

## NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

**COMMISSION ON ALTERNATIVES TO INCARCERATION  
JOINT MEETING WITH INCARCERATION ISSUES COMMITTEE**

Monday, September 19, 2016  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Senator Ron Carlisle, Chairman, Commission on Alternatives to Incarceration and Incarceration Issues Committee called the meeting to order at 9:00 a.m.

**Commission on Alternatives to Incarceration members present:** Senators Ron Carlisle, John Grabinger, Terry M. Wanzek; Representatives Ron Guggisberg, Kim Koppelman, Jon O. Nelson; Citizen Members Maggie D. Anderson, Leann K. Bertsch, Dan Donlin, Mark A. Friese, Duane Johnston, Justice Lisa McEvers, Jason T. Olson, Gary Rabe

**Commission on Alternatives to Incarceration members absent:** Meredith Huseby Larson, Paul D. Laney

**Incarceration Issues Committee members present:** Senators Ron Carlisle, John Grabinger, Terry M. Wanzek; Representatives Ron Guggisberg, Kim Koppelman, Jon O. Nelson; Citizen Members Leann K. Bertsch, Thomas Erhardt, Rozanna Larson, Aaron Roseland, Scott Steele, Attorney General Wayne Stenehjem, Chief Justice Gerald W. VandeWalle, Randy Ziegler

**Incarceration Issues Committee members absent:** Judge Douglas Mattson and Presiding Judge Frank Racek

**Others Present:** See [Appendix A](#)

Attorney General Wayne Stenehjem appointed himself to serve in place of Thomas L. Trenbeath at the September 19, 2016, meeting of Commission on Alternatives to Incarceration.

Chief Justice Gerald VandeWalle appointed himself to serve in place of Surrogate Judge Mary Muehlen Maring at the September 19, 2016, meeting of Commission on Alternatives to Incarceration ([Appendix B](#)).

**It was moved by Senator Grabinger, seconded by Representative Nelson, and carried on a voice vote that the minutes of the August 29, 2016, meeting of the Incarceration Issues Committee be approved as distributed.**

Chairman Carlisle said the purpose of the meeting is to forward a bill draft to the Legislative Management to be used as a starting point for discussion of issues relating to alternatives to incarceration during the 65<sup>th</sup> Legislative Assembly.

**CRIME REPORT**

Chairman Carlisle called on Attorney General Stenehjem for information ([Appendix C](#)) relating to the 2015 crime report.

Attorney General Stenehjem said data is collected from 53 county sheriffs, 53 police departments, 10 narcotics task forces, and the Highway Patrol. He said the data has been collected for decades and is useful for indicating trends in the state. He said although there is usually some positive data included in the report, the 2015 data was mostly negative. He said the overall crime rate has continued to increase as have the drug submissions to the crime laboratory for testing. The one bright spot in the report, he said, is the remarkable decrease in the number of arrests and convictions related to driving under the influence.

In response to a question from Representative Koppelman, Attorney General Stenehjem said North Dakota is seeing an increase in marijuana from states that have legalized the use of marijuana. He said the potency is far stronger and people that have a prescription from Colorado think they can use marijuana legally in North Dakota. He said legalizing medical marijuana will not make the state safer.

In response to a question from Ms. Larson, Attorney General Stenehjem said the value of property lost to crime victims is about \$23 million.

### MINORITY JUSTICE REPORT

Chairman Carlisle called on Ms. Lindsey Nieuwsma, Attorney, North Dakota Supreme Court, for a presentation regarding the recommendations of the Minority Justice Implementation Committee for justice reinvestment.

Ms. Nieuwsma said the Minority Justice Implementation Committee was created by Supreme Court Administrative Order 21 in 2012, to study racial and ethnic bias in the state. She said the 2012 report found a disproportionate representation of minorities in the state's criminal justice system. She said the committee recommends a retrieval mechanism for county data be created to allow for a more long-term detailed analysis of each aspect of the criminal justice system.

### COUNCIL OF STATE GOVERNMENTS

Chairman Carlisle called on Mr. Marc Pelka, Project Manager, Council of State Governments Justice Center, for information ([Appendix D](#)) relating to specific policy options for North Dakota.

Mr. Pelka said the Council of State Governments (CSG) has determined three major drivers of prison population growth in the state. He said property, drug offenses, and supervision revocations are driving prison population growth, supervision violations receive slow and costly responses, and substance use underlies many supervision violations and property and drug offenses.

Mr. Pelka said CSG suggests a four-prong policy framework to reduce the prison population over a period of 5 years. He said the state can avert growth by diverting people convicted of low-level drug offenses to probation, reduce recidivism costs by holding supervision violators accountable through swift, certain, and proportional sanctions, increase public safety by focusing supervision and program resources on probationers and parolees at a high risk of reoffending, and reinvesting saved funds to expand behavioral health treatment for probationers and parolees with substance abuse or mental health needs.

In response to a question from Representative Nelson, Mr. Steve Allen, Senior Policy Advisor, Council of State Governments Justice Center, said until the state is able to determine the subgroup of individuals needing treatment, it will be difficult to determine the exact number of additional treatment providers the state will need. Although the use of telemedicine works in some areas, he said, substance abuse treatment group therapy generally is most effective and efficient.

In response to a question from Senator Wanzek, Ms. Bertsch said additional responsibility will fall on probation and parole. She said although more officers are needed to keep caseloads down, if the state does not have the services to support the released individuals, it is unlikely those individuals will succeed. She said using quick sanctions, like the 90-day jail sentence, is not an option as the resources have not been built.

### BILL DRAFT

At the request of Chairman Carlisle, the Legislative Council staff reviewed a bill draft [[17.0197.02000](#)] relating to justice reinvestment.

The Legislative Council staff said the bill draft is a compilation of suggestions from CSG and the Department of Corrections and Rehabilitation (DOCR). She said Section 1 of the bill draft shifts the authority to allow sentence reduction credit from the judiciary to the facility administrator of the local correctional facility in which an individual is held. She said Section 2 of the bill draft authorizes the use of sentence reduction credit for time spent in custody. She said doing so would allow an inmate to receive up to 15 days of credit that is not currently available. She said Section 2 would allow inmates serving sentences of 6 months or less to receive up to 30 days of sentence reduction credit.

The Legislative Council staff said Section 3 amends North Dakota Century Code Section 12-59-08 to allow the parole board to consider medical parole for offenders who are not otherwise eligible for parole. She said Section 4 would amend Section 12-60-16.4 to include Class AA misdemeanors in the list of reportable offenses. She said Section 5 amends Section 12.1-17-13 to remove the court's authority to excuse an offender from completing a domestic violence offender treatment program. Section 6, she said, amends Section 12.1-23-05(3), to create a new Class AA misdemeanor offense for theft. She said Section 7 amends Section 12.1-32-08(4) to update the cross-reference to Section 12.1-23-05. She said Section 8 amends Section 12.1-32-01 to add a Class AA misdemeanor offense.

The Legislative Council staff said Section 9 amends Section 12.1-32-02(2) to require a criminal judgment to include credit for a sentence reduction. She said Sections 10 and 11 amend Sections 12.1-32-03.1 and 12.1-32-07 to update cross-references. She said Section 12 amends Section 12.1-32-07(1) to add the category of Class AA misdemeanors to the class of offenses subject to discretionary supervision. She said Section 13 creates a new section to Chapter 12.1-32, requiring presumptive probation for first-time, low-level, Class C felony offenders. Section 14 amends Section 12.1-32-09.1(1) she said, to require an offender to serve 70 percent of a sentence before being eligible for parole. She said Sections 15, 16, and 17 amend Sections 19-03.1-22.3, 19-03.1-22.5, and 19-03.1-23 to reclassify ingestion of a controlled substance from a Class A misdemeanor to an infraction, ingestion of a controlled substance analog from a Class C felony to a Class AA misdemeanor, and possession of a controlled substance or controlled substance analog from a Class C felony to a Class AA misdemeanor.

The Legislative Council staff said Section 18 amends the language in Section 19-03.1-23.1 to reduce the proximity to a school from 1,000 feet to 300 feet before an increased penalty is allowed with respect to drug offenses. She said the amendment also changes the offense classification based on past offenses. Section 19 amends Section 19-03.4-03, she said, to reduce the classifications for paraphernalia used for the consumption of controlled substances. She said Section 20 amends Section 29-03-22 to update cross-references. She said the amendment in Section 21 to Section 39-08-01(5)(f) allows the court to terminate the probation requirements of an offender when the offender completes probation. Section 22 amends Section 39-24.1-07, she said, to update cross-references. She said Section 23 amends Section 43-45-06 to authorize licensed clinical psychologists, doctoral candidates in psychology, or individuals with a master's degree in social work to provide addiction counseling services. She said Section 24 amends Section 50-06-05.1(17) to remove the prohibition against individuals who have a felony substance abuse conviction in the last 7 years from being eligible for the supplemental nutrition assistance program and Section 25 creates a pilot project for pretrial services.

Mr. Brad Cruff, District Judge, North Dakota Judge's Association, said the notion that only 19 percent of Class C felony offenders are sentenced to a period of probation is not accurate. He said the data ([Appendix E](#)) illustrates a figure closer to 54 percent of Class C felony offenders receive an initial sentence of probation.

### Sections 3, 24, and 25

Chairman Carlisle asked the committee if anyone had changes to suggest for Sections 3, 24, or 25 of the bill draft.

Ms. Anderson said Section 24 would require an additional change because the amendment in the bill draft would grant access only to some benefits. She provided the committee with the additional language ([Appendix F](#)) needed to allow access to all benefits. She said leaving the amendment as written in the bill draft would make the denial permanent without exceptions. She said the statute allows for access to benefits 7 years post conviction.

### Commission on Alternatives to Incarceration

**It was moved by Ms. Anderson, seconded by Senator Wanzek, and carried on a roll call vote that the bill draft be amended to reflect the changes presented by Ms. Anderson.** Senators Carlisle, Grabinger, and Wanzek; Representatives Guggisberg, Koppelman, and Nelson; and Citizen Members Anderson, Bertsch, Donlin, Friese, Johnston, Olson, Rabe, Attorney General Stenehjem, and Chief Justice VandeWalle voted "aye." No negative votes were cast.

### Incarceration Issues Committee

**It was moved by Representative Nelson, seconded by Senator Grabinger, and carried on a roll call vote that the bill draft be amended to reflect the changes presented by Ms. Anderson.** Senators Carlisle, Grabinger, and Wanzek and Representatives Guggisberg and Nelson voted "aye." Representative Koppelman voted "nay."

In response to a question from Representative Nelson, Ms. Bertsch said the pilot program created through Section 25 of the bill draft would require an increase of about two full-time employees per district implementing the project.

In response to a question from Senator Wanzek, Ms. Bertsch said pretrial services would help local jurisdictions because nearly 85 percent of the individuals being held in county jails have not been sentenced, but do not have the means to pay bond. She said the federal system has pretrial services and only about 15 percent of individuals remain in custody before sentencing. She said pretrial services would provide services to assist the court with background information on an individual before bond is set.

In response to a question from Senator Grabinger, Chief Justice VandeWalle said the pilot program being used in Cass County is a different type of program. He said the program in Cass County is used as a screening tool to divert people away from jail.

### Section 1

Mr. Friese said he does not think it is prudent to provide sentence reduction credit for sentences shorter than 60 days.

Ms. Katie Mosehauer, Project Manager, State Initiatives, Council of State Governments Justice Center, said the amendment was an idea from the July meeting to alleviate pressures on local jails.

In response to a question from Representative Koppelman, Ms. Bertsch said each jail administrator would be able to decide whether to participate in the good time process.

#### Commission on Alternatives to Incarceration

**It was moved by Mr. Friese, seconded by Senator Wanzek, and carried on a roll call vote that the bill draft be amended to remove "at least sixty days" from page 1, line 23.** Senators Carlisle, Grabinger, and Wanzek; Representatives Guggisberg, Koppelman, and Nelson; and Citizen Members Anderson, Bertsch, Donlin, Friese, Johnston, Olson, Rabe, Attorney General Stenehjem, and Chief Justice VandeWalle voted "aye." No negative votes were cast.

#### Incarceration Issues Committee

**It was moved by Representative Nelson, seconded by Senator Grabinger, and carried on a roll call vote that the bill draft be amended to remove "at least sixty days" from page 1, line 23.** Senators Carlisle, Grabinger, and Wanzek and Representatives Guggisberg, Koppelman, and Nelson voted "aye." No negative votes were cast.

### Section 2

#### Commission on Alternatives to Incarceration

**It was moved by Mr. Friese, seconded by Ms. Bertsch, and carried on a roll call vote that Section 2 of the bill draft be amended to remove the provision that would allow sentence reduction when the time of incarceration is 6 months or less.** Senators Carlisle, Grabinger, and Wanzek; Representatives Guggisberg, Koppelman, and Nelson; and Citizen Members Anderson, Bertsch, Donlin, Friese, Johnston, Olson, Rabe, Attorney General Stenehjem, and Chief Justice VandeWalle voted "aye." No negative votes were cast.

#### Incarceration Issues Committee

**It was moved by Representative Nelson, seconded by Senator Grabinger, and carried on a roll call vote that Section 2 of the bill draft be amended to remove the provision that would allow sentence reduction when the time of incarceration is 6 months or less.** Senators Carlisle, Grabinger, and Wanzek and Representatives Guggisberg, Koppelman, and Nelson voted "aye." No negative votes were cast.

### Sections 4 and 8

Mr. Friese said Sections 4 and 8 of the bill draft raise the larger question of whether it is appropriate to develop another offense in the Criminal Code. He said doing so may be problematic as it could have implications on federal law, which defines a felony as anything with a sentence longer than 1 year.

Representative Nelson said the concept likely will be debated during the 65<sup>th</sup> Legislative Assembly, but if the sections are eliminated from the bill draft there will be nothing left to discuss.

Representative Koppelman said it would be beneficial to leave the sections in the bill as legislators will have questions due to the drastic nature of the changes.

Ms. Bertsch said if the sections are removed, the period of incarceration for a Class A misdemeanor should remain 1 year.

#### Commission on Alternatives to Incarceration

**It was moved by Senator Grabinger, seconded by Representative Nelson, and carried on a roll call vote that the bill draft be amended to remove Sections 4 and 8.** Senators Carlisle, Grabinger, and Wanzek; Representatives Guggisberg, Koppelman, and Nelson; and Citizen Members Anderson, Bertsch, Donlin, Friese, Johnston, Olson, Rabe, Attorney General Stenehjem, and Chief Justice VandeWalle voted "aye." No negative votes were cast.

#### Incarceration Issues Committee

**It was moved by Senator Grabinger, seconded by Representative Nelson, and carried on a roll call vote that the bill draft be amended to remove Sections 4 and 8.** Senators Carlisle, Grabinger, and Wanzek and Representatives Guggisberg, Koppelman, and Nelson voted "aye." No negative votes were cast.

### Section 5

Mr. Roseland said on behalf of counties with lower population and resources, it would be a grave mistake to take out the anger management portion of Section 5.

Mr. Pelka said CSG found there is a desire for increased investment in batterers treatment programming in the state. He said he could work with victim advocates in the state to create refined language or budget recommendations.

Mr. Erhardt said it is common practice to require an assessment rather than impose a requirement for treatment.

Ms. Bertsch said an anger management program does not get at the issue going on with domestic violence. She said domestic violence programming is important because many homicides start as domestic violence situations. If the state is going to require domestic violence treatment, she said, the state must provide a level of treatment similar to the treatment provided to sex offenders.

In response to a question from Representative Nelson, Ms. Bertsch said there is a funding stream through DOCR to contract with a private entity that oversees all the sex offender treatment programs in the state.

Mr. Friese said each offense is not the same and some individuals are more amenable to treatment than others.

In response to a question from Justice McEvers, Ms. Janelle Moos, Executive Director, CAWS North Dakota, said there are domestic violence treatment providers in Cass and Burleigh Counties as well as in Williston, Minot, and Grand Forks. She said there are programs being set up in Jamestown and Devils Lake.

Mr. Allen said within the subgroup of men who batter women, there is a smaller group that is very dangerous and capable of murder. He said although it is clear the state does not have the capacity to handle all the individuals who need treatment, it would make sense to develop and invest in some policy and standards to expand availability.

#### Commission on Alternatives to Incarceration

**It was moved by Senator Grabinger, seconded by Senator Wanzek, and carried on a roll call vote that the bill draft be amended to insert "evaluation and" after "offender" and "as determined by the court" after "program" on page 3, line 31, and remove lines 4 through 6 on page 4.** Senators Carlisle, Grabinger, and Wanzek; Representatives Guggisberg, Koppelman, and Nelson; and Citizen Members Anderson, Bertsch, Donlin, Friese, Johnston, Justice McEvers, Olson, Rabe, Attorney General Stenehjem, and Chief Justice VandeWalle voted "aye." No negative votes were cast.

#### Incarceration Issues Committee

**It was moved by Representative Nelson, seconded by Senator Grabinger, and carried on a roll call vote that the bill draft be amended to insert "evaluation and" after "offender" and "as determined by the court" after "program" on page 3, line 31, and remove lines 4 through 6 on page 4.** Senators Carlisle, Grabinger, and Wanzek and Representatives Guggisberg, Koppelman, and Nelson voted "aye." No negative votes were cast.

### Section 6

#### Commission on Alternatives to Incarceration

**It was moved by Mr. Friese, seconded by Mr. Donlin, and carried on a roll call vote that the bill draft be amended to remove ", or" on page 4, line 24, and "an automobile, aircraft, or other motor-propelled vehicle" on page 4, line 25, and to remove lines 13 through 15 on page 5.** Senators Carlisle, Grabinger, and Wanzek; Representatives Guggisberg and Nelson; and Citizen Members Anderson, Bertsch, Donlin, Friese, Johnston, Justice McEvers, Olson, Rabe, and Chief Justice VandeWalle voted "aye." Representative Koppelman and Citizen Member Attorney General Stenehjem voted "nay."

#### Incarceration Issues Committee

**It was moved by Representative Nelson, seconded by Senator Grabinger, and carried on a roll call vote that the bill draft be amended to remove ", or" on page 4, line 24, and "an automobile, aircraft, or other motor-propelled vehicle" on page 4, line 25, and to remove lines 13 through 15 on page 5.** Senators Carlisle, Grabinger, and Wanzek and Representatives Guggisberg and Nelson voted "aye." Representative Koppelman voted "nay."

### Section 13

Ms. Larson said if the ultimate goal is treatment, the state should consider lowering the offense level for drug offenses rather than create presumptive probation.

In response to a question from Chief Justice VandeWalle, Mr. Pelka said CSG would be happy to help develop policy concepts to elaborate on the details like which aggravating factors would allow a judge to deviate from a presumptive probation.

Justice McEvers said most judges will sentence first time Class C felony offenders to probation.

Ms. Bertsch said most of the inmates at the State Penitentiary are imprisoned as a result of a probation revocation.

Justice McEvers said her experience does not support CSG's statement that 1 in 3 individuals admitted to the State Penitentiary have not been on probation.

#### **Commission on Alternatives to Incarceration**

**It was moved by Mr. Friese, seconded by Senator Wanzek, and carried on a roll call vote that Section 13 be removed from the bill draft.** Senators Carlisle and Wanzek and Citizen Members Anderson, Bertsch, Donlin, Friese, Johnston, Justice McEvers, Olson, and Chief Justice VandeWalle voted "aye." Senator Grabinger; Representatives Guggisberg, Koppelman, and Nelson; and Citizen Members Rabe and Attorney General Stenehjem voted "nay."

#### **Incarceration Issues Committee**

**It was moved by Representative Nelson, seconded by Senator Grabinger, and carried on a roll call vote that the bill draft be amended to replace "a class AA misdemeanor offense or a class C felony offense" with "a class A misdemeanor drug offense" on page 11, line 16, remove "class AA misdemeanor" on page 11, line 17, and to replace "offense or a felony offense" with "class A misdemeanor drug offense" on page 11, line 18.** Senators Carlisle, Grabinger, and Wanzek and Representatives Guggisberg, Koppelman, and Nelson voted "aye." No negative votes were cast.

#### **Section 14**

Chairman Carlisle said Section 12.1-32-09.1 came from a bill he originally sponsored about 20 years ago.

Ms. Bertsch said requiring an inmate to serve 85 percent of a sentence has done nothing for public safety. She said DOCR would prefer a repeal of the entire section. She said it is an administrative nightmare. She said reducing the requirement to 70 percent would require a fiscal note.

In response to a question from Representative Koppelman, Ms. Bertsch said making a repeal of the statute retroactive would be the best option because amending the statute potentially could open the doors to litigation based on errors in sentence calculations.

#### **Commission on Alternatives to Incarceration**

**It was moved by Representative Koppelman, seconded by Mr. Olson, and carried on a roll call vote that the bill draft be amended to remove Section 14.** Senators Carlisle, Grabinger, and Wanzek; Representatives Guggisberg and Koppelman; and Citizen Members Anderson, Donlin, Olson, Rabe, and Attorney General Stenehjem voted "aye." Representative Nelson and Citizen Members Bertsch, Friese, Johnston, Justice McEvers, and Chief Justice VandeWalle voted "nay."

#### **Commission on Alternatives to Incarceration**

**It was moved by Ms. Bertsch, seconded by Mr. Friese, and failed on a roll call vote that the bill draft be amended to repeal Section 12.1-32-09.1(1).** Representatives Guggisberg and Nelson and Citizen Members Anderson, Bertsch, Friese, Johnston, Justice McEvers, and Rabe voted "aye." Senators Carlisle, Grabinger, and Wanzek; Representative Koppelman; and Citizen Members Donlin, Attorney General Stenehjem, and Chief Justice VandeWalle voted "nay."

#### **Incarceration Issues Committee**

**It was moved by Representative Koppelman, seconded by Senator Wanzek, and carried on a roll call vote that the bill draft be amended to remove Section 14.** Senators Carlisle, Grabinger, and Wanzek and Representatives Guggisberg and Koppelman voted "aye." Representative Nelson voted "nay."

#### **Section 15**

In response to a question from Mr. Steele, Mr. Roseland said amending Section 19-03.1-22.3 to an infraction would make the offense level less than that of a minor in consumption.

Justice McEvers said lowering the offense level to that of an infraction would lessen the ability to correct the behavior.

Mr. Donlin said the purpose of the statute is to assist officers when an individual is apprehended and the individual may not have possession of the drug.

#### **Commission on Alternatives to Incarceration**

**It was moved by Representative Koppelman, seconded by Representative Guggisberg, and carried on a roll call vote that the bill draft be amended to replace "an infraction" with "class B misdemeanor on the first offense and a class A misdemeanor on a second offense" on page 12, line 7.** Senators Carlisle, Grabinger, and Wanzek; Representatives Guggisberg, Koppelman, and Nelson; and Citizen Members Anderson, Bertsch, Donlin, Friese, Johnston, Justice McEvers, Rabe, Attorney General Stenehjem, and Chief Justice VandeWalle voted "aye." Citizen member Olson voted "nay."

#### **Incarceration Issues Committee**

**It was moved by Representative Koppelman, seconded by Representative Guggisberg, and carried on a roll call vote that the bill draft be amended to replace "an infraction" with "class B misdemeanor on the first offense and a class A misdemeanor on a second offense" on page 12, line 7.** Senators Carlisle, Grabinger, and Wanzek and Representatives Guggisberg, Koppelman, and Nelson voted "aye." No negative votes were cast.

### **Section 16**

#### **Commission on Alternatives to Incarceration**

**It was moved by Mr. Donlin, seconded by Attorney General Stenehjem, and carried on a roll call vote that the bill draft be amended to replace "class AA misdemeanor" with "class B misdemeanor on the first offense and a class A misdemeanor on a second offense" on page 12, line 16.** Senators Carlisle, Grabinger, and Wanzek; Representatives Guggisberg, Koppelman, and Nelson; and Citizen Members Anderson, Bertsch, Donlin, Friese, Johnston, Justice McEvers, Olson, Rabe, Attorney General Stenehjem, and Chief Justice VandeWalle voted "aye." No negative votes were cast.

#### **Incarceration Issues Committee**

**It was moved by Senator Wanzek, seconded by Representative Nelson, and carried on a roll call vote that the bill draft be amended to replace "class AA misdemeanor" with "class B misdemeanor on the first offense and a class A misdemeanor on a second offense" on page 12, line 16.** Senators Carlisle, Grabinger, and Wanzek and Representatives Guggisberg, Koppelman, and Nelson voted "aye." No negative votes were cast.

### **Section 17**

#### **Commission on Alternatives to Incarceration**

**It was moved by Representative Koppelman, seconded by Representative Nelson, and carried on a roll call vote that the bill draft be amended to remove the overstrike on page 12, lines 29 through 31; remove the overstrike on page 13, lines 2 through 11; remove the overstrike on page 13, lines 26 and 27; remove "may" from page 13, line 29; remove "a" on page 14, line 5; remove "not to exceed eight years" on page 14, line 6; remove "is subject" from page 14, line 9; remove "a term of" from page 14, line 9; remove "not" from page 14, line 9; remove "to exceed" from page 14, line 10; remove the overstrike from page 14, lines 16 through 19; after "offense" on page 14, line 22, insert "with respect to the offenses for the manufacture, delivery, or intent to deliver"; remove "this section" on page 14, line 24; replace "class AA misdemeanor" with "class A misdemeanor" on page 15, line 13; replace "three hundred" with "five hundred" on page 15, line 14; and replace "91.44" with "152.4" on page 15, line 15.** Senators Carlisle, Grabinger, and Wanzek; Representatives Koppelman and Nelson; and Citizen Members Donlin, Johnston, Rabe, and Attorney General Stenehjem voted "aye." Representative Guggisberg and Citizen Members Anderson, Bertsch, Friese, Justice McEvers, Olson, and Chief Justice VandeWalle voted "nay."

**It was moved by Representative Koppelman, seconded by Dr. Rabe, and carried on a roll call vote that the bill draft be amended to replace "this subsection" with "subsection 1 of section 19-03.1-23" on page 12, line 27.** Senators Carlisle, Grabinger, and Wanzek; Representatives Guggisberg, Koppelman, and Nelson; and Citizen Members Anderson, Bertsch, Donlin, Friese, Johnston, Justice McEvers, Olson, Rabe, Attorney General Stenehjem, and Chief Justice VandeWalle voted "aye." No negative votes were cast.

#### **Incarceration Issues Committee**

**It was moved by Representative Koppelman, seconded by Representative Nelson, and carried on a roll call vote that the bill draft be amended to remove the overstrike on page 12, lines 29 through 31; remove the overstrike on page 13, lines 2 through 11; remove the overstrike on page 13, lines 26 and 27; remove "may" from page 13, line 29; remove "a" on page 14, line 5; remove "not to exceed eight years" on page 14, line 6; remove "is subject" from page 14, line 9; remove "a term of" from page 14, line 9; remove "not" from page 14, line 9; remove "to exceed" from page 14, line 10; remove the overstrike from page 14, lines 16 through 19; after "offense" on page 14, line 22, insert "with respect to the offenses for the manufacture,**

delivery, or intent to deliver"; remove "this section" on page 14, line 24; replace "class AA misdemeanor" with "class A misdemeanor" on page 15, line 13; replace "three hundred" with "five hundred" on page 15, line 14; and replace "91.44" with "152.4" on page 15, line 15. Senators Carlisle, Grabinger, and Wanzek and Representatives Koppelman and Nelson voted "aye." Representative Guggisberg voted "nay."

It was moved by Representative Koppelman, seconded by Representative Nelson, and carried on a roll call vote that the bill draft be amended to replace "this subsection" with "subsection 1 of section 19-03.1-23" on page 12, line 27. Senators Carlisle, Grabinger, and Wanzek and Representatives Guggisberg, Koppelman, and Nelson voted "aye." No negative votes were cast.

### Section 18

#### Commission on Alternatives to Incarceration

It was moved by Representative Nelson, seconded by Senator Wanzek, and carried on a roll call vote that the bill draft be amended to replace "three hundred" with "five hundred" and replace "91.44" with "152.4" on page 16, line 24. Senators Carlisle, Grabinger, and Wanzek; Representatives Guggisberg, Koppelman, and Nelson; and Citizen Members Anderson, Bertsch, Donlin, Friese, Johnston, Justice McEvers, Olson, Rabe, Attorney General Stenehjem, and Chief Justice VandeWalle voted "aye." No negative votes were cast.

#### Incarceration Issues Committee

It was moved by Representative Nelson, seconded by Senator Wanzek, and carried on a roll call vote that the bill draft be amended to replace "three hundred" with "five hundred" and replace "91.44" with "152.4" on page 16, line 24. Senators Carlisle, Grabinger, and Wanzek and Representatives Guggisberg, Koppelman, and Nelson voted "aye." No negative votes were cast.

### Section 19

#### Commission on Alternatives to Incarceration

It was moved by Representative Nelson, seconded by Senator Wanzek, and carried on a roll call vote that the bill draft be amended to replace "class AA misdemeanor" with "class A misdemeanor" on page 19, line 3, and remove "infraction" from page 19, line 12. Senators Carlisle, Grabinger, and Wanzek; Representatives Guggisberg, Koppelman, and Nelson; and Citizen Members Anderson, Bertsch, Friese, Johnston, Justice McEvers, Rabe, Attorney General Stenehjem, and Chief Justice VandeWalle voted "aye." Citizen Members Donlin and Olson voted "nay."

#### Incarceration Issues Committee

It was moved by Representative Nelson, seconded by Senator Wanzek, and carried on a roll call vote that the bill draft be amended to replace "class AA misdemeanor" with "class A misdemeanor" on page 19, line 3, and remove "infraction" from page 19, line 12. Senators Carlisle, Grabinger, and Wanzek and Representatives Guggisberg, Koppelman, and Nelson voted "aye." No negative votes were cast.

### Section 23

#### Commission on Alternatives to Incarceration

It was moved by Representative Nelson, seconded by Senator Wanzek, and carried on a roll call vote that the bill draft be amended to replace "master's in social work" with "licensed independent clinical social worker, or a licensed professional clinical counselor" on page 21, line 25, and to insert "as determined qualified by each respective board" on page 21, line 26. Senators Carlisle, Grabinger, and Wanzek; Representatives Guggisberg, Koppelman, and Nelson; and Citizen Members Anderson, Bertsch, Donlin, Friese, Johnston, Justice McEvers, Olson, Rabe, Attorney General Stenehjem, and Chief Justice VandeWalle voted "aye." No negative votes were cast.

#### Incarceration Issues Committee

It was moved by Representative Nelson, seconded by Senator Wanzek, and carried on a roll call vote that the bill draft be amended to replace "master's in social work" with "licensed independent clinical social worker license, or a licensed professional clinical counselor" on page 21, line 25, and to insert "as determined qualified by each respective board" on page 21, line 26. Senators Carlisle, Grabinger, and Wanzek and Representatives Guggisberg, Koppelman, and Nelson voted "aye." No negative votes were cast.

### Other Business

#### Commission on Alternatives to Incarceration

It was moved by Senator Wanzek, seconded by Senator Grabinger, and carried on a roll call vote that the bill draft, as amended, relating to justice reinvestment, be approved and recommended to the Legislative Management. Senators Carlisle, Grabinger, and Wanzek; Representatives Guggisberg, Koppelman, and Nelson; and Citizen Members Anderson, Bertsch, Donlin, Friese, Johnston, Justice McEvers, Olson, Rabe, Attorney General Stenehjem, and Chief Justice VandeWalle voted "aye." No negative votes were cast.

**Incarceration Issues Committee**

It was moved by Senator Wanzek, seconded by Representative Nelson, and carried on a roll call vote that the bill draft, as amended, relating to justice reinvestment, be approved and recommended to the Legislative Management. Senators Carlisle, Grabinger, and Wanzek and Representatives Guggisberg, Koppelman, and Nelson voted "aye." No negative votes were cast.

**Commission on Alternatives to Incarceration**

It was moved by Representative Koppelman, seconded by Senator Grabinger, and carried on a voice vote that the Chairman and the Legislative Council staff be requested to prepare a report and the bill draft recommended by the commission and to present the report and recommended bill draft to the Legislative Management.

**Incarceration Issues Committee**

It was moved by Representative Koppelman, seconded by Senator Grabinger, and carried on a voice vote that the Chairman and the Legislative Council staff be requested to prepare a report and the bill draft recommended by the committee and to present the report and recommended bill draft to the Legislative Management.

Chairman Carlisle thanked the committee and CSG for their work through the interim.

Senator Wanzek commended Chairman Carlisle on his service to the state.

**Commission on Alternatives to Incarceration**

It was moved by Representative Nelson, seconded by Representative Koppelman, and carried on a voice vote that the commission be adjourned sine die.

**Incarceration Issues Committee**

It was moved by Representative Nelson, seconded by Representative Koppelman, and carried on a voice vote that the committee be adjourned sine die.

No further business appearing, Chairman Carlisle adjourned the commission and the committee sine die at 5:15 p.m.

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Samantha E. Kramer  
Counsel

ATTACH:6