

Juvenile Court Jurisdiction Study**Judiciary Committee****April 11, 2012****Testimony of Renata Olafson Selzer, Assistant Cass County State's Attorney**

Mr. Chairman and Members of the Committee:

My name is Renata Olafson Selzer, and I am an Assistant State's Attorney for Cass County. I have been employed at Cass County since January of 2008, and one of my primary duties has been to work with juvenile delinquency cases. I am here today to express my support for adding the option of extended juvenile jurisdiction (EJJ) to the Juvenile Court Act.

As a prosecutor in juvenile court, one of the most frustrating things for me has been the lack of alternatives when it comes to cases involving serious delinquent acts. Currently, we only have two options: file a motion to transfer the case to adult court, or keep the case in juvenile court. The transfer statute, section 27-20-34 of the North Dakota Century Code, does not provide any middle ground. Of course, some cases are clearly inappropriate for juvenile court, such as murder cases. There are also cases that, for various reasons, are clearly inappropriate for adult court. The problem is that not all cases fit neatly into one of these two categories. There are cases that fall somewhere in the middle. These cases are too serious or complex to handle in the same manner as a typical delinquency, yet they do not warrant a transfer to adult court. Although we do not encounter these cases on a frequent basis, there still needs to be some workable mechanism for dealing with them.

Section 27-20-34 currently requires the juvenile court to transfer a case to adult court if the offender is fourteen years old or older and there is probable cause to believe the child has committed the offense of delivery of a controlled substance (with certain exceptions) or gross sexual imposition (GSI) or attempted GSI by force or threat. However, there are times when a

case falls into this automatic transfer category, but it does not seem to be appropriate for transfer based on the circumstances surrounding the offense and the needs of the juvenile. The bill draft that is being considered today would allow the court to consider EJJ as an option in these cases.

EJJ provides a middle ground between transferring a case to adult court and keeping the case in juvenile court. When a case is designated as an EJJ proceeding, the court imposes a juvenile court disposition. At the same time, the court also imposes an adult court sentence. However, execution of the adult court sentence is suspended on the condition that the juvenile not violate the court's order and not commit any new offenses. The case remains in juvenile court, and the child is treated as a juvenile. If the child violates the juvenile court's order, then the court would conduct a revocation hearing. The court could order execution of the adult sentence if the child is found to have violated the order.

Under section 27-20-34, there are several serious offenses that are not in the automatic transfer category. In order to transfer these cases to adult court, the juvenile court must make certain findings, including a finding that the juvenile is not amenable to treatment in juvenile court through available programs. The burden is on the juvenile to show that he or she is amenable to treatment in juvenile court with respect to the following offenses: manslaughter, aggravated assault, robbery, arson involving an inhabited structure, escape involving the use of a firearm, destructive device, or other dangerous weapon, and in cases in which the alleged offense would be a felony if committed by an adult and the child has two or more previous delinquency adjudications for offenses which would be a felony if committed by an adult.

In determining the amenability to treatment issue, the court must consider a number of factors, including the juvenile's previous record and the success or failure of previous attempts to rehabilitate. As a practical matter, if the juvenile has no previous history of delinquency, it is

unlikely that the case will be transferred. Because the juvenile court's jurisdiction terminates when the child reaches the age of twenty, it can be problematic to leave such serious cases in juvenile court. There is little or no recourse after the juvenile reaches the age of twenty if the juvenile has failed to comply with the court's order. The EJJ bill draft addresses this problem because it would allow the juvenile court to consider EJJ as an option in these cases.

As a prosecutor, I have worked with many crime victims and their families. A common theme that I hear from victims in serious delinquency cases is how unjust it is to keep such cases in juvenile court, given the lack of recourse if the juvenile approaches the age of twenty and has failed to comply with the court's order. I believe that if EJJ were an option in these cases, victims would find some solace in the fact that the offender can be held accountable to follow the juvenile court's order. It is certainly not in the best interests of the juvenile, the victim, or the community to release a juvenile offender from the court's jurisdiction before he or she has received the appropriate treatment and rehabilitation. Moreover, a seventeen-year-old who has committed a serious offense, such as manslaughter or aggravated assault, may need a higher level of supervision and treatment than can be provided in the three years that are left in the juvenile court system before the court loses jurisdiction.

If EJJ could be implemented in these cases, the juvenile would be given the benefit of remaining in the juvenile court system so long as he or she follows the order of the court. If the juvenile is noncompliant, the court would then have the ability to transfer the matter to adult court. I would urge you to support the addition of EJJ to the Juvenile Court Act.