

Sixty-ninth  
Legislative Assembly  
of North Dakota

**PROPOSED AMENDMENTS TO  
FIRST ENGROSSMENT**

**ENGROSSED HOUSE BILL NO. 1425**

Introduced by

Representatives Klemin, Hanson, Stemen

Senators Davison, Larson

1 A BILL for an Act to create and enact a new section to chapter 11-16, a new chapter to title 12,  
2 and two new sections to chapter 54-23.3 of the North Dakota Century Code, relating to  
3 prosecution-led diversion programs, deflection process, and supervision for presentence  
4 programs; to provide for a legislative management study; and to provide for an appropriation.

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

6 **SECTION 1.** A new section to chapter 11-16 of the North Dakota Century Code is created  
7 and enacted as follows:

8 **Prosecution-led diversion program.**

- 9 1. The state's attorney for each county may create and administer a prosecution-led  
10 diversion program if, after due consideration of any crime victim's rights and subject to  
11 approval from the court, the prosecuting attorney and the defendant agree to suspend  
12 prosecution for a period of time after which the case will be dismissed under rule 32.2  
13 of the North Dakota Rules of Criminal Procedure on condition that the defendant not  
14 commit any new criminal offense during the period of the agreement.
- 15 2. Each county that establishes a prosecution-led diversion program shall establish  
16 written guidelines for the program and minimum eligibility criteria.

17 **SECTION 2.** A new chapter to title 12 of the North Dakota Century Code is created and  
18 enacted as follows:

1        **Definition.**

2        As used in this chapter, "deflection process" means a procedure for facilitating an  
3 assessment, service or treatment in lieu of incarceration, criminal charges, or unnecessary  
4 admissions to the emergency department when a peace officer or first responder is directed to  
5 intervene with an individual with a behavioral health condition, including a substance use  
6 disorder or mental health disorder, with or without the presence of criminal activity.

7        **Individual with a behavioral health condition - Assistance - Medical care.**

8        A peace officer, as defined under section 12-63-01, may transport or refer an individual to a  
9 local hospital, detoxification center, community behavioral health center, or other appropriate  
10 treatment facility. A tier 1b mental health professional, as defined under section 25-01-01, of a  
11 local hospital may hold that individual for treatment up to seventy-two hours.

12        **Deflection process - Regional authority and planning.**

- 13        1. A local government, law enforcement agency, or other first responder agency may  
14 establish a deflection process in partnership with one or more licensed providers of  
15 behavioral health services or substance use disorder treatment services, subject to the  
16 provisions of this section. A deflection process must include participation from a law  
17 enforcement agency and behavioral health service provider.
- 18        2. A deflection process must include procedures for:
- 19            a. The identification, screening, and assessment of its participants;
- 20            b. Case management and treatment facilitation;
- 21            c. Participant followups;
- 22            d. Law enforcement, first responder, and treatment provider training;
- 23            e. The collection and evaluation of data for:
- 24                    (1) Demographics of program participants;
- 25                    (2) The number of law enforcement interactions that result in a treatment  
26 referral; and
- 27                    (3) The time between initial law enforcement interaction and treatment service;  
28 and.
- 29        3. A deflection process must include a performance management system with key  
30 performance indicators. Key performance indicators may include the:
- 31            a. Rate of treatment engagement within thirty days of initial contact;

- 1           b. Duration of treatment involvement; and  
2           c. Number of subsequent law enforcement interactions for individuals referred to  
3           treatment.

4           **Exemption from civil liability.**

5           A local government agency, law enforcement agency, peace officer, first responder, or  
6           employee of the agency, a behavioral health provider, firefighter, fire department, emergency  
7           medical service personnel, emergency medical service agency, hospital, clinic, or a public or  
8           private entity acting in good faith, is not liable for civil damages as a result of an act or omission  
9           in providing services under this section, unless the act or omission constitutes willful and  
10          wanton misconduct or gross negligence.

11          **SECTION 3.** A new section to chapter 54-23.3 of the North Dakota Century Code is created  
12          and enacted as follows:

13          **Supervision for presentence programs.**

14          The department of corrections and rehabilitation has the authority to supervise a defendant  
15          while the defendant is participating in a prosecution-led, or pretrial diversion program under  
16          section 1 of this Act or rule 32.2 of the North Dakota Rules of Criminal Procedure, or any other  
17          pretrial services program.

18          **SECTION 4.** A new section to chapter 54-23.3 of the North Dakota Century Code is created  
19          and enacted as follows:

20          **Prosecution-led diversion supervision pilot program - Report.**

- 21          1. The department of corrections and rehabilitation shall establish a prosecution-led  
22             diversion supervision program as a pilot project in three counties in the state during  
23             the biennium beginning July 1, 2025, and ending June 30, 2027.  
24          2. Beginning July 1, 2025, the department shall collaborate with the department of health  
25             and human services, North Dakota association of counties, county state's attorneys,  
26             the commission on legal counsel for indigent defense, county and regional correctional  
27             facilities, and public and private treatment providers to develop guidelines and  
28             procedures for the administration of the prosecution-led diversion supervision  
29             program.

- 1        3. The department of corrections and rehabilitation shall select three counties for a pilot  
2            project and enter contracts with third-party providers in partnership with the pilot  
3            counties to provide supervision, including monitoring and connection to services.
- 4        4. The department of corrections and rehabilitation shall implement the program no later  
5            than July 1, 2026.
- 6        5. Before June 30, 2027, the department, in collaboration with the three pilot counties,  
7            shall report to legislative management regarding the process and outcome of the  
8            prosecution-led diversion program and any recommendations for future legislation.

9            **SECTION 5. LEGISLATIVE MANAGEMENT STUDY - PRETRIAL SERVICE PROGRAMS.**

10        During the 2025-26 interim, the legislative management shall consider studying costs and  
11        savings associated with pretrial service programs operating in the state and opportunities to  
12        reinvest savings to improve re-entry outcomes. The study must include the effect of pretrial  
13        services on admissions to county jail, detention facilities, medical costs of participants, rate of  
14        failure to appear in court, rate of recidivism, and rate of participation in treatment programs. The  
15        study must identify opportunities for counties, courts, and state agencies to invest cost-savings  
16        associated with pretrial services in programs, treatment, and services that will further reduce  
17        recidivism and promote public health. The legislative management shall report its findings and  
18        recommendations, together with any legislation required to implement the recommendations, to  
19        the seventieth legislative assembly.

20            **SECTION 6. APPROPRIATION - DEPARTMENT OF CORRECTIONS AND**  
21            **REHABILITATION - PROSECUTION-LED DIVERSION SUPERVISION PILOT PROGRAM -**  
22            **FULL-TIME EQUIVALENT POSITIONS - ONE-TIME FUNDING.**

23        There is appropriated out of  
24        any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of  
25        \$1,000,000, or so much of the sum as may be necessary, to the department of corrections and  
26        rehabilitation, for the purpose of hiring one full-time equivalent position and contracting with  
27        third-party providers for a prosecution-led diversion supervision pilot program, for the biennium  
28        beginning July 1, 2025, and ending June 30, 2027. The personnel hired pursuant to this section  
29        must prioritize the prosecution-led diversion supervision pilot program. The funding provided  
30        under this section is considered a one-time funding item.

30            **SECTION 7. APPROPRIATION - DEPARTMENT OF CORRECTIONS AND**  
31            **REHABILITATION - PRETRIAL SERVICE PROGRAMS COST-SAVINGS STUDY - ONE-TIME**

1 **FUNDING.** There is appropriated out of any moneys in the general fund in the state treasury,  
2 not otherwise appropriated, the sum of \$55,000, or so much of the sum as may be necessary, to  
3 the department of corrections and rehabilitation, for the purpose of contracting for consulting  
4 services for the study provided in section 5 of this Act, for the biennium beginning July 1, 2025,  
5 and ending June 30, 2027. The funding provided under this section is considered a one-time  
6 funding item.

7 **SECTION 8. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES -**  
8 **PROSECUTION-LED DIVERSION TREATMENT SERVICES - ONE-TIME FUNDING.** There is  
9 appropriated out of any moneys in the general fund in the state treasury, not otherwise  
10 appropriated, the sum of \$750,000, or so much of the sum as may be necessary, to the  
11 department of health and human services, for the purpose of providing treatment services for  
12 participants in the prosecution-led diversion program, for the biennium beginning July 1, 2025,  
13 and ending June 30, 2027. The funding provided under this section is considered a one-time  
14 funding item.