

2017 SENATE JUDICIARY

SCR 4003

2017 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

SCR 4003
1/10/2017
26726

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A concurrent resolution requesting the Legislative Management to study the current juvenile justice process, levels of collaboration among various service systems, implementation of dispositional alternatives, and methods for improving outcomes for juveniles involved in the process.

Minutes:

Testimony attached #

1, 2, 3

Chairman Armstrong called the committee to order on SCR 4003. All committee members were present.

Senator Wardner, State Senator for District 37 of North Dakota, introduced the resolution. No written testimony. He discussed how he believes that to get a better handle on incarceration that we need to do a better job with the juveniles and it starts in the school systems. He recommended counselors, and taking care of this issue while they are at a young age or else it will only get worse as they get older. Senator Wardner said he's surprised about the rapid growth of prison and jail systems in the state and how all of our prisons are full and how he wants to prevent the crime rate expansion in the future.

"I would want every child to be involved in an activity, I think it would prevent them from doing drugs because it will prevent them from feeling isolated which leads to drug use as a way to escape."

Senator Nelson: "Who all was working on this?"

Senator Wardner: People from the Judiciary, Juvenile court, and Juvenile Corrections"

Senator Nelson: "Were they appointed from the Governor?"

Senator Wardner: "No."

Sally Holewa, State Court Administrator – Testified in support of the resolution. (see attachment 1)

Russell Ziegler, Assistant Director for the North Dakota Council of Educational Leaders – Testified in support of the resolution. (see attachment 2)

Senator Myrdal: “What’s the main focus of your input into the juvenile system?”

Russell Ziegler: “For what we see in the school system, when a student does go through this court process then comes back, schools don’t usually give any information such as are they on probation or what the probation consists of. We feel strongly that if we can all sit together at one table and figure this out that it will be beneficial.”

Senator Myrdal: “How does that affect the privacy of juveniles?”

Russell Ziegler: “That is a concern. We understand as a school that there are things they can’t share with us, but we still feel we need to be part of that table so we can help the students anyway we can.”

Senator Nelson: “Mr. Chairman, rather than me saying K-12 schools since you are talking about Department of Corrections, Department of Human Services, Juvenile Services, etc, would you want to say the Office of the State Superintendent of Public Construction? You’re talking about departments than all of a sudden you are at K-12 schools; I guess I have a problem here.”

Chairman Armstrong: “The short answer is that this is a study resolution, that it is not going into code. So the testimony matters.”

Lisa Fair McEvers, Supreme Court Justice of North Dakota – Testified in support of the resolution. (see attachment 3) She questioned the law where it states how old a child can be before they can be prosecuted.

“I wonder if age 7 is too young for a child to be responsible for their acts, criminally speaking. Please think about if we should prosecute children at that age for criminal acts or if we should raise the age.”

Chairman Armstrong: “At what age can you start prosecuting kids as an adult in ND?”

Justice McEvers: “Depends on the crime. Mandatory transfers are 14.”

Chairman Armstrong: “Last study was very long ago, 1990, so I hope the data is worthwhile? Science has proved a lot of things differently since then”

Justice McEvers: “I agree with you and just so everyone is aware, there have been some modifications for criminal courts over the years, it hasn’t been that there were no changes. I think the transfer to adult court is one of the areas that made some changes in the early 2000’s, I believe. I know that there have been some modifications to the transfer to adult court but what I’m talking about is even being in juvenile court. Maybe we should refer them to services instead of prosecuting them.”

Tony Wiler, Executive Director of the State Bar Association - Briefly Testified in support of the resolution. No written testimony. He described what the State Bar Association is and

told the committee that the Association had over 3000 members, which is the most amount of lawyers North Dakota has ever had. He just wanted to state on record that he supports this resolution.

Chairman Armstrong closed the hearing on SCR 4003.

No motions were made.

Senator Nelson will work on the amendment.

2017 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

SCR 4003
1/11/2017
26781

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A concurrent resolution requesting the Legislative Management to study the current juvenile justice process, levels of collaboration among various service systems, implementation of dispositional alternatives, and methods for improving outcomes for juveniles involved in the process.

Minutes:

Chairman Armstrong called the committee to order on SCR 4003. All committee members were present.

Senator Nelson – Briefly went over what was discussed for this resolution on Tuesday (1/10/2017.)

Senator Nelson motion to Adopt the Amendment. Senator Myrdal seconded.

Chairman Armstrong: "Any discussion before roll call is taken."

Senator Larson: "I am really disappointed that I missed this bill when it was first presented, it sounds like a good idea. Thank you."

A Roll Call Vote was taken to Adopt the Amendment. Yea: 6 Nay: 0 Absent: 0
The motion carried.

Senator Larson motioned to Do Pass as Amended. Senator Luick seconded.

A Roll Call Vote was taken. Yea: 6 Nay: 0 Absent: 0
The motion carried.

Senator Nelson carried the bill.

January 11, 2017

ET
1-11-17
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PROPOSED AMENDMENTS TO SENATE CONCURRENT RESOLUTION NO. 4003

Page 1, line 10, after the second comma insert "the Commission on Legal Counsel for Indigent Defense,"

Page 1, line 11, after the comma insert "K-12 public schools,"

Renumber accordingly

**2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SCR 4003**

Senate Judiciary Committee

☐ Subcommittee

Amendment LC# or Description: 17.8099.01001

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 Senator Nelson Seconded By Senator Myrdal

Senators	Yes	No	Senators	Yes	No
Chairman Armstrong	X		Senator Osland	X	
Vice-Chair Larson	X				
Senator Luick	X				
Senator Myrdal	X				
Senator Nelson	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

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

**2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SCR 4003**

Senate Judiciary Committee

☐ Subcommittee

Amendment LC# or Description: 17.8099.01001

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 Senator Larson Seconded By Senator Luick

Senators	Yes	No	Senators	Yes	No
Chairman Armstrong	X		Senator Osland	X	
Vice-Chair Larson	X				
Senator Luick	X				
Senator Myrdal	X				
Senator Nelson	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Nelson

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

REPORT OF STANDING COMMITTEE

SCR 4003: Judiciary Committee (Sen. Armstrong, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4003 was placed on the Sixth order on the calendar.

Page 1, line 10, after the second comma insert "the Commission on Legal Counsel for Indigent Defense,"

Page 1, line 11, after the comma insert "K-12 public schools,"

Renumber accordingly

2017 HOUSE JUDICIARY

SCR 4003

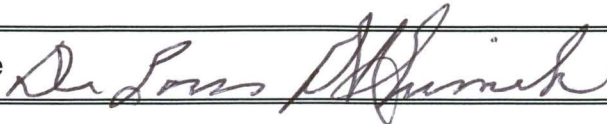
2017 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

SCR 4003
3/22/2017
29549

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Study the current juvenile justice process, levels of collaboration among various service systems, implementation of dispositional alternatives, and methods for improving outcomes for juveniles involved in the process.

Minutes:

1,2,3

Chairman K. Koppelman: Opened the hearing on SCR 4003.

Sally Holewa, ND State Court Administrator: (#1) Went through testimony. (2:00-10:10)

Representative Satrom: Is that going to be tracking trends at all if that is going to be part of this or not?

Sally Holewa: What do you mean by trends? Are you talking about outcomes or reoccurring scenarios?

Representative Satrom: Are we going to look and see how things have changed in 30 years? How have things changed in 30 years?

Sally Holewa: Yes that is a part of the study; how well have things been working. The basic question we are going to be asking. If you are going to start making big changes about shifting duties between agencies; you don't want to do it because it seems like a time to make a change.

Representative Satrom: Is the societal trends going to be part of this was well?

Sally Holewa: We always want to look at the context of where we are now. Back in the 1980s when I was first starting out in the court there was a trend to move a lot of juvenile things into criminal court quickly based on age. Thankfully, ND didn't jump into doing that and it proved to be very detrimental to people. We will be looking at brain development and how people make decisions; especially children. Children reach their decisions in a different way and that is something we are learning more about every day. We are learning about

how children are affected by growing up in thematic situations. We are looking at drug use also. Not only do children use drugs but often times the parents are using them.

Representative Paur: We have the Justice Center Report. You don't think we should just implement that?

Sally Holewa: They were only here for three days. Basically what they did was bring people into the room so we could have discussions about what we need. It is not the type of in depth study or report that we would want. If we were to go back and say let's change probation. There is a lot of nuances there. We have informal juvenile court hearings and unsupervised probation. Is that something juvenile services should have or not? There is also research that both entities would have and it also involved the DHS. We would hope a study would bring all of that together.

Representative Paur: Earlier when you were going through this process; the process at MAYO popped into my head where you would have the primary physician, the team leader and then you would have the one that specializes in radiology. Is that basically what you were talking about?

Sally Holewa: That is a pretty good analogy. There is pretty good cooperation going on. It would be working together to free up resources. Maybe BHS needs to go and get a waiver so that they can use some of their Medicare and Medicaid funds in a way that they can't use right now because a kid is charged with something serious.

Representative Jones: Where are we at on age?

Sally Holewa: I will leave that question to someone else. To me it is shocking that we are charging kids under the age of 10 with a crime.

Representative Jones: When these youths show up as in trouble; how often do they stay in the system as juveniles and then go into more problems and how often does the assistance given them bring them out of the criminal system?

Sally Holewa: I have two other people that can give you more information.

Chairman K. Koppelman: You mentioned the Justice Reinvestment system. In your visit with the justice center did they indicate a competency in this area or a willingness to work with ND?

Sally Holewa: We were like a test date with them. They were looking for a few good states to hook up with. They do have competency. They were looking for a lot of splash. We have done a lot already.

Justice McEvers, Justice of the Supreme Court: (#2) Went over testimony. (21:30-25:30)

Opposition: None

Neutral: None

Hearing closed.

Chairman K. Koppelman: (#3) Proposed amendment. Went over the proposal. (26:00)

Motion made to move the amendment by Rep. Vetter; Seconded by Representative Maragos

Voice vote carried.

Do Pass as Amended Motion made by Rep. Karls; Seconded by Rep. Vetter

Discussion:

Representative Satrom: Are we looking at causes and are we being big enough or just looking at the big picture and not just looking at our little silo and saying our juvenile department has problems.

Chairman K. Koppelman: I think part of it is to look at the big picture and to say what is causing the problems and how can we deal with it at that age so they don't become part of the adult criminal justice system in the future. Explained the selection process for the studies.

Representative Jones: When these children are showing up with these problems usually it is a symptom of a bigger problem in the family unit and a failure there. I wish we could figure out how to get to those problems.

Representative Vetter: That is what they were saying about getting the different systems together. On line 14 it says and collaborate with other service systems to identify the spectrum of needs of juveniles involved in the system. I think that covers what your concerns would be.

Representative Jones: My uncle takes in children on the foster programs. Explained how he does it is take away tv, give them hard work, routine, candy and sugar and give them as much love as he could. It is amazing at what happened in those kids lives when they were in s structured environment. I will be interested to see where this goes.

Representative Magrum: All these studies; shouldn't there be fiscal notes on these things?

Chairman K. Koppelman: Explained how they work. There is no extra cost. It is part of the legislative process.

Representative Klemin: Sometimes a committee wants to hire an outside source then they have to request funding.

Roll Call Vote: 14 Yes 1 No 0 Absent Carrier: Rep. Satrom

Closed.

3/22/17 DF

17.8099.02001
Title.03000

Adopted by the Judiciary Committee

March 22, 2017

PROPOSED AMENDMENTS TO ENGROSSED SENATE CONCURRENT RESOLUTION NO.
4003

Page 1, after line 15, insert:

"WHEREAS, North Dakota is in the midst of a Justice Reinvestment Initiative in the adult justice system which began two years ago, has resulted in the passage of landmark legislation, and will continue into the next biennium; and"

Renumber accordingly

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SCR 4003

House Judiciary Committee

☐ Subcommittee

Amendment LC# or Description: Koppelman amendment.

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 Rep. Vetter Seconded By Rep. Maragos

Representatives	Yes	No	Representatives	Yes	No
Chairman K. Koppelman			Rep. Hanson		
Vice Chairman Karls			Rep. Nelson		
Rep. Blum					
Rep. Johnston					
Rep. Jones					
Rep. Klemin					
Rep. Magrum					
Rep. Maragos					
Rep. Paur					
Rep. Roers-Jones					
Rep. Satrom					
Rep. Simons					
Rep. Vetter					

0
Total (Yes) _____ No _____

Absent _____

Floor Assignment Rep.

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

Voice vote carried.

**2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SCR 4003**

House **Judiciary** Committee

☐ Subcommittee

Amendment LC# or Description: _____

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 Rep. Karls Seconded By Rep. Vetter

Representatives	Yes	No	Representatives	Yes	No
Chairman K. Koppelman	X		Rep. Hanson	X	
Vice Chairman Karls	X		Rep. Nelson	X	
Rep. Blum	X				
Rep. Johnston	X				
Rep. Jones	X				
Rep. Klemin	X				
Rep. Magrum	X				
Rep. Maragos	X				
Rep. Paur	X				
Rep. Roers-Jones	X				
Rep. Satrom	X				
Rep. Simons		X			
Rep. Vetter	X				

0
Total (Yes) 14 No 1

Absent 0

Floor Assignment Rep. Satrom

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

REPORT OF STANDING COMMITTEE

SCR 4003, as engrossed: Judiciary Committee (Rep. K. Koppelman, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (14 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed SCR 4003 was placed on the Sixth order on the calendar.

Page 1, after line 15, insert:

"WHEREAS, North Dakota is in the midst of a Justice Reinvestment Initiative
in the adult justice system which began two years ago, has resulted in the passage
of landmark legislation, and will continue into the next biennium; and"

Renumber accordingly

2017 TESTIMONY

SCR 4003

①

**Senate Concurrent Resolution 4003
Senate Judiciary Committee**

**Presented by Sally Holewa
North Dakota State Court Administrator**

January 10, 2017

Good morning, Chairman Armstrong and members of the Committee. For the record, my name is Sally Holewa. I am the State Court Administrator. I am here today to testify in support of Senate Concurrent Resolution 4003.

Senate Concurrent Resolution 4003 is a request for a legislative study of the juvenile justice process in North Dakota. The study would encompass more than just the juvenile court structure. Instead it would encompass the processes that the court, the Division of Juvenile Services, and the Department of Human Services have in place to address issues of delinquency and abuse.

The request for a study was prompted by discussions in three different forums over the past year.

The first was a facilitated discussion led by the Council of State Governments (CSG) through a technical assistance grant. These discussions included judges and referees, law enforcement, prosecutors, indigent defense, legislators, foster parents, employees of the Division of Juvenile Services, the Department of Human Services, the court, and the Association of Counties. The focus of the discussion was on reducing juvenile recidivism. I have attached a list of the issues that were identified during those discussions.

The second was an interdisciplinary discussion to discuss dual status youth hosted by the RFK National Resource Center for Juvenile Justice. This was a follow-up to the CSG discussions and was hosted by the Association of Counties. Dual status youth are those children who are involved in both the juvenile dependency system and the juvenile court system.

The third was an initiative of the Juvenile Court Directors to review delinquent cases involving children under the age of 10 and to study what other states are

using as the age when an individual can be deemed responsible for criminal actions.

All of these discussions tended to lead to those areas where the juvenile court system, the Division of Juvenile Services, and the Department of Human Services intersect in the life of a child. The different resources, funding sources and the professional and the statutory jurisdiction of the departments determines the services a child or family receives, as does which system they enter first, and what stage they are at in the juvenile justice system.

The last time the juvenile court system was studied was in 1990. That was a study done by the University of Michigan at the request of the Juvenile Procedures Committee (a former subcommittee of the Judicial Conference). The study was limited to whether juvenile probation services should be transferred to the Division of Juvenile Services, which at that point was a very new entity. Because of the many instances in which one of three systems provides services to juveniles, we think a broader study at this time would be most beneficial to the state.

This study resolution was reviewed by the Department of Corrections and the Department of Human Services prior to being filed and neither department had any objection to the proposed study. Both departments also indicated a willingness to participate in a study if the legislature chooses to undertake it.

SCR 4003

11/10/17



CHAMBERS OF
Lisa Fair McEvers
JUSTICE

State of North Dakota
SUPREME COURT

July 25, 2016

Sally Holewa
State Court Administrator
State Capitol, 600 E. Boulevard Ave.
Bismarck, ND 58505-0530

Dear Ms. Holewa:

Thank you, again, for taking time from your busy schedule to attend the Council of State Governments' (CSG) Juvenile Justice Site Visit held March 30-31, 2016. Since then, we have had solid feedback, subsequent discussions, and opportunities for interaction with various juvenile justice stakeholders.

I take this opportunity to update you on our progress. Informally, we understand that many in attendance found the information provided as well as the discussion that occurred between all interested parties to be quite beneficial. As you may remember, North Dakota was selected as one of eight out of eighteen state applicants for this initial technical assistance visit by CSG. Upon the completion of all eight site visits, an offer of additional "intensive" technical assistance (6-9 months) was to be provided to two of the eight jurisdictions. Additionally, a "less intensive" offer of assistance (6 months or less) was to be provided to two additional jurisdictions.

We were informed North Dakota was selected for the provision of less intensive technical assistance (6 months or less) beginning in June. This effort is expected to conclude not later than December of 2016. This less intensive version of technical assistance will concentrate on two site visits. The first will occur on August 22nd and 23rd with CSG staff focusing on the Juvenile Court System and its case management capabilities. The goals associated with the first site visit will be for the court system to better understand the interaction of databases, the ability to enhance their use, collection, and reporting of data. The second site visit is scheduled for October 19, 2016, with the Robert F. Kennedy National Resource Center for Juvenile Justice providing training and technical assistance on a more coordinated approach for "dual-status" youth, those involved in both the child welfare and juvenile justice systems.

Finally, I am attaching the full range of findings from the March site visit. We look forward to working with the CSG as well as the Robert F. Kenney National Resource Center and will keep you informed of our progress and perhaps, seek your assistance -- as we move forward. If you have questions, please contact me at lmcevers@ndcourts.gov, Scott Johnson at sjohnson@ndcourts.gov, or Lisa Jahner at ljahner@ndaco.org.

Sincerely,

A handwritten signature in black ink that reads "Lisa Fair McEvers". The signature is written in a cursive, flowing style.

Lisa Fair McEvers, Justice
North Dakota Supreme Court

Attachment: CSG Findings Document

SCR 4003
11/10/17

Date: May 5, 2016

To: Justice Lisa McEvers, North Dakota Supreme Court
Scott Johnson, Assistant State Court Administrator
Lisa Bjergaard, Director, Division of Juvenile Services
Lisa Jahner, Juvenile Justice Program Manager, North Dakota Association of Counties

From: Mark J. Ferrante, Senior Policy Analyst, Council of State Governments Justice Center

Re: Summary Report from CSG Justice Center Site Visit

On March 30-31, 2016 Josh Weber and Mark Ferrante conducted a series of meetings with key actors from across North Dakota to learn more about the state's juvenile justice system with the specific goal of identifying and targeting policies and practices which could help reduce recidivism and improve other outcomes for the state's youth.

Justice Center staff met with legislators, judges, Probation staff, other court personnel, prosecutors, defense counsel, Department of Juvenile Services, other youth serving state agencies and IT staff to ask a series of questions to better discern what is working well, areas for improvement and next steps for addressing both system challenges and opportunities.

Key Recommendations for System Improvement

As a result of the visit, the Justice Center recognized significant strengths to build upon; however, the focus of this summary memo is to highlight areas for improvement, as noted below.

1. Improve communication/training with judges and attorneys about current screening and assessment tools, the current policies and practices associated with their usage, as well as the research behind them.
2. Establish consistent policies for the development of pre-disposition reports/recommendations to the court with the goal of ultimately creating and validating a dispositional matrix.
3. Determine which youth are ending up in residential placement, what's driving placement rates, and what's needed to keep youth (especially low and medium risk youth) out of placement and in the community. A plan should be developed for educating key personnel across the juvenile justice continuum on the research supporting keeping youth close to home.
4. Define recidivism, establish goals for tracking recidivism for youth on probation, and identify what's possible in the short-term and what data improvements are needed. The current case management system may not provide the quality or quantity of data needed for court staff to determine the effectiveness of services and sanctions.
5. Review the use of limited service dollars for youth on probation and identify opportunities to improve both the efficiency and impact of these resources as well as what steps can be taken to improve quality assurance and provider accountability for outcomes.

SCR 4003

1/10/17

6. Ensure that all key stakeholders are at the table for the behavioral health discussion and that a set of policies are developed specifically to improve the availability and quality of services for youth in the juvenile justice system.
7. Enhance collaboration between the child welfare and juvenile justice agencies around preventing youth from "crossing over", developing joint plans for crossover youth and allocating resources.
8. Improve both communication with and engagement of tribal communities including inviting them to meetings and trainings with the goal of creating a more seamless system for these youth and determining whether the programs on the reservations are adequate, successful and/or evidence-based.
9. Create and/or expand trauma-informed treatment options (including conducting appropriate trauma screening and assessments).
10. Establish a defined (statewide) educational policy for youth returning from all forms of placement given the current lack of policies, protocols, and liaisons.
11. Utilize a more defined case management model for probation interactions focused on promoting positive behavioral change and required youth/family/school contacts and team meetings. (This may include the adoption of EPICS or Functional Family Probation (FFP) or another evidence-based technique and track probation violations/standardize the utilization of a graduated sanctions matrix.
12. Explore a legislative "fix" to separate out deprived youth from unruly and delinquent youth; prevent misdemeanants from going into placement and/or prevent adolescents who act out sexually from having to register as offenders.

Next Steps

As a result of these recommendations and the conversations that have occurred since the site visit, the CSG Justice Center proposes the provision of technical assistance over the next six to seven months that would include:

1. Providing the courts with the tools, resources, and data needed to more uniformly base supervision, services and resource-allocation decisions on the results of validated risk and needs assessments. This would involve both a remote review of policies, procedures and data to identify opportunities for change and the planning and execution of a site visit to develop a strategic plan for improvement.
2. Employ a more coordinated approach across service systems to address youth's needs with an intentional focus on dual-status youth (those known to both the child welfare and juvenile justice systems. This would involve partnering with the RFK National Resource Center for Juvenile Justice on a second site visit and could lead to a larger dual-status youth initiative in North Dakota.

I look forward to discussing these recommendations with you on May 18th and mapping out next steps in this process.

Thank you for your assistance and support.

2

1/10/17

Senate Concurrent Resolution No. 4003

Testimony in Support with amendment

North Dakota Council of Educational Leaders – Russell Ziegler

Good Morning Chairman Armstrong and members of the Senate Judiciary Committee. First, I would like to thank you for the opportunity to speak to you today in favor of the Senate Concurrent Resolution 4003 and ask for consideration of a small amendment. For the record my name is Russell Ziegler and I am the assistant director for the North Dakota Council of Educational Leaders. For those committee members that are unaware of the North Dakota Council of Educational Leaders, we represent the educational leader groups throughout the state. These groups include: superintendents, secondary and elementary principals, business managers, technology leaders, activity directors, etc...

Schools in North Dakota work with juveniles when they are going through the court system. We are excited to see that Resolution 4003 is bring together the stakeholders and study the current juvenile justice process. It is our request that k-12 school representatives be included in this discussion. There are times when schools are left out and we feel that puts the students at a disadvantage when returning to their home and school. It is our hope that schools can work closely with the juvenile court process to implement the best services for the student.

It is our request that when the Legislative Management studies the current juvenile justice process that k-12 schools are listed as an entity and included in the study.

I ask you today to pass Senate Concurrent Resolution No. 4003 with the inclusion of k-12 schools.

I am able to take any questions that you would have for me at this time.

3

**Senate Concurrent Resolution No. 4003
Senate Judiciary Committee**

**Testimony Presented by Lisa Fair McEvers
Justice of the Supreme Court
January 10, 2017**

Chairman Armstrong and members of the Committee. For the record my name is Lisa Fair McEvers. I am a justice of the North Dakota Supreme Court, and I am the Chair of the Juvenile Policy Board.

I support the requested study. It has been a very long time since the juvenile justice system has been thoroughly reviewed. While I believe the Juvenile Court overall does a good job in providing our youth with access to the rehabilitative services they need while, at the same time, protecting society, I have learned that research on early contact by children with the juvenile court system does not necessarily improve their chances of keeping them out of the justice system as adults.

Of particular interest to me is whether a child should be prosecuted for delinquent acts starting at seven years of age. While not actually part of the Juvenile Court Act, N.D.C.C. § 12.1-04-01, provides that persons under the age of seven years are deemed incapable of commission of an offense. A delinquent act is an act designated as a crime under the law, with some exceptions, such as underage smoking. According to 2015 data, 164 children under the age of ten were referred to juvenile court during that one-year period. Most of the referrals were for the crimes of assault, disorderly conduct, criminal mischief, and theft of property. While most of these referrals were handled by diversion to another agency without a formal adjudication, I question whether children this young

should have been referred to juvenile court.

A number of states have set the minimum age for a delinquent adjudication higher than age seven. Ten states have set a minimum of age ten, and three states have set a minimum age of eight. Since studies show that a child's ability to think and reason grows throughout childhood, and a child's cognitive ability is not fully developed at this young age, I doubt that young children appreciate the consequence of their actions or their effect on others. They may even be incompetent to stand trial. While I am no expert on when children should be held responsible, I am hopeful that further study will provide the answer for the appropriate age at which children should be held responsible for their acts.

#1
4003
3-22-17

**Senate Concurrent Resolution 4003
House Judiciary Committee**

**Presented by Sally Holewa
North Dakota State Court Administrator**

March 22, 2017

Good morning, Chairman Koppelman and members of the Committee. For the record, my name is Sally Holewa. I am the State Court Administrator. I am here today to testify in support of Senate Concurrent Resolution 4003.

Senate Concurrent Resolution 4003 is a request for a legislative study of the juvenile justice process in North Dakota. The study would encompass more than just the juvenile court structure. Instead it would encompass the processes that the court, the Division of Juvenile Services, and the Department of Human Services have in place to address issues of delinquency and abuse. This study resolution was reviewed by the Department of Corrections and the Department of Human Services prior to being filed, neither department has any objection to the proposed study, and both indicated a willingness to participate in the study.

The original bill was amended by the Senate to add indigent defense and education. The Court supports the amendment, which was made at the request of the two entities that were added.

The request for a study was prompted by discussions in three different forums over the past year.

The first was a facilitated discussion led by the Council of State Governments (CSG) through a technical assistance grant. These discussions included judges and referees, law enforcement, prosecutors, indigent defense, legislators, foster parents, employees of the Division of Juvenile Services, the Department of Human Services, the court, and the Association of Counties. The focus of the discussion was on reducing juvenile recidivism. I have attached a list of the issues that were identified during those discussions.

The second was an interdisciplinary discussion to discuss dual status youth hosted by the RFK National Resource Center for Juvenile Justice. This was a follow-up to the CSG discussions and was hosted by the Association of Counties. Dual status youth are those children who are involved in both the juvenile dependency system and the juvenile court system.

The third was an initiative of the Juvenile Court Directors to review delinquent cases involving children under the age of 10 and to study what other states are using as the age when an individual can be deemed responsible for criminal actions.

All of these discussions tended to lead to those areas where the juvenile court system, the Division of Juvenile Services, and the Department of Human Services intersect in the life of a child. The different resources, funding streams, and the professional and the statutory jurisdiction of the departments determine the services a child or family receives, as does which system they enter first, and what stage they are at in the juvenile justice system.

The last time the juvenile court system was studied was in 1990. That was a study done by the University of Michigan at the request of the Juvenile Procedures Committee (a former subcommittee of the Judicial Conference). The study was limited to whether juvenile probation services should be transferred to the Division of Juvenile Services, which at that point was a very new entity. Because of the many instances in which one of three systems provides services to juveniles, we think a broader study at this time would be most beneficial to the state. The only other comprehensive study of juvenile services that included a review of the role of juvenile court that I am aware of is the Final Report of the Governor's Commission on Children and Adolescent at Risk (CARS report) which was published in 1986. In 2007, a concurrent resolution (SCR 4004) to study the division of responsibilities between the juvenile court and the state's attorneys passed both houses but was ultimately not chosen for study.

Date: May 5, 2016

To: Justice Lisa McEvers, North Dakota Supreme Court
Scott Johnson, Assistant State Court Administrator
Lisa Bjergaard, Director, Division of Juvenile Services
Lisa Jahner, Juvenile Justice Program Manager, North Dakota Association of Counties

From: Mark J. Ferrante, Senior Policy Analyst, Council of State Governments Justice Center

Re: Summary Report from CSG Justice Center Site Visit

On March 30-31, 2016 Josh Weber and Mark Ferrante conducted a series of meetings with key actors from across North Dakota to learn more about the state's juvenile justice system with the specific goal of identifying and targeting policies and practices which could help reduce recidivism and improve other outcomes for the state's youth.

Justice Center staff met with legislators, judges, Probation staff, other court personnel, prosecutors, defense counsel, Department of Juvenile Services, other youth serving state agencies and IT staff to ask a series of questions to better discern what is working well, areas for improvement and next steps for addressing both system challenges and opportunities.

Key Recommendations for System Improvement

As a result of the visit, the Justice Center recognized significant strengths to build upon; however, the focus of this summary memo is to highlight areas for improvement, as noted below.

1. Improve communication/training with judges and attorneys about current screening and assessment tools, the current policies and practices associated with their usage, as well as the research behind them.
2. Establish consistent policies for the development of pre-disposition reports/recommendations to the court with the goal of ultimately creating and validating a dispositional matrix.
3. Determine which youth are ending up in residential placement, what's driving placement rates, and what's needed to keep youth (especially low and medium risk youth) out of placement and in the community. A plan should be developed for educating key personnel across the juvenile justice continuum on the research supporting keeping youth close to home.
4. Define recidivism, establish goals for tracking recidivism for youth on probation, and identify what's possible in the short-term and what data improvements are needed. The current case management system may not provide the quality or quantity of data needed for court staff to determine the effectiveness of services and sanctions.
5. Review the use of limited service dollars for youth on probation and identify opportunities to improve both the efficiency and impact of these resources as well as what steps can be taken to improve quality assurance and provider accountability for outcomes.

6. Ensure that all key stakeholders are at the table for the behavioral health discussion and that a set of policies are developed specifically to improve the availability and quality of services for youth in the juvenile justice system.
7. Enhance collaboration between the child welfare and juvenile justice agencies around preventing youth from "crossing over", developing joint plans for crossover youth and allocating resources.
8. Improve both communication with and engagement of tribal communities including inviting them to meetings and trainings with the goal of creating a more seamless system for these youth and determining whether the programs on the reservations are adequate, successful and/or evidence-based.
9. Create and/or expand trauma-informed treatment options (including conducting appropriate trauma screening and assessments).
10. Establish a defined (statewide) educational policy for youth returning from all forms of placement given the current lack of policies, protocols, and liaisons.
11. Utilize a more defined case management model for probation interactions focused on promoting positive behavioral change and required youth/family/school contacts and team meetings. (This may include the adoption of EPICS or Functional Family Probation (FFP) or another evidence-based technique.) Track probation violations/standardize the utilization of a graduated sanctions matrix.
12. Explore a legislative "fix" to separate out deprived youth from unruly and delinquent youth; prevent misdemeanants from going into placement and/or prevent adolescents who act out sexually from having to register as offenders.

Next Steps

As a result of these recommendations and the conversations that have occurred since the site visit, the CSG Justice Center proposes the provision of technical assistance over the next six to seven months that would include:

1. Providing the courts with the tools, resources, and data needed to more uniformly base supervision, services and resource-allocation decisions on the results of validated risk and needs assessments. This would involve both a remote review of policies, procedures and data to identify opportunities for change and the planning and execution of a site visit to develop a strategic plan for improvement.
2. Employ a more coordinated approach across service systems to address youth's needs with an intentional focus on dual-status youth (those known to both the child welfare and juvenile justice systems. This would involve partnering with the RFK National Resource Center for Juvenile Justice on a second site visit and could lead to a larger dual-status youth initiative in North Dakota.

I look forward to discussing these recommendations with you on May 18th and mapping out next steps in this process.

Thank you for your assistance and support.

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**Senate Concurrent Resolution No. 4003
House Judiciary Committee**

#2
4003
3-22-17

**Testimony Presented by Lisa Fair McEvers
Justice of the Supreme Court
March 22, 2017**

Chairman Koppelman and members of the Committee. For the record, my name is Lisa Fair McEvers. I am a justice of the North Dakota Supreme Court, and I am the Chair of the Juvenile Policy Board.

I support the requested study. It has been a very long time since the juvenile justice system has been thoroughly reviewed. While I believe the Juvenile Court overall does a good job in providing our youth with access to the rehabilitative services they need while, at the same time, protecting society, I have learned that research on early contact by children with the juvenile court system does not necessarily improve their chances of keeping them out of the justice system as adults.

Of particular interest to me is whether a child should be prosecuted for delinquent acts starting at seven years of age. While not actually part of the Juvenile Court Act, N.D.C.C. § 12.1-04-01 provides that persons under the age of seven years are deemed incapable of commission of an offense. A delinquent act is an act designated as a crime under the law, with some exceptions, such as underage smoking. According to 2015 data, 164 children age ten and under were referred to juvenile court during that one-year period. Most of the referrals were for the crimes of assault, disorderly conduct, criminal mischief and theft of property. While most of these referrals were handled by diversion to another agency without a formal adjudication, I question whether

children this young should have been referred to juvenile court.

A number of states have set the minimum age for a delinquent adjudication higher than age seven.

Ten states have set a minimum of age ten, and three states have set a minimum age of eight.

Since studies show that a child's ability to think and reason grows throughout childhood, and a

child's cognitive ability is not fully developed at this young age, I doubt that young children

appreciate the consequence of their actions or their effect on others. They may even be

incompetent to stand trial. While I am no expert on when children should be held responsible, I

am hopeful that further study will provide the answer for the appropriate age at which children

should be held responsible for their acts.

#3
4003
3-22-17

Proposed Amendment for Rep. Koppelman
Prepared by Kelly Johnson, Intern
March 22, 2017

PROPOSED AMENDMENTS FOR SCR NO. 4003

After line 15, insert: “Whereas North Dakota is in the midst of a Justice Reinvestment process in the adult justice system which began two years ago, has resulted in the passage of landmark legislation, and which continues into the next biennium; and”