

LEGISLATIVE JUDICIARY COMMITTEE MEETING
JUVENILE COURT JURISDICTION STUDY
April 11, 2012

Mr. Chairman, Members of the Committee:

My name is Haley Wamstad and I am an Assistant State's Attorney for Grand Forks County. I have been assigned to prosecute juvenile crimes for the past 4 years and I have been here to testify previously in support of Extended Juvenile Court Jurisdiction. At the Judiciary Committee meeting on January 10, 2012, I was asked to organize a committee to draft a proposed bill on Extended Juvenile Court Jurisdiction.

Since the last meeting, I organized a committee of individuals that work in the Juvenile Justice system. This committee consists of individuals that work in a variety of capacities within the juvenile justice system throughout the state and is ready to get to work on this important matter. The committee consists of the following members:

1. Honorable David H. Vigeland, Judicial Referee, Grand Forks, ND
2. Honorable John Grinsteiner, Judicial Referee, Bismarck, ND
3. Gretchen Handy, Defense Attorney, Grand Forks, ND
4. Chuck Isakson, Defense Attorney, Bismarck, ND
5. Justin Rowness, Defense Attorney, Bismarck, ND
6. Brad Peterson, Legal Services, Bismarck, ND
7. Ruth Jenny, Defense Attorney, Grand Forks, ND
8. Jason Hammes, Assistant State's Attorney, Bismarck, ND
9. Dawn Dietz, Assistant State's Attorney, Bismarck, ND
10. Renata Selzer, Assistant State's Attorney, Fargo, ND
11. Dale Rivard, Assistant State's Attorney, Grand Forks, ND
12. F. Matthew Jones, UND Graduate Student in Criminal Justice, Grand Forks, ND
13. Haley Wamstad, Assistant State's Attorney, Grand Forks, ND

In addition to the committee members, our committee also sought the input of Robin Huseby, Executive Director of the Commission on Legal Counsel for Indigents; the National Counsel of Juvenile and Family Court Judges; the State's Attorney Association; the Bureau of Criminal Investigation; and

various other judges and attorneys involved in the juvenile court system. I also had an opportunity to attend a meeting of the Juvenile Policy Board.

As a starting point, our committee used the bill previously drafted by Jim Ganje, staff attorney for the Supreme Court. This bill was modeled after Montana's EJJ statute. From this draft, our committee incorporated the concerns of the Juvenile Policy Board.

At this point, I would like to briefly review our preliminary draft. As our committee was just formed, this draft will be further developed as we meet.

Section 1 of the bill amends the current section 27-20-24 to provide the right to a jury trial for a case designated as EJJ, which is essential if an adult criminal sentence is imposed. This section also allows the trial in these cases to be public.

Section 2 of the bill provides that an adjudication under EJJ would be considered a conviction of a crime, unlike the current juvenile adjudication.

Section 3 of the bill amends section 27-20-34, which is our current statute to transfer a case directly to adult court. Under subsection (1)(b), this bill would remove certain automatic transfers to adult court, such as certain drug offenses. The offenses that have been removed as an automatic transfer could still be transferred directly to adult court or to EJJ. Under subsection (d)(4), "reasonable grounds" was changed to "probable cause" since it has been interpreted by the court to mean the same thing. This section would still allow for the voluntary transfer to adult court or the involuntary transfer based on the child's amenability to treatment, as our current law allows.

Section 4 of the bill adds a section to the North Dakota Century Code to allow for the option of EJJ. This section allows for the child to voluntarily transfer to EJJ under subdivision (1)(a). Subsection (1)(b) provides for the type of offenses that can be involuntarily transferred to EJJ. Subdivisions (2) and (3) of this section provide the procedure that is followed in designating a case as EJJ. Subdivision (3) provides that the court should impose two dispositions: one juvenile disposition and one stayed adult sentence. Subdivisions (5) through (8) provide for the procedure for revoking the child's juvenile disposition and imposing the stayed adult sentence, which is similar to the process for revoking probation in juvenile or adult court. Subdivision (10) requires that once a child is transferred to EJJ, any future offense would also be handled under EJJ or in adult court. The current adult transfer statute provides for the same.

This summarizes the draft from which we will begin our work. We know that there have been some concerns expressed by the Juvenile Policy Board regarding this legislation, and we have done our best to incorporate these concerns into this draft. As we move forward, we will continue to seek their input in this important legislation. This type of legislation has already been adopted by ²¹~~23~~ states throughout the country. I believe through the work of this committee and with the input of those involved in the juvenile justice system, we can come up with a bill that will make the North Dakota juvenile justice system work better for both the juvenile offender and safety of the public.

Thank you for your time and consideration. I would happy to answer any questions.

Thank you,

Haley L. Wamstad
Assistant State's Attorney
Grand Forks County