.
 - g. A state's attorney appointed by the state's attorneys' association.
 - h. A defense attorney appointed by the commission on legal counsel for indigents.
 - i. A court administrator appointed by the state court administrator.
 - j. A representative of chemical, mental health, or other treatment providers in the state as agreed upon by the committee members.
 - k. The director of parole and probation services.
 - l. A director of juvenile court appointed by the chief justice.
 - m. Two members appointed by the North Dakota peace officers association, one representing city law enforcement agencies and one representing county law enforcement agencies.

- n. A legislator appointed by the chairman of legislative management.
- o. The executive director of the department of veterans' affairs.
- 3. The chief justice designates the chairman and vice-chairman of the interdisciplinary committee.
- 4. Members of the interdisciplinary committee serve for a term of three years beginning January 1, 2016. Appointed members are limited to two consecutive terms.
- 5. With the consent of committee members, the chairman of the interdisciplinary committee may temporarily supplement membership to assist in the review of whether establishment of a problem-solving court should be recommended.
- 6. The interdisciplinary committee shall meet at least semiannually but must timely consider any requests for evaluation of the establishment of a problem-solving court.

Functions and duties.

The interdisciplinary committee on problem-solving courts shall:

- 1. Acquire and analyze information and data, including budgetary requirements and funding sources, regarding whether establishment of a problem-solving court in a judicial district should be considered.
- 2. Determine the feasibility of establishing a problem-solving court in a judicial district, including the availability of judicial and nonjudicial resources.
- 3. Based on relevant data and analysis, recommend to the presiding judge of a judicial district and the supreme court that establishment of a problem-solving court in the judicial district should be considered.
- 4. Review requests to establish problem-solving courts and submit recommendations to the supreme court regarding whether a particular problem-solving court should be established.
- 5. Establish a mechanism for monitoring and evaluating the effectiveness of established problem-solving courts and related treatment services.

Request to establish a problem-solving court - Submission - Review.

- 1. A request for establishment of a problem-solving court must be submitted to the interdisciplinary committee on problem-solving courts for review and recommendation.
- 2. The interdisciplinary committee shall promptly review any information submitted in support of the request and consider the committee's own analysis, if any, regarding the need for a problem-solving court.
- 3. Following its review, the interdisciplinary committee shall promptly submit to the supreme court its recommendation regarding the need for and feasibility of the requested problem-solving court.

Staff services.

The interdisciplinary committee on problem-solving courts may request appropriate staff services from the office of the state court administrator."

Renumber accordingly

2015 CONFERENCE COMMITTEE

SB 2161

2015 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2161
4/7/2015
25863

☐ Subcommittee
☒ Conference Committee

Committee Clerk Signature

Penrose

Minutes:

Ch. Hogue: We will open the conference committee on SB 2161. All members were present. I looked at the House amendments and I thought I would put it back to the House; you amended this back to its original form. Is that true.

Rep. Hawken: I believe that is relatively true. Basically the intent I think is back more to the original bill.

Ch. Hogue: Okay. I'll walk through the changes that the Senate made, and why we made those changes. I would ask for some feedback from the House whether you agree or disagree with the Senate. The first significant change that we made to the bill is that we thought the committee was far too large to be effective as a committee. I think the original bill provided for 14 members including a member of the legislative assembly. We struck five of those positions; we tried to get it down to a more manageable level. I know from a service and legislative management, one of the first things we do is that we assign people to committees. The second thing we do is try to find people who will serve on all of these committees that we've created over the years. We don't have success. We have more committees than we have legislators who are willing to serve on them. That was part of the reason for reducing the size of the group and the second just being the sense of the Senate that large committees are just not effective. They are not a good governance model, even when they are used for needing a large body for brainstorming or for other issues; it's just not a good structure. Another major area that we focused on is the reporting mechanism.

Rep. Hawken: Question about page 2, line 17.

Ch. Hogue: I'll tell you the thinking behind that section. I think you could surmise from the Senate standpoint that there is a bit of skepticism about creating new committees. We've been sunseting the Alternatives to Incarceration committee for 8 years. We think all new committees should have sunsets because there aren't any new ideas out there (according to Sen. Holmberg). There are plenty of committee's that can solve problems if somebody has the will to do so. We thought it was important that if we are going to create a new committee, as we have with other measures we thought that it should sunset and substantiate their existence and prove that it is a worthwhile new committee.

Rep. Wallman: I have two questions for clarification. The first one is, it looks to me if I'm not mistaken, like the original bill had 14 members and it's down to 7 now in the way the Senate amended it. That was one-half of the members removed. Is that correct.

Ch. Hogue: Yes.

Rep. Wallman: The second question was, as I understood the testimony in the judiciary committee really throughout the session, when we look at alternatives to incarceration, the idea is that our prisons are overcrowded and we are looking for ways to efficiently channel people in the way that will create the most rehabilitative situation, rather than just incarcerating folks. I'm a little reticent to lump this particular committee in with sunseting of other committees because this is something that a lot of work has gone into. I think if we're making a paradigm shift away from the way we incarcerate and rehabilitate people; it might be useful to have this as an ongoing committee. If we ever decide that we want it to go away, I think we might; I think there is a lot of work to be done in the area of how we handle this. I would resist that.

Ch. Hogue: You think the committee should be perpetual or a longer sunset date.

Rep. Wallman: I suspect that we leave it open-ended and if we decide at some point that it's no longer necessary or we decide to go in another direction would work. The other way to look at it is to sunset it and we can bring it back if we wanted to.

Sen. Armstrong: I think it's the flip side of the same coin. My argument would be, even if this is a really great concept, and I think it's a worthy concept, I'm a co-sponsor of it that when you put the sunset on, you force them to do

something in the first two years; if they come back 2 years from now and say we only met once and we haven't done anything, and I believe it is 16 members of the committee, I think the sunset is important because they have to come up with something in that biennium.

Ch. Hogue: On page 2, line 22 that's why we decided to place semi-annually with quarterly reporting. Over on page 3, I believe we have fundamental disagreement with the Supreme Court. The court wants a mechanism, a bill like this where they can bring together members of the executive branch, DOCR, Human Services along with their people and get them all on this commission. I think that the court feels that this commission should be reporting to the court and the court should be making the decision whether to go forward with a problem solving court or not. It's a matter of a fundamental disagreement between the court and the Senate. We know in our constitution, the Supreme Court is created and the district courts and such other courts that are prescribed by law. We know the legislature has the responsibility to create additional courts if it so chooses. The court's response to that is that we're not really creating new courts, we are just bringing people together to see whether there is a better way to go about dealing with criminals whether they have mental health issues, substance abuse issues; that response is understood, but still if the bill would go forward in its original form, we would be authorizing the judicial branch to control members of the executive branch in bringing together these committees and reporting to the judiciary. I don't think that is good policy. I think the Senate feels the same way. Finally, on lines 10-18, the approval again, if we're going to go down the road to a type of problem solving court, whether it be mental health, behavioral health, or a veteran's court, again speaking on behalf of the Senate, I think that's the prerogative of the legislature whether we want to go down that road or not. I met with members of the court and their staff and voiced concerns about the veteran's court because that is mentioned in here. We know that there are other organizations that are studying whether it is wise to create a veteran's court. That would be a type of a court that I think maybe the Senate would object to. We've had other bills in the Senate where there was an effort to treat veterans differently in our criminal courts than others and we don't think that is appropriate at all.

Rep. Hawken: I understand now and thank you for walking us through your reasoning. My concern is the legislative management piece. I would tell you that the reason you might not be getting legislators is because they haven't been asked. There is a very small number on our side of the aisle that ever get asked, so the trust factor there is not as great as it could be. Maybe we

can find some middle ground there. I understand what you are saying about the legislature creates them. That isn't legislative management, that's the legislature. So that is a major concern of mine and I realize that it's different on your side of the aisle than it is on ours. As far as the size of the committee I would guess that you are picking a number and we certainly could figure that out. I don't know which people should be there. I know that the drug courts have been amazingly effective; I'm looking at the glass half-full. I feel that we don't do a particularly good job while we have people incarcerated in helping them have a future going forward and I think a drug court is a good example of where those ingredients have been part of it. Is there a way to meet in the middle?

Ch. Hogue: I looked through the examples; it seems to me that you could have a mental health court because I think part of the objectives of the drug court and by potential mental health court would be to deal with the defendants in a way that is an alternative to our incarceration; but is actually more effective. I think we are open to that. I guess the last change is the expiration date to make it sort of consistent with the sunset on the bill.

Sen. Armstrong: I know we just took out the language from a purely technical standpoint. If we are going to set terms for how we appoint these people, we have to figure out a way to stagger them; especially if the committee gets bigger. We just took the language out and our thought was that they could appoint and reappoint as necessary. The way it was written in the original bill, is that they would all serve 3 year terms and all be done at the same time. They may be reappointing the same person again, but a legislator could be different, but from a practical matter is if we are going to determine the terms and the lengths we need to stagger them so that the committee has some consistency as it moves forward. I would also point to the Senate's language and maybe we could maybe clean some of that up on lines 11-13, on page 2. The reason is if you have a smaller working committee with the ability to expand it, then if you need to add a couple of people to give information you can do that. Then after those meetings, they start talking about drug court and bring on some people there for those meetings. When this moves forward, when you have a group of 15-16 people, that's a large committee and if they are going to meet often, the reality is that they aren't going to have full participation if they meet often. The bigger the committee the less likely to have full participation. We can clean up the language on lines 11-13 to allow them to supplement the committee, but I do like the idea of paring down the required members to be there. Then they can do it as needed.

Rep. Wallman: I'm looking at the red/green version on page 2, so the language that Sen. Armstrong was referencing would be 19-24. I think that's perfectly reasonable. It's hard to get all of those people together at the same time. The interdisciplinary committee I like the idea of having it open-ended so that people whose input is pertinent at any given time would be there. Would it be amenable to add a list of "may include" and maybe the 7 that we left out?

Ch. Hogue: I think probably not, because the proponent of this bill is the court and so if we took some off the list and then allowed them to add them back in, they would. So if our policy is that we don't want to have large committees with significant number of the executive branch we would have to make the policy that this is the committee and if you want you can add to it.

Rep. Wallman: As I understand subsection 5, page 2, line 19 of the marked up copy. With the consent of committee members the chairman of the interdisciplinary committee may temporarily supplement membership. As I read it, they can already do that.

Ch. Hogue: Yes.

Rep. Wallman: I was just suggesting that we add the words "may have supplemental members". The Senate is in favor of leaving that in right.

Ch. Hogue: I had thought about striking it, and now that you bring it up, I think it should be struck as well.

Rep. Hawken: I am looking at this, and one of the people you left was the executive director of the Dept of Veterans Affairs. Was that in an overall generalist as far as how veterans would be looked at in any situation? Or was that not talked about.

Ch. Hogue: I obtained the amendments that the Senate had on the bill, and I thought the veterans representative from the Dept of Vet. Affairs would be somebody that would have an outside perspective.

Rep. Hawken: I was referring back to your comment about the veteran's court.

Ch. Hogue: We cut out the legislator, but there is also a provision that you have a member of the Supreme Court and an administrator within the

Supreme Court. That should be one and the same person or at least could be; a district court judge and an administrator within the district court judges. So there was a rationale behind striking those positions.

Rep. Hawken: So there isn't a legislator.

Ch. Hogue: We struck that.

Rep. Hawken: I would leave that in. If we're going back around to it be approved by legislative management somebody probably should have been there. I want to find a compromise somewhere in there. I have had an opportunity to serve on a couple of the Supreme Court committees over my 20 years and I am not a lawyer, I don't play on in the legislature, but I make a pretty good citizen representative. I think there is some value in having that tie. That's a personal opinion.

Ch. Hogue: Yes, the State Bar Association has lots of committees too and they have the same problem. They have more committees with members than they have volunteers. Legislative input is always desired in a lot of those committees as well as citizen non-lawyer members.

Sen. Grabinger: I'm just wondering why there wasn't any consideration of just putting this on the already interim Judiciary committee to handle this rather than creating this whole new committee. Interim Judiciary would fit right in there.

Ch. Hogue: One part of the court's position is that they don't always know whether there is the will or the desire to create one of these committees in one of their different districts. When there is a ground swell of command to create a drug court or some other specialized court, this commission will be the screening committee that hears it and decides that it makes sense and they would apparently, under the original bill, they would make a recommendation to the Supreme Court. I think that is there rationale for the way it is structured.

Rep. Hawken: The other thing that I would say is our Interim Committees definitely change every two years. This, even if it were sunsetted, there are still people who would have a problem. We are fortunate to have Rep. Kretschmar because he has a historical knowledge of several things that we have done and that is helpful. I think in this situation, because it is specific to areas that having some sort of base. We can in our interim committees include other people, although we don't often do that. I would think you would

need some of the people who are listed here from the court system to have any value. We could study a court after this committee had, if that was a concern. I think there are two different issues. We're more generalists and this would be more specific.

Sen. Grabinger: In Judiciary in the interim we already do take up some of these courts and consider them. I think Rep. Kretschmar is sitting there with us; we already do some of this. You already have the people together.

Rep. Wallman: So the legislature is the policy making branch, so we would establish the committee, by policy say that we are going to have these and this is what they are going to do. So the committee would hopefully come up with some recommendations while they met quarterly, they would produce some sort of action plan. That would either go to legislative management or it would go directly to the judicial branch. Can you walk me through why it might go to legislative management; and why does that weigh station needs to be there.

Ch. Hogue: The committee, as it's proposed to be constituted will require the time of members of all branches of government. All of these people have statutory duties now. For example, our indigent lawyers' commission has very busy people. They don't have enough time. So now we're going to require that they participate in this commission. When we're going to divert their time and put additional time constraints on them, that's a policy decision that needs to be made by the legislative branch. Our Senate Judiciary committee has heard about 105 bills and I would estimate that probably 15 or 20 of them relate to how we sentence people, how we convict them, what offense is this particular conduct and this commission is going to be empowered to sort of divert them from that process. That's another reason why the report should go to legislative branch and we should decide if this is appropriate or not. You don't want this person to be incarcerated. You want them to have mandatory rehabilitation as an alternative to incarceration. If it's a mental health issue you maybe want them to go through a prolonged in-patient treatment program. These are just a few of the examples. All of those should be brought to the legislature for consideration because it wouldn't do us any good to hear all of these bills about how an individual should be sentenced and what their sentence should be and then have a commission off on the side deciding that well, we're not really going to do it that way because we think it is better for the defendant.

Rep. Wallman: I understood that this bill was only to look at whether we should establish problem solving courts, not whether we should change policy about mandatory incarceration or assessing and treating folks that commit crimes. I'm not really following. All the bill does is allow a group of appointed people, we're creating a policy to allow a group of appointed people to decide or make recommendations to the judicial branch as to whether there should even be a problem-solving court in that particular region in the state. So I don't understand your comments about us not getting to decide if somebody should have mandatory incarceration. To me, this is just about a committee that would look at establishing courts.

Sen. Armstrong: This would allow the Supreme Court to then set up those courts. We set up drug courts that are based on conduct which is drug use. Personally, if you set up a veteran's court, you're not setting it up based on conduct. You are setting it up based on a person's status. I like the veteran's affairs person being on there, simply because I think that veterans have very specific needs, especially with PTSD, etc. and we need to figure out how to integrate them into our criminal justice system as far as treatment and things of that nature. I get concerned and am very protective of the criminal code, so I get very concerned if you start parsing out portions of the criminal code, based not on conduct but based on status. Having some legislative oversight in my opinion to things like that are important because all of these people might think that is a really good idea and I trust and respect a lot of people on here. That doesn't mean that I am going to agree with them if they are going to set up a different criminal court, not based on conduct, but based on who a person is. For me, at the end of the day, that is a policy decision. If we are going to set up a different set of courts based for different people and I think the legislature needs to be involved in that decision.

Ch. Hogue: I think we know where each side is at, we should probably think about some amendments and see if they can be adopted through consensus of both sides.

Sen. Grabinger: I should have said the interim committee that should look at this should be the alternatives to incarceration, which includes Supreme Court justices, and so on.

Ch. Hogue: We will adjourn the committee.

2015 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2161
4/10/2015
26016

☐ Subcommittee
☒ Conference Committee

Committee Clerk Signature

Openrose

Minutes:

1,2

Ch. Hogue: We will open the conference committee on SB 2161. All members are present. At the last meeting, Sen. Grabinger asked if this could be handled under the Alternatives to Incarceration Interim Committee (see attached #1). I pulled out the statute and as I started to read through it, I saw that the membership between the Alternatives and the proposed committee were remarkably similar. That took me to subsection 4, which is the mission of the Alternatives to Incarceration. Under subsection 4 the commission shall study sentencing alternatives, mandatory sentences, treatment options, and the expanded use of problem solving courts. I was interested to know whether the committee thought that what the membership and objective of this proposed committee is fundamentally different from Alternatives to Incarceration such that we need to have another committee. If we do, I wanted to have a clear understanding why, and if we don't I would like to know whether we could do away with one and keep one, or modify one so that they are both doing the same thing.

Rep. Hawken: The first question you had about the make-up of the group (see attached #2). I think it is slightly different in that the court perspective's is an integral part of the proposed one with a court administrator, I think it is a part of the Alternatives to Incarceration in that I think what a problem solving court in discussing this the court's is probably the wrong word. It's the disposition of what is happening with the person and we're trying to get that person through the system with some rehabilitation so that when they go out into the real world, they aren't coming back. It isn't exactly the same as Alternatives. When the Chief Justice talked to our committee he was pretty blunt. He said that he didn't think it should be an interim study because we've already done that. This was to look, when necessary, at what kind of situations we could have that would in fact have that kind of result. That

would have a positive result on the perpetrator so that they are moving forward as opposed to putting them in a jail or prison. A study committee is not going to work. We've already done that part. So now this is like step 2. That's how I understood what he was talking about. It shouldn't be a study anymore; it is what areas might this work in. Their thought was that we should try more of this kind of thing or maybe then just forget it for now.

Ch. Hogue: On 1a, one of the things that Chief Justice was concerned about is if we start a statutory authority for the appointment of these executive branch members because he didn't want to be respecting the separate branches by having something in law that would

Rep. Hawken: These are the ones that were suggested that we take out. I do think that we need a legislative voice there.

Sen. Armstrong: I completely understand the point about legislators being on too many committees. My position has evolved over the course of this session and it's because of some of the other bills that we have heard in our committee. I agree with Rep. Hawken, that if this is going to move through the court system, we need a legislative representative for the specific purpose of a concern I raised at the last conference committee meeting, that I personally have a very difficult time in creating a court not based on conduct, but based on any kind of status. I don't care what it is. I think we have to have a voice in the room if those types of issues move forward. I really do think that is a fundamental shift in how we handled these cases. I love the idea of effective alternatives to traditional case disposition. I know there are people in my area of the woods that would love that as well. Our court docket is slammed beyond belief. I get very concerned if we're making those alternatives not based on conduct, but based on somebody else.

Rep. Hawken: I don't believe that's the hope of this. That doesn't mean it wouldn't.

Sen. Armstrong: Sometimes a really good idea can turn into really bad policy.

Ch. Hogue: I had made a short list of the new committees we created. We got a Missouri River Committee that's going to help us use the water better; SIDS committee; this committee; the Yellowstone Confluence Committee; etc. They all call for legislators to be on those committees. Do we need both committees; this committee group and Alternatives to Incarceration? They

seem to have remarkably similar objectives and the composition is very similar.

Sen. Grabinger: That's exactly where I'm at on this bill. I read the attachment from Rep. Hawken. There's no question that this could be handled by Alt. to Incarceration.

Rep. Hawken: The list I handed out was a list of people that could be eliminated from the bill's list.

Sen. Grabinger: I am looking at this and this is pretty much where we at. The Alt. to Incarceration includes these already with the exception of the Governor's appointee and veterans affairs. I think with the membership we have on that Alt. to Incarceration Committee and I served on that, I think it is important that we have a legislative impact, I agree with that. I think it was vital in some of our discussions in Judiciary with the influence I had by being on that committee and I could bring that information to the table in here. I also agree with the Chairman, that the language clearly says that the expanded use of problem solving courts addresses what we're trying to do in here. We took up a lot of those court issues in that Alt. to Incarceration Committee in the last session. I think if there is a desire by the judicial system to expand on that by working through the Alt. to Incarceration committee we can do that. We can expand on those if there is a place where the Justices want us to go. I think we can do that and not start up another committee.

Rep. Kretschmar: Has there been a bill going around the session this year to eliminate the Alt. to Incarceration, to reduce it.

Ch. Hogue: No. We had it; there is a perpetual sunset clause on it so I think every time it has to run the gauntlet and it has been moving forward.

Rep. Wallman: What would the process look like if we skip this step? I agree with Rep. Hawken in that this was like step 2 and sort of a plan of action if those were needed or agreed upon, that pop up somewhere, what would be the process to have that happen. Sen. Grabinger is saying that this ongoing Comm to Alt to Incarceration, would it be receiving testimony and then a bill would come out of Alt to Incarceration saying the problem solving court can happen in Dunn County. How would that look like?

Sen. Grabinger: The process is, we had some bills that came out of Alt to Incarceration and we can either bring bills to the legislature or make

recommendation to legislative management. That's the process. We did that in the last session. There were probably about six bills that the Alt to Incarceration presented. We also made recommendations to Legislative Management that didn't go anywhere. For example, expanding the substance abuse at the State Hospital, etc. One of the things was putting drug court back in DUI law. That was mostly Judiciary. Some of those things are happening and we are passing a bill to work with PEW to get a study done on our correctional system to try and lessen the burden on that. We've seen it work in other states so there is a lot coming out of that committee. I firmly believe that with the people we have on that committee, is fantastic. We had good leadership. I think we can address these issues if the Judiciary wanted to come before us and present something, we'd be glad to take it up and try and do something.

Rep. Hawken: The House tries to micromanage everything. The reason that I like this is that it is not just ours. If there was going to be a court created, it would have to come back through us because we are the only ones that can do that. But in the meantime, we get some other thought processes going. I would agree that if we don't think we can do this, then we just leave it as it is and we move forward and maybe after the report comes back. I think the gentleman from CSG with funding through PEW, maybe we will have something better the next session. I don't think we need to do this for the legislature to have another piece. This would have gone back to the Chief Justice and the Supreme Court for making some decisions and then presenting them to us, which I think is the missing piece in this. Like you said, when it went to Legislative Management, what happened with it? That happens a lot around here. If we don't think it should go, it shouldn't go.

Sen. Armstrong: I know we can expand drug court into different jurisdictions now. I mean we could do that and it wouldn't come through the legislature. If Ward County wanted to start theirs back up tomorrow, they could on their own or with the help of the Supreme Court. My question is, when we originally set up drug court, did we have to authorize that as a legislature or was that authorized through the court system. I think it was authorized through the court system. The reason I say that is if the hang up is from the court and legislative management, I understand that. I think drug court is a very good thing. I do think if it is not legislative management and if this does move somewhere, I do think if we are going to set up some specific court and I always pick on the criminal code because that's where I live and also where your liberty gets taken away. Pretty much everywhere it's about the money; but it's the liberty side. I do think there has to be some level of determination

before that occurs from the legislature. I don't know if this bill does that, whether it is in the original form or House amended form. I know that was one of our concerns. I know the court had the same concerns. I don't know if there is a middle ground there. When you are talking about problem solving courts, I think they are great ideas, but I do think there is a policy aspect to that. I understand what you are saying about micromanaging it. I am not sure we should totally abdicate our responsibility to be a part of it.

Rep. Wallman: I think that was your very point that there should be a middle station where the legislature weighs in before the Supreme Court and the court system makes a decision about adding an extra specialized court.

Ch. Hogue: Maybe this whole thing about a separate court is a misnomer. It's not a separate court.

Rep. Hawken: That's it exactly.

Ch. Hogue: On the other hand, the original bill starts talking about a veterans court, which as I discussed and I think other members of the Senate have discussed, it is not an area where we would be comfortable having the judicial branch say that we're going to have this; we are going to take these resources and apply them to a special type of defendant because of their status as a veteran and give them resources and adjudicate their sentence different than a civilian's.

Rep. Hawken: I really think you hit exactly upon it. It isn't a special court; it is a court within the court system. Maybe with the study that we're going to do with PEW, this is an outside study. I don't know how they conduct the study. I would assume that it's not a normal interim committee, but maybe we're ahead of the game. Rep. Wallman did ask him pointblank about problem solving courts and he said that was one of the directions of the future. When you started doing this, was it the veterans' court or was it in general.

Sen. Armstrong: That goes to my philosophy of what I co-sign. I really like the idea of expanding the drug courts. I like the idea of mental health courts. I personally in western ND would like the idea of divorce courts, because of the calendar staggering we have on there. In all honesty, these conversations about the criminal code and how we treat people, when I said my positions have evolved, I was only being joking, because it did come up during the course of our session and we started seeing other pieces of legislation and you start thinking about things you didn't necessarily think of until it was

brought in front of the committee. I like the concept. There are some things that give me pause for concern.

Rep. Hawken: I move a Do Not Pass.

Ch. Hogue: What are you, Rep. Hawken, trying to accomplish.

Rep. Hawken: That we aren't going to pass the bill.

Sen. Grabinger: I think we would need a motion for the Senate to accede to the House amendments and then we can kill it on the floor. Correct?

Ch. Hogue: I will have to think about it. I wasn't expecting your motion. I want to review the memo. Your objective is to kill the bill. I think from the discussion that we've had, perhaps we aren't ready for this yet. We may need to flesh it out a little more because we all agree that the drug court does good work. Where else could this be that good and then come back to what the procedure is. We will take this up on Monday, 4/13/15. We will adjourn.

2015 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2161
4/13/2015
26052

☐ Subcommittee
☒ Conference Committee

Committee Clerk Signature

Penrose

Minutes:

Ch. Hogue: We will open the conference committee on SB 2161. Members are present.

Rep. Hawken: I move that the House recede from amendments.
Rep. Kretschmar: Second the motion.

6 YES 0 NO 0 ABSENT

HOUSE RECEDE FROM AMENDMENTS

After this meeting, the committee came back to reconsider their action. Those minutes were not recorded.

Rep. Hawken: I move that we reconsider our actions.
Sen. Armstrong: Second the motion.

Ch. Hogue: Motion carried.

Sen. Grabinger: Moved that the Senate accede to House Amendments.
Sen. Armstrong: Second the motion.

5 YES 0 NO 1 ABSENT

SENATE ACCEDE TO HOUSE AMENDMENTS

CARRIER: Sen. Hogue

CARRIER: Rep. Kretschmar

Date: 4/13/15
Roll Call Vote #: 1

2015 SENATE CONFERENCE COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2161 as (re) engrossed

Senate Judiciary Committee

- Action Taken
- ☐ SENATE accede to House Amendments
 - ☐ SENATE accede to House Amendments and further amend
 - ☒ HOUSE recede from House amendments
 - ☐ HOUSE recede from House amendments and amend as follows
 - ☐ Unable to agree, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Rep. Hawken Seconded by: Rep. Kutschmar

| Senators | 4/7 | 4/10 | 4/13 | Yes | No | Representatives | 4/7 | 4/10 | 4/13 | Yes | No |
|--------------------|-----|------|------|-----|----|--------------------|-----|------|------|-----|----|
| <u>Sens. Hogue</u> | ✓ | ✓ | ✓ | ✓ | | <u>Rep. Hawken</u> | ✓ | ✓ | ✓ | ✓ | |
| <u>Armstrong</u> | ✓ | ✓ | ✓ | ✓ | | <u>Kaetschmar</u> | ✓ | ✓ | ✓ | ✓ | |
| <u>Grubinger</u> | ✓ | ✓ | ✓ | ✓ | | <u>Wallman</u> | ✓ | ✓ | ✓ | ✓ | |
| | | | | | | | | | | | |
| | | | | | | | | | | | |
| Total Senate Vote | 3 | 3 | 3 | 3 | | Total Rep. Vote | 3 | 3 | 3 | 3 | |

Vote Count Yes: 6 No: 0 Absent: 0

Senate Carrier Sen. Hogue House Carrier Rep. Hawkin

LC Number _____ of amendment

LC Number _____ of engrossment

Emergency clause added or deleted: _____

Statement of purpose of amendment: _____

The Conference Comm. reconsidered
their action,

Date: 4/13/15
Roll Call Vote #: 2

2015 SENATE CONFERENCE COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2161 as (re) engrossed

Senate Judiciary Committee

- Action Taken
- ☐ SENATE accede to House Amendments
 - ☐ SENATE accede to House Amendments and further amend
 - ☐ HOUSE recede from House amendments
 - ☐ HOUSE recede from House amendments and amend as follows
 - ☐ Unable to agree, recommends that the committee be discharged and a new committee be appointed

☒ Reconsider action - Motion Passed

Motion Made by: Rep. Hawken Seconded by: Sen. Armstrong

| Senators | | | | Yes | No | Representatives | | | | Yes | No |
|-------------------|--|--|--|-----|----|-----------------|--|--|--|--------|----|
| Hogue | | | | ✓ | | Hawken | | | | ✓ | |
| Armstrong | | | | ✓ | | Kretschmar | | | | Absent | |
| Grabinger | | | | ✓ | | Wallman | | | | ✓ | |
| Total Senate Vote | | | | | | Total Rep. Vote | | | | | |

Vote Count Yes: 5 No: 0 Absent: 1

Senate Carrier _____ House Carrier _____

LC Number _____ of amendment

LC Number _____ of engrossment

Emergency clause added or deleted: _____

Statement of purpose of amendment: _____

Date: 4/13/15
Roll Call Vote #: 3

2015 SENATE CONFERENCE COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2161 as (re) engrossed

Senate Judiciary Committee

Action Taken

- ☒ SENATE accede to House Amendments
☐ SENATE accede to House Amendments and further amend
☐ HOUSE recede from House amendments
☐ HOUSE recede from House amendments and amend as follows

☐ Unable to agree, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Sen. Grabinger Seconded by: Sen. Armstrong

| Senators | | | | Yes | No | Representatives | | | | Yes | No |
|-------------------|--|--|--|-----|----|-----------------|--|--|--|--------|----|
| Sen. Hogue | | | | ✓ | | Rep. Hawken | | | | ✓ | |
| Armstrong | | | | ✓ | | Kretschmar | | | | Absent | |
| Grabinger | | | | ✓ | | Wallman | | | | ✓ | |
| | | | | | | | | | | | |
| Total Senate Vote | | | | | | Total Rep. Vote | | | | | |

Vote Count Yes: 5 No: 0 Absent: 1

Senate Carrier Sen. Hogue House Carrier Rep. Hawken

LC Number _____ of amendment

LC Number _____ of engrossment

Emergency clause added or deleted: _____

Statement of purpose of amendment: _____

REPORT OF CONFERENCE COMMITTEE

SB 2161, as engrossed: Your conference committee (Sens. Hogue, Armstrong, Grabinger and Reps. Hawken, Kretschmar, Wallman) recommends that the **SENATE ACCEDE** to the House amendments as printed on SJ pages 1016-1018 and place SB 2161 on the Seventh order.

Engrossed SB 2161 was placed on the Seventh order of business on the calendar.

2015 TESTIMONY

SB 2161

#1-1
1/20/15

PROPOSED AMENDMENTS TO SENATE BILL NO. 2161

Page 2, line 11, replace "executive director" with "commissioner"

Page 2, line 11, replace "veterans' " with "veterans"

Renumber accordingly

Senate Judiciary Committee

Senator David Hogue, Chairman

Leslie (Barney) Tomanek

Director, North Dakota Parole and Probation

North Dakota Department of Corrections and Rehabilitation

Presenting Testimony on Senate Bill 2161

Tuesday, January 20, 2015

Good morning Chairman Hogue and members of the Senate Judiciary Committee. My name is Barney Tomanek, Director of the North Dakota Parole and Probation Department. I am here on behalf of the Department of Corrections and Rehabilitation to provide testimony in support of Senate Bill 2161.

Problem-solving courts have been proven to be effective, evidence-based programs. That said, they are also resource demanding and require a great deal of planning and organization to be implemented properly. The establishment of an interdisciplinary committee to analyze the need for and feasibility of a problem-solving court seems like a prudent and effective way of doing business. The committee members as spelled out in SB 2161 would bring together a cross-section of professionals that could provide a thorough evaluation as to the need and feasibility of a Specialty Court.

There are three key components of this legislation that I think make it a good idea.

1. It brings together a multi-disciplinary committee to review the data and information, including the budgetary requirements, funding sources, and available resources to determine if the court should be considered.
2. Based on the information they acquire, recommendations, not mandates, are provided to the courts.
3. It establishes a mechanism for monitoring and evaluating the effectiveness of the established problem-solving courts and related treatment services.

Problem-solving courts are being established across this country every day, and with proper analysis and design, they have been proven to be highly effective. I believe SB 2161 would put into place an effective mechanism to evaluate the need for these courts, and on behalf of the Department of Corrections and Rehabilitation, I am requesting a "Do Pass" on SB 2161.

This concludes my testimony and I would be happy to answer any questions you may have.

January 23, 2015

#1-1
SB 2161
2/4/2015

PROPOSED AMENDMENTS TO SENATE BILL NO. 2161

Page 1, line 2, after "courts" insert "; and to provide an expiration date"

Page 1, line 6, after "courts" insert "**- Report to legislative management**"

Page 1, line 17, remove "A member appointed by the governor."

Page 1, line 18, remove "c."

Page 1, line 19, replace "d." with "c."

Page 1, line 21, replace "e." with "d."

Page 1, remove line 23

Page 1, line 24, replace "g." with "e."

Page 2, line 1, replace "h." with "f."

Page 2, remove line 2

Page 2, line 3, replace "i." with "g."

Page 2, remove lines 5 and 6

Page 2, line 7, replace "m." with "h."

Page 2, line 7, replace "Two members" with "One member"

Page 2, line 7, remove ", one"

Page 2, remove line 8

Page 2, line 9, remove "enforcement agencies"

Page 2, remove line 10

Page 2, line 11, replace "o." with "i."

Page 2, line 14, remove "Members of the interdisciplinary committee serve for a term of three years beginning"

Page 2, remove line 15

Page 2, line 16, remove "5."

Page 2, line 19, replace "6." with "5."

Page 2, line 19, replace "semiannually" with "quarterly"

Page 2, line 28, after the underscored comma insert "report findings and"

Page 2, line 28, after "recommend" insert "proposed legislation"

Page 2, line 28, remove "presiding judge of a judicial"

Page 2, remove line 29

1-2

Page 2, line 30, replace "judicial district should be considered" with "legislative management"

Page 3, line 2, replace "supreme court" with "legislative management"

Page 3, remove lines 6 through 14

Page 3, after line 17, insert:

"SECTION 2. EXPIRATION DATE. This Act is effective through July 31, 2017,
and after that date is ineffective."

Renumber accordingly

SB 2161
2/4/2015

Sixty-fourth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2161

Introduced by

Senators Carlisle, Armstrong, Heckaman

Representatives M. Johnson, Karls, Maragos

- 1 A BILL for an Act to create and enact a new chapter to title 27 of the North Dakota Century
2 Code, relating to the establishment of an interdisciplinary committee on problem-solving courts;
3 and to provide an expiration date.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1.** A new chapter to title 27 of the North Dakota Century Code is created and
6 enacted as follows:

7 **Interdisciplinary committee on problem-solving courts - Report to legislative**
8 **management.**

- 9 1. The interdisciplinary committee on problem-solving courts is established as a
10 collaborative mechanism to acquire and analyze relevant information related to the
11 need for and feasibility of establishing problem-solving courts in this state. For
12 purposes of this chapter, a "problem-solving court" is a juvenile or adult drug court,
13 mental health court, veterans court, or other specialized court comprised of
14 interdisciplinary teams, enhanced judicial involvement, court-supervised treatment
15 programs, and other components designed to achieve effective alternatives to
16 traditional case dispositions.
- 17 2. The interdisciplinary committee on problem-solving courts consists of:
- 18 a. A justice of the supreme court appointed by the chief justice.
- 19 b. A member appointed by the governor.
- 20 ~~c.~~ A presiding judge elected by the judicial system administrative council.
- 21 ~~d-c.~~ The executive director of the department of human services, or the director's
22 designee.
- 23 ~~e-d.~~ The director of the department of corrections and rehabilitation, or the director's
24 designee.

- 1 ~~f. The state court administrator, or the administrator's designee.~~
- 2 ~~g.e. A state's attorney appointed by the state's attorneys' association.~~
- 3 ~~h.f. A defense attorney appointed by the commission on legal counsel for indigents.~~
- 4 ~~i. A court administrator appointed by the state court administrator.~~
- 5 ~~i.g. A representative of chemical, mental health, or other treatment providers in the~~
- 6 ~~state as agreed upon by the committee members.~~
- 7 ~~k. The director of parole and probation services.~~
- 8 ~~l. A director of juvenile court appointed by the chief justice.~~
- 9 ~~m.h. Two members~~ One member appointed by the North Dakota peace officers
- 10 ~~association, one representing city law enforcement agencies and one~~
- 11 ~~representing county law enforcement agencies.~~
- 12 ~~n. A legislator appointed by the chairman of legislative management.~~
- 13 ~~o.i. The executive director of the department of veterans' affairs.~~
- 14 3. The chief justice designates the chairman and vice-chairman of the interdisciplinary
- 15 committee.
- 16 4. ~~Members of the interdisciplinary committee serve for a term of three years beginning~~
- 17 ~~January 1, 2016. Appointed members are limited to two consecutive terms.~~
- 18 ~~5.~~ With the consent of committee members, the chairman of the interdisciplinary
- 19 committee may temporarily supplement membership to assist in the review of whether
- 20 establishment of a problem-solving court should be recommended.
- 21 6.5. The interdisciplinary committee shall meet at least ~~semiannually~~ quarterly but must
- 22 timely consider any requests for evaluation of the establishment of a problem-solving
- 23 court.

24 **Functions and duties.**

25 The interdisciplinary committee on problem-solving courts shall:

- 26 1. Acquire and analyze information and data, including budgetary requirements and
- 27 funding sources, regarding whether establishment of a problem-solving court in a
- 28 judicial district should be considered.
- 29 2. Determine the feasibility of establishing a problem-solving court in a judicial district,
- 30 including the availability of judicial and nonjudicial resources.

SB 2161
2/4/15

3. Based on relevant data and analysis, report findings and recommend proposed legislation to the presiding judge of a judicial district and the supreme court that establishment of a problem-solving court in the judicial district should be considered legislative management.

4. Review requests to establish problem-solving courts and submit recommendations to the supreme court legislative management regarding whether a particular problem-solving court should be established.

5. Establish a mechanism for monitoring and evaluating the effectiveness of established problem-solving courts and related treatment services.

Request to establish a problem-solving court - Submission - Review.

1. A request for establishment of a problem-solving court must be submitted to the interdisciplinary committee on problem-solving courts for review and recommendation.

2. The interdisciplinary committee shall promptly review any information submitted in support of the request and consider the committee's own analysis, if any, regarding the need for a problem-solving court.

3. Following its review, the interdisciplinary committee shall promptly submit to the supreme court its recommendation regarding the need for and feasibility of the requested problem-solving court.

Staff services.

The interdisciplinary committee on problem-solving courts may request appropriate staff services from the office of the state court administrator.

SECTION 2. EXPIRATION DATE. This Act is effective through July 31, 2017, and after that date is ineffective.

SB 2161
2/4/15

#1
SB2161
3-12-15

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2161

Page 1, line 2, remove the semi-colon

Page 1, line 3, remove "and to provide an expiration date"

Page 1, after line 18, insert:

"b. A member appointed by the governor."

Page 1, line 19, replace "b." with "c."

Page 1, line 20, replace "c." with "d."

Page 1, line 22, replace "d." with "e."

Page 1, after line 23, insert:

"f. The state court administrator, or the administrator's designee."

Page 1, line 24, replace "e." with "g."

Page 2, line 1, replace "f." with "h."

Page 2, after line 1, insert:

"i. A court administrator appointed by the state court administrator."

Page 2, line 2, replace "g." with "j."

Page 2, after line 4, insert:

"k. The director of parole and probation services.

l. A director of juvenile court appointed by the chief justice."

Page 2, line 4, replace "h." with "m."

Page 2, line 4, replace “One member” with “Two members”

Page 2, line 4, after “association” insert “, one representing city law enforcement agencies and one representing count law enforcement agencies”

Page 2, after line 4, insert:

“n. A legislator appointed by the chairman of legislative management.”

Page 2, line 5, replace “i.” with “o.”

Page 2, line 5, replace “executive director” with “commissioner”

Page 2, after line 7, insert:

“4. Members of the interdisciplinary committee serve for a term of three years beginning January 1, 2016. Appointed members are limited to two consecutive terms.”

Page 2, line 8, replace “4.” with “5.”

Page 2, line 11, replace “5.” with “6.”

Page 2, line 11, replace “quarterly” with “semiannually”

Page 2, line 20, remove “report findings and”

Page 2, line 20, replace “proposed” with “to the presiding judge of a judicial district and the supreme court that establishment of a problem-solving court in the judicial district should be considered”

Page 2, line 21, remove “legislation to the legislative management”

Page 2, line 23, replace “legislative management” with “supreme court”

Page 2, after line 26, insert:

“**Request to establish a problem-solving court - Submission - Review.**

1. A request for establishment of a problem-solving court must be submitted to the interdisciplinary committee on problem-solving courts for review and

recommendation.

2. The interdisciplinary committee shall promptly review any information submitted in support of the request and consider the committee's own analysis, if any, regarding the need for a problem-solving court.
3. Following its review, the interdisciplinary committee shall promptly submit to the supreme court its recommendation regarding the need for and feasibility of the requested problem-solving court."

Page 2, remove lines 30 and 31

Renumber accordingly

Sixty-fourth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2161

Introduced by

Senators Carlisle, Armstrong, Heckaman

Representatives M. Johnson, Karls, Maragos

1 A BILL for an Act to create and enact a new chapter to title 27 of the North Dakota Century
2 Code, relating to the establishment of an interdisciplinary committee on problem-solving courts;
3 and to provide an expiration date.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1.** A new chapter to title 27 of the North Dakota Century Code is created and
6 enacted as follows:

7 **Interdisciplinary committee on problem-solving courts - Report to legislative**
8 **management.**

- 9 1. The interdisciplinary committee on problem-solving courts is established as a
10 collaborative mechanism to acquire and analyze relevant information related to the
11 need for and feasibility of establishing problem-solving courts in this state. For
12 purposes of this chapter, a "problem-solving court" is a juvenile or adult drug court,
13 mental health court, veterans court, or other specialized court comprised of
14 interdisciplinary teams, enhanced judicial involvement, court-supervised treatment
15 programs, and other components designed to achieve effective alternatives to
16 traditional case dispositions.
- 17 2. The interdisciplinary committee on problem-solving courts consists of:
- 18 a. A justice of the supreme court appointed by the chief justice.
- 19 b. A member appointed by the governor.
- 20 ~~c.~~ A presiding judge elected by the judicial system administrative council.
- 21 ~~d.c.~~ The executive director of the department of human services, or the director's
22 designee.
- 23 ~~e.d.~~ The director of the department of corrections and rehabilitation, or the director's
24 designee.

4

- ~~f. The state court administrator, or the administrator's designee.~~
- ~~g.e. A state's attorney appointed by the state's attorneys' association.~~
- ~~h.f. A defense attorney appointed by the commission on legal counsel for indigents.~~
- ~~i. A court administrator appointed by the state court administrator.~~
- ~~j.g. A representative of chemical, mental health, or other treatment providers in the state as agreed upon by the committee members.~~
- ~~k. The director of parole and probation services.~~
- ~~l. A director of juvenile court appointed by the chief justice.~~
- ~~m. Two members~~
- ~~h. One member appointed by the North Dakota peace officers association, one representing city law enforcement agencies and one representing county law enforcement agencies.~~
- ~~n. A legislator appointed by the chairman of legislative management.~~
- ~~o.i. The executive director of the department of veterans' affairs.~~
3. The chief justice designates the chairman and vice-chairman of the interdisciplinary committee.
4. ~~Members of the interdisciplinary committee serve for a term of three years beginning January 1, 2016. Appointed members are limited to two consecutive terms.~~
- ~~5. With the consent of committee members, the chairman of the interdisciplinary committee may temporarily supplement membership to assist in the review of whether establishment of a problem-solving court should be recommended.~~
- 6.5. The interdisciplinary committee shall meet at least ~~semiannually~~ quarterly but must timely consider any requests for evaluation of the establishment of a problem-solving court.

Functions and duties.

The interdisciplinary committee on problem-solving courts shall:

1. Acquire and analyze information and data, including budgetary requirements and funding sources, regarding whether establishment of a problem-solving court in a judicial district should be considered.
2. Determine the feasibility of establishing a problem-solving court in a judicial district, including the availability of judicial and nonjudicial resources.

1 3. Based on relevant data and analysis, report findings and recommend proposed
2 legislation to the presiding judge of a judicial district and the supreme court that
3 establishment of a problem-solving court in the judicial district should be
4 considered legislative management.

5 4. Review requests to establish problem-solving courts and submit recommendations to
6 the supreme court legislative management regarding whether a particular
7 problem-solving court should be established.

8 5. Establish a mechanism for monitoring and evaluating the effectiveness of established
9 problem-solving courts and related treatment services.

10 ~~Request to establish a problem-solving court – Submission – Review.~~

11 ~~1. A request for establishment of a problem-solving court must be submitted to the~~
12 ~~interdisciplinary committee on problem-solving courts for review and recommendation.~~

13 ~~2. The interdisciplinary committee shall promptly review any information submitted in~~
14 ~~support of the request and consider the committee's own analysis, if any, regarding~~
15 ~~the need for a problem-solving court.~~

16 ~~3. Following its review, the interdisciplinary committee shall promptly submit to the~~
17 ~~supreme court its recommendation regarding the need for and feasibility of the~~
18 ~~requested problem-solving court.~~

19 **Staff services.**

20 The interdisciplinary committee on problem-solving courts may request appropriate staff
21 services from the office of the state court administrator.

22 **SECTION 2. EXPIRATION DATE.** This Act is effective through July 31, 2017, and after that
23 date is ineffective.

#2
5 B2161
3-11-15

**House Judiciary Committee
Sixty-Fourth Legislative Assembly of North Dakota
Senate Bill No. 2161
March 11, 2015**

Good morning, Chairman Koppelman and Members of the House Judiciary Committee. I am Christine Hogan, a State employee and lawyer for the Protection & Advocacy Project. The Protection & Advocacy Project is an independent state agency that acts to protect people with disabilities from abuse, neglect, and exploitation, and advocates for the disability-related rights of people with disabilities.

P&A enthusiastically endorses SB 2161. The bill would authorize a multidisciplinary committee to examine the structure of the judicial system and its effectiveness at reaching long-term solutions to recurring problems. These recurring problems presently consume inordinate amounts of public resources and sometimes reach unsatisfactory outcomes.

Specialized courts offer the hope of improved processes and improved outcomes that might reduce the repeat appearances of the same individuals with different manifestations of the same unaddressed, underlying problems. P&A is particularly excited about the concept of establishing mental health courts in our state. It is encouraging that the judicial system is behind this bill and is seeking to implement innovative, collaborative efforts that bring systemwide improvements to the way the needs of adult offenders with mental disabilities or illnesses are addressed.

①

- SanHogue*
- (2) The chairman of the Standing Rock Sioux Tribe, or the chairman's designee;
(3) The chairman of the Spirit Lake Tribe, or the chairman's designee;
(4) The chairman of the Three Affiliated Tribes of the Fort Berthold Reservation, or the chairman's designee;
(5) The chairman of the Turtle Mountain Band of Chippewa Indians, or the chairman's designee; and
(6) The chairman of the Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, or the chairman's designee.

- b. If the executive director of the Indian affairs commission or any of the tribal chairmen appoint a designee to serve on the task force, only one individual may serve as that designee during the biennium. A substitute designee may be appointed by the executive director of the Indian affairs commission or a tribal chairman in the event of the death, incapacity, resignation, or refusal to serve of the initial designee.

54-35-24. (Effective through August 1, 2017) Commission on alternatives to incarceration.

1. The commission on alternatives to incarceration is composed of:
 - a. Three members appointed by the governor, one of whom must be an academic researcher with specialized knowledge of criminal justice sentencing practices and sentencing alternatives;
 - b. The attorney general or the attorney general's designee;
 - c. Two members appointed by the chief justice of the supreme court;
 - d. The director of the department of corrections and rehabilitation;
 - e. The director of the department of human services;
 - f. Two local law enforcement officers appointed by the attorney general;
 - g. One state's attorney appointed by the North Dakota state's attorneys' association;
 - h. Three members of the house of representatives, two of whom must be selected by the leader representing the majority faction of the house of representatives and one of whom must be selected by the leader representing the minority faction of the house of representatives;
 - i. Three members of the senate, two of whom must be selected by the leader representing the majority faction of the senate and one of whom must be selected by the leader representing the minority faction of the senate; and
 - j. One representative of the North Dakota association of counties appointed by the association of counties.
2. The chairman of the legislative management shall select the chairman and vice chairman of the commission from the legislative members of the commission.
3. The commission shall meet at the times and places as determined by the chairman. The legislative council shall provide staffing for the commission.
4. The commission shall study sentencing alternatives, mandatory sentences, treatment options, the expanded use of problem-solving courts, home monitoring, and other related issues. 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. The commission shall provide to the governor information and recommendations for the governor's consideration in time for inclusion of the recommendations in the biennial executive budget. The commission shall report its findings and recommendations together with any legislation required to implement those recommendations to the legislative management.
5. The members of the commission who are not state employees or members of the legislative assembly are entitled to mileage and expenses as provided by law for state officers and employees. Unless otherwise provided in this subsection, the expenses of appointed members are to be paid by the legislative council. A state employee who is a member of the commission must receive that employee's regular salary and is entitled to mileage and expenses, to be paid by the employing agency. The members

of the commission who are members of the legislative assembly are entitled to compensation from the legislative council for attendance at commission meetings at the rate provided for members of the legislative assembly for attendance at interim committee meetings and are entitled to reimbursement for expenses incurred in attending the meetings in the amounts provided by law for other state officers.

1-2
4/10/15
#2161

54-35-25. Legislative promotional expenses.

The legislative management shall establish a policy regarding promotional expenses made on behalf of the legislative assembly. Any expenditure made pursuant to this section must be reported to the legislative management. An expenditure under this section may not be construed as a gift for purposes of section 18 of article X of the Constitution of North Dakota.

Rep. Hawken

2-1
4/10/19
SB 2161

Thoughts for 2161

1. Committee Size-Reduction Suggestions
 - a. A member appointed by the Governor-there will be other executive branch on committee
 - b. A court administrator-the state court administrative could provide "system perspective"
 - c. The director of parole & probation-DOCR exec could give prospective & the could be a designee of DOCR
 - d. Reduce law enforcement representatives from two to one
 - e. ED of Veteran Affairs-could be one of those supplemental people if Veteran's Court was under review
2. Probably don't need to stagger terms as terms would only apply to those members who would be appointed or elected as other members are there because of official positions.
The terms for those who have them could just start in the month the group is assembled.
Possible language: "Appointed and elected members serve for a term of three years and are limited to two consecutive terms."
3. Quarterly meetings would be a good change
4. If a sunset is important the committee could make their case in the next session to drop or continue the commission.
5. The interim study committee approach doesn't really make sense in relation to assessing the need for possible problem solving courts. According to the Chief Justice reports to Legislative Management would entirely undercut the original purpose of the committee.