

**2023 HOUSE JUDICIARY**

**HB 1195**

# 2023 HOUSE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Room JW327B, State Capitol

HB 1195  
1/18/2023

A BILL for an Act to provide for a legislative management study regarding a juvenile delinquency offense code
---

Chairman Klemin opened the hearing on HB 1195 at 10:15 AM.

Members present: Chairman Klemin Vice Chairman Karls, Rep. Bahl, Rep. Christensen, Rep. Henderson, Rep. S. Olson, Rep. Rios, Rep. S. Roers Jones, Rep. Satrom, Rep. Schneider, Rep. VanWinkle,  
Absent: Rep. Cory, Rep. Vetter

**Discussion Topics:**

- Justice reinvestment.
- Criminal code
- Juvenile justice delinquent code

**Representative Klemin:** Introduced the bill. Testimony (#14036)

**Karen Kringlie,** Director of Juvenile Court: In support. Testimony (#13991)

**Travis Finck,** ND Commission on Legal Counsel for Indigents, (#13996)

**Additional written testimony:**

**Lorraine Davis, CEO of NATIVE Inc.,** (#14165)

Chairman Klemin closed the hearing on HB 1195 at 10:35 AM.

*Delores Shimek, Committee Clerk By: Leah Kuball*

# 2023 HOUSE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Room JW327B, State Capitol

HB 1195  
1/23/2023

A BILL for an Act to provide for a legislative management study regarding a juvenile delinquency offense code
---

Chairman Klemin opened the hearing on HB 1195 at 3:10 PM

Members present: Chairman Klemin, Vice Chairman Karls, Rep. Bahl, Rep. Christensen, Rep. Henderson, Rep. S. Olson, Rep. Rios, Rep. S. Roers Jones, Rep. Satrom, Rep. Schneider, Rep. VanWinkle, Rep. Cory, Rep. Vetter

### Discussion Topics:

- Studies on juvenile justice
- Offence codes

Representative Vetter moved a Do Pass

Seconded by Representative VanWinkle

### Roll call Vote:

Representatives	Vote
Representative Lawrence R. Klemin	Y
Representative Karen Karls	Y
Representative Landon Bahl	Y
Representative Cole Christensen	N
Representative Claire Cory	Y
Representative Donna Henderson	Y
Representative SuAnn Olson	Y
Representative Nico Rios	Y
Representative Shannon Roers Jones	Y
Representative Bernie Satrom	Y
Representative Mary Schneider	Y
Representative Lori VanWinkle	Y
Representative Steve Vetter	Y

**Motion carried: 12-1-0**

**Bill Carrier: Representative Klemin**

Meeting adjourned at 3:19 PM.

*Delores Shimek, Committee Clerk By: Leah Kuball*

**REPORT OF STANDING COMMITTEE**

**HB 1195: Judiciary Committee (Rep. Klemin, Chairman)** recommends **DO PASS** (12 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1195 was placed on the Eleventh order on the calendar.

**2023 SENATE JUDICIARY**

**HB 1195**

# 2023 SENATE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Peace Garden Room, State Capitol

HB 1195  
03/21/2023

A BILL for an Act to provide for a legislative management study regarding a juvenile delinquency offense code.
--

9:24 AM Chairman Larson opened the meeting.

Chairman Larson and Senators Myrdal, Luick, Estenson, Sickler, Paulson and Braunberger were present.

### Discussion Topics:

- Adolescent development
- Age of criminal responsibility
- Juvenile Court Act
- Rules of Juvenile Procedure

9:25 AM Karen Kringlie, Director Juvenile Court, Southeast and East central Judicial Districts, testified in favor of the bill. #25870

9:33 AM Travis Finck, Executive Director, North Dakota Commission on Legal Counsel for Indigents, testified in favor of the bill. #25935

9:39 AM Chairman Larson closed the public hearing.

9:39 AM Senator Luick moved to Do Pass the bill. Motion seconded by Senator Braunberger.

9:47 AM Roll call vote was taken.

Senators	Vote
Senator Diane Larson	Y
Senator Bob Paulson	Y
Senator Jonathan Sickler	Y
Senator Ryan Braunberger	Y
Senator Judy Estenson	Y
Senator Larry Luick	Y
Senator Janne Myrdal	Y

Motion passes 7-0-0.

Senator Paulson will carry the bill.

This bill does not affect workforce development.

9:48 AM Chairman Larson closed the meeting.

*Rick Schuchard, Committee Clerk*

**REPORT OF STANDING COMMITTEE**

**HB 1195: Judiciary Committee (Sen. Larson, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1195 was placed on the Fourteenth order on the calendar. This bill does not affect workforce development.

**TESTIMONY**

**HB 1195**



**House Bill No. 1195  
House Judiciary Committee**

**Testimony Presented by  
Karen Kringlie, Director of Juvenile Court  
January 18, 2023**

For the record, my name is Karen Kringlie and I am the Director of Juvenile Court and the Chief Justice's appointment to the Commission on Juvenile Justice. I am providing information and support for House Bill 1195, a proposal to study the desirability and feasibility of a legislative creation of a juvenile delinquency offense code.

During the past three years of study and drafting to repeal and replace the fifty-year-old Uniform Juvenile Court Act, the Commission on Juvenile Justice began discussing whether the adult criminal code is at times difficult to apply and unintentionally inequitable in its application to youth charged with juvenile delinquency. The focus in most criminal code sections is primarily with prohibiting a certain type of adult behavior. How these statutes play out in juvenile court application can be uneven and result in too extreme of consequences in some cases. The proposal of this bill is a specific study of the criminal code as it affects youth in juvenile court as well as consideration of whether a separate juvenile code should be created. This could include a distinct and intentional classification of prohibited behaviors and all of this study framed by what we know about adolescent development and the effectiveness of government interventions on certain types of delinquent behavior.

As members of the Committee are well aware, the North Dakota Criminal Code, Title 12.1 (as well as portions of Title 19, Title 20.1, Title 39, and Title 62.1) defines what crimes are in North Dakota and also specifies the severity or classification of the offense for purposes of sentencing in adult courts. (12.1-32-01 N.D.C.C.)

The legislature determines the age of criminal responsibility and in North Dakota it is deemed to begin at ten years of age. (12.1-04-01 N.D.C.C.) When children ages 10 to 17 allegedly violate the criminal laws of this state, all proceedings concerning them are required to be conducted in juvenile court and according to the laws set forth in the Juvenile Court Act, Chapter 27-20.2, and the companion chapter on delinquency, Chapter 27-20.4. These chapters do not contain juvenile specific criminal offenses, but rather the definition of "delinquent act" refers to acts "...designated a crime under law" (27-20.4-01(7) N.D.C.C.) This has been the case since the beginning of juvenile court in North Dakota in 1911.

Even though the historical aim of the creation of the juvenile court in the United States in 1899 was to separate children from the abuses and consequences of adult criminal procedure (in particular or most dramatically, jail confinement with adult offenders), the juvenile system to this day still looks back to the adult criminal offense codes and adult crime classifications as the basis for the charging document in juvenile court. The classification of offenses for adults is still a daily point of discussion in charging youth, disposing of juvenile cases, assigning offender risk levels, and consideration of transferring youth into the adult system for the most serious crimes.

Certainly, for the most basic offenses such as theft or assault one can imagine that the elements of the "crime" might remain the same regardless of the age of the actor. What the Commission on Juvenile Justice discussed was that there are criminal offenses for which age of the victim is an aggravating factor or the location of the crime – meaning there is a heightened severity of classification for the adult defendant because of the type of victim or the place of the offense. This is quite understandable when it comes to adults taking advantage of or harming a vulnerable child or committing crimes at schools but should there be that same distinctions and aggravating factors for children?

Some examples that we believe could use more focused study are domestic violence statutes as applied to sibling or parent/child conflicts, assault offenses and sexual offenses where both the offender and victim are under the age of 18. As an example, an adult distributing an illicit photograph of a minor may differ from a minor distributing the same photo.

Many of the offenses carry with them collateral consequences that can impact a youth well beyond the age of legal adulthood. Examples of collateral consequences can be barriers to entering the military, pursuing certain types of careers, or obtaining financial aid or public housing. There can be occupational licensing issues because of past juvenile adjudications that can add to workforce issues in areas like home health aides, day care, nursing home workers, and in education. Youth adjudicated of certain types of felonies can be prohibiting well into adulthood from possession of a firearm. A 2022 North Dakota Supreme Court case had in its concurrence a recommendation that the legislature look into the impact of the prohibition on possession of firearms as pertains to juvenile adjudications.

When adult crime definitions, elements, and classifications are difficult to interpret, apply, and follow based on common childhood behaviors, the prosecutor may make charging decision to an alternative offense, stipulate to a lesser offense, or decline to prosecute altogether. These decisions can vary by region of the state depending on the knowledge or familiarity that the particular prosecutor has with adolescent behavior, juvenile delinquency, or the impact of collateral consequences on youth offenders. As result, offenders are treated differently for reasons other than the offense conduct.

Below is a partial list of offenses that raise some of the questions expressed above:

- child abuse contributing to the delinquency of a minor
- gross sexual imposition (by age, not force) and fornication
- domestic violence, assault, terrorizing against a child
- creation, possession, or dissemination of child pornography and possession of certain materials prohibited
- unauthorized use of a motor vehicle (when the vehicle is owned by a parent or family member)
- certain drug offenses that take place within so many feet of a school
- disturbance of a public school (when the actor is a student of that school)

A study of juvenile delinquency code and classification would ensure that North Dakota intentionally sets out which youth behaviors are prohibited by law and the level of seriousness at which the behavior should be addressed by government action. This would lead to enhanced public safety and more effective use of public resources. It would also reduce the impact of negative collateral consequences for juvenile offenders – action that is currently designed for adult behavior.

Thank you for the opportunity to address you today. I will stand for any questions.

HB 1195  
68<sup>th</sup> Legislative Assembly  
House Judiciary Committee  
January 18, 2023  
Testimony of Travis W. Finck, Executive Director NDCLCI in Support

Chairman Klemin, Vice Chair Karls, members of the House Judiciary Committee, I rise today on behalf of the Commission on Legal Counsel for Indigents in support of HB 1195. The Commission on Legal Counsel is the state agency responsible for the provision of legal services for individuals when there is a constitutional, statutory or rule based right to counsel.

HB 1195 is a study bill with the potential to have a profound impact on the lives of our children and families. Currently, when a child commits a delinquent act (what would otherwise be a crime if they were an adult) the juvenile petition refers to the criminal code. This creates several unintended consequences of a juvenile adjudication. This is a result of the adult criminal code focusing on the age of the victim rather than on the person who is alleged to have committed the act. For example, the century code does not currently consider the age of the alleged perpetrator in an allegation of terrorizing against a child. They simply consider the alleged victim is a child. To provide this picture, terrorizing under Century Code section 12.1-17-04, provides you terrorize someone when you “with intent to place another human being in fear for that human being's or another's safety or to cause evacuation of a building, place of assembly, or facility of public transportation, or otherwise to cause serious disruption or public inconvenience, or in reckless disregard of the risk of causing such terror, disruption, or inconvenience, the person: 1. Threatens to commit any crime of violence or act dangerous to human life; or 2. Falsely informs another that a situation dangerous to human life or commission of a crime of violence is imminent knowing that the information is false”. An offender who is found guilty of terrorizing against a child is required to register as an offender against children pursuant to century code 12.1-32-15(1)(a). Thus, the current status of the law cares not whether it is a 10-year-old child frustrated at recess who threatens to kill his classmate, whether or not he/she truly intended on killing their classmate, or an adult who threatens to kill the same child on the playground. Clearly, something needs to be changed.

The above example is only 1 of the places where applying the adult criminal code to children creates unjust results. Legal precedent establishes juvenile offenders as being less culpable than their adult counterparts. Thus, it is only appropriate North Dakota stand up for its children and its families by studying the possibility of creating a separate code for juvenile delinquencies. A Do Pass on HB 1195

does exactly that. For all the reasons stated herein, the Commission on Legal Counsel respectfully requests the House Judiciary give a Do Pass recommendation to HB 1195.

Respectfully Submitted:

A handwritten signature in black ink, appearing to read 'Travis W. Finck', written over a horizontal line.

---

Travis W. Finck, Executive Director  
(701) 845-8632  
tfinck@nd.gov

**50-06-43.2. Commission on juvenile justice — Reports. [Effective September 1, 2022 — Repealed effective August 1, 2025]**

**1.** The commission on juvenile justice is composed of:

**a.** Three members of the house of representatives, two of whom must be selected by the majority leader of the house of representatives and one of whom must be selected by the minority leader of the house of representatives;

**b.** Three members of the senate, two of whom must be selected by the majority leader of the senate and one of whom must be selected by the minority leader of the senate;

**c.** The governor, or the governor's designee;

**d.** The superintendent of public instruction, or the superintendent's designee;

**e.** The executive director of the department, or the executive director's designee;

**f.** The director of the department of corrections and rehabilitation's division of juvenile services, or the director's designee;

**g.** The executive director of the Indian affairs commission, or the executive director's designee;

**h.** A director of juvenile court services, appointed by the chief justice of the supreme court;

**i.** A representative from the commission on legal counsel for indigents; and

**j.** The following members appointed by the governor:

**(1)** A state's attorney;

**(2)** A representative of a children's advocacy center; and

**(3)** A representative of local law enforcement.

**2.** The chairman of the legislative management shall designate one of the members of the commission to serve as the presiding officer. The governor's appointees serve at the pleasure of the governor. Excluding ex officio members, the term of a commission member is two years.

**3.** The commission shall meet at least four times per year at the times and locations designated by the presiding officer. The office of the governor shall provide staffing for the commission.

**4.** The commission shall:

- a. Review chapters 27-20.1, 27-20.2, 27-20.3, and 27-20.4;
- b. Gather information concerning issues of child welfare, including education, abuse, and neglect;
- c. Receive reports and testimony from individuals, state and local agencies, community-based organizations, and other public and private organizations, in furtherance of the commission's duties;
- d. Advise effective intervention, resources, and services for children;
- e. Report to the children's cabinet; and
- f. Annually submit to the governor and the legislative management a report with the commission's findings and recommendations which may include a legislative strategy to implement the recommendations.

5. A member of the commission who is not a state employee is entitled to reimbursement for mileage and expenses as provided by law for state officers and employees to be paid by the department of corrections and rehabilitation. A state employee who is a member of the commission is entitled to receive that employee's regular salary and is entitled to reimbursement for mileage and expenses to be paid by the employing agency. A member of the commission who is a member of the legislative assembly is entitled to receive per diem compensation at the rate provided under section 54-35-10 for each day performing official duties of the commission. The legislative council shall pay the per diem compensation and reimbursement for travel and expenses as provided by law for any member of the commission who is a member of the legislative assembly.

**Source:**

S.L. 2019, ch. 394, § 4, effective August 1, 2019; 2021, ch. 245, § 37, effective July 1, 2021; 2021, ch. 363, § 1, effective August 1, 2021; 2021, ch. 352, § 405, eff September 1, 2022; Repealed by 2021, ch. 363, § 2, eff August 1, 2025.; 2021, ch. 363, § 1, effective August 1, 2021.



Native American Development  
Center  
2403 East Thayer Avenue Bismarck  
ND 58501  
Tel: (701) 595-5181  
Website: [www.ndnadc.org](http://www.ndnadc.org)

Fargo Downtown Engagement  
Center  
222 4<sup>th</sup> Street North  
Fargo, ND 58102  
Tel: (701) 936-3258  
Website: [www.ndnadc.org](http://www.ndnadc.org)

---

January 18, 2023

Chairman Klemin and Members of the Committee,

My name is Lorraine Davis. I am the Founder and CEO of a community-based organization called NATIVE, Inc. serving Native Americans and other marginalized populations in the Bismarck and Fargo metropolitan areas of North Dakota.

I support HB1195.

NATIVE, Inc. provides Bismarck and Fargo communities with prison recidivism, behavioral health prevention and recovery programs, prison outreach (men & women), homeless prevention, transportation services, workforce development, cultural and life skills development during afterschool programs, juvenile delinquency prevention and family programs. NATIVE, Inc. has been providing community-based education and services to youth and families through our Great Plains Indians Youth and Family Engagement Center for the past five years. Our goal is to alleviate disproportionate minority contact of Native American youth from going into the juvenile court systems, from Native American men and women from going into the state's prison system and to increase the readiness and success of family reunification.

Thank you for your consideration.

**House Bill No. 1195**  
**Senate Judiciary Committee**

**Testimony Presented by**  
**Karen Kringlie, Director of Juvenile Court**  
**February 21, 2023**

For the record, my name is Karen Kringlie and I am the Director of Juvenile Court in Court Administrative Unit Two and the Chief Justice's appointment to the Commission on Juvenile Justice. I am providing information and support for House Bill 1195, a proposal to study the desirability and feasibility of a legislative creation of a juvenile delinquency offense code.

During the past three years of study and drafting to repeal and replace the fifty-year-old Uniform Juvenile Court Act, the Commission on Juvenile Justice began discussing whether the adult criminal code is at times difficult to apply and unintentionally inequitable in its application to youth charged with juvenile delinquency. The focus in most criminal code sections is primarily with prohibiting a certain type of adult behavior. How these statutes play out in juvenile court application can be uneven and result in too extreme of consequences in some cases. The proposal of this bill is a specific study of the criminal code as it affects youth in juvenile court as well as consideration of whether a separate juvenile code should be created. This could include a distinct and intentional classification of prohibited behaviors and all of this study framed by what we know about adolescent development and the effectiveness of government interventions on certain types of delinquent behavior.

As members of the Committee are well aware, the North Dakota Criminal Code, Title 12.1 (as well as portions of Title 19, Title 20.1, Title 39, and Title 62.1) defines what crimes are in North Dakota and also specifies the severity or classification of the offense for purposes of sentencing in adult courts. (12.1-32-01 N.D.C.C.)

The legislature determines the age of criminal responsibility and in North Dakota it is deemed to begin at ten years of age. (12.1-04-01 N.D.C.C.) When children ages 10 to 17 allegedly violate the criminal laws of this state, all proceedings concerning them are required to be conducted in juvenile court and according to the laws set forth in the Juvenile Court Act, Chapter 27-20.2, and the companion chapter on delinquency, Chapter 27-20.4. These chapters do not contain juvenile specific criminal offenses, but rather the definition of "delinquent act" refers to acts "...designated a crime under law" (27-20.4-01(7) N.D.C.C.) This has been the case since the beginning of juvenile court in North Dakota in 1911.

Even though the historical aim of the creation of the juvenile court in the United States in 1899 was to separate children from the abuses and consequences of adult criminal procedure (in particular or most dramatically, jail confinement with adult offenders), the juvenile system to this day still looks back to the adult criminal offense codes and adult



crime classifications as the basis for the charging document in juvenile court. The classification of offenses for adults is still a daily point of discussion in charging youth, disposing of juvenile cases, assigning offender risk levels, and consideration of transferring youth into the adult system for the most serious crimes.

Certainly, for the most basic offenses such as theft or assault one can imagine that the elements of the “crime” might remain the same regardless of the age of the actor. What the Commission on Juvenile Justice discussed was that there are criminal offenses for which age of the victim is an aggravating factor or the location of the crime – meaning there is a heightened severity of classification for the adult defendant because of the type of victim or the place of the offense. This is quite understandable when it comes to adults taking advantage of or harming a vulnerable child or committing crimes at schools but should there be that same distinctions and aggravating factors for children? Some examples that we believe could use more focused study are domestic violence statutes as applied to sibling or parent/child conflicts, assault offenses and sexual offenses where both the offender and victim are under the age of 18. As an example, an adult distributing an illicit photograph of a minor may differ from a minor distributing the same photo.

Many of the offenses carry with them collateral consequences that can impact a youth well beyond the age of legal adulthood. Examples of collateral consequences can be barriers to entering the military, pursuing certain types of careers, or obtaining financial aid or public housing. There can be occupational licensing issues because of past juvenile adjudications that can add to workforce issues in areas like home health aides, day care, nursing home workers, and in education. Youth adjudicated of certain types of felonies can be prohibiting well into adulthood from possession of a firearm. A 2022 North Dakota Supreme Court case had in its concurrence a recommendation that the legislature look into the impact of the prohibition on possession of firearms as pertains to juvenile adjudications. (*State v. Moses*, 2022 ND 208)

When adult crime definitions, elements, and classifications are difficult to interpret, apply, and follow based on common childhood behaviors, the prosecutor may make charging decision to an alternative offense, stipulate to a lesser offense, or decline to prosecute altogether. These decisions can vary by region of the state depending on the knowledge or familiarity that the particular prosecutor has with adolescent behavior, juvenile delinquency, or the impact of collateral consequences on youth offenders. As result, offenders are treated differently for reasons other than the offense conduct.

Below is a partial list of offenses that raise some of the questions expressed above:

- child abuse contributing to the delinquency of a minor
- gross sexual imposition (by age, not force) and fornication

- domestic violence, assault, terrorizing against a child
- creation, possession, or dissemination of child pornography and possession of certain materials prohibited
- unauthorized use of a motor vehicle (when the vehicle is owned by a parent or family member)
- certain drug offenses that take place within so many feet of a school
- disturbance of a public school (when the actor is a student of that school)

A study of juvenile delinquency code and classification would ensure that North Dakota intentionally sets out which youth behaviors are prohibited by law and the level of seriousness at which the behavior should be addressed by government action. This would lead to enhanced public safety and more effective use of public resources. It would also reduce the impact of negative collateral consequences for juvenile offenders – action that is currently designed for adult behavior.

Thank you for the opportunity to address the committee today. I stand for any questions.

HB 1195  
68<sup>th</sup> Legislative Assembly  
Senate Judiciary Committee  
March 21, 2023  
Testimony of Travis W. Finck, Executive Director NDCLCI in Support

Madam Chair Larson, members of the Senate Judiciary Committee, I rise today on behalf of the Commission on Legal Counsel for Indigents in support of HB 1195. The Commission on Legal Counsel is the state agency responsible for the provision of legal services for individuals when there is a constitutional, statutory or rule based right to counsel.

HB 1195 is a study bill with the potential to have a profound impact on the lives of our children and families. Currently, when a child commits a delinquent act (what would otherwise be a crime if they were an adult) the juvenile petition refers to the criminal code. This creates several unintended consequences of a juvenile adjudication. This is a result of the adult criminal code focusing on the age of the victim rather than on the person who is alleged to have committed the act. For example, the century code does not currently consider the age of the alleged perpetrator in an allegation of terrorizing against a child. They simply consider the alleged victim is a child. To provide this picture, terrorizing under Century Code section 12.1-17-04, provides you terrorize someone when you “with intent to place another human being in fear for that human being's or another's safety or to cause evacuation of a building, place of assembly, or facility of public transportation, or otherwise to cause serious disruption or public inconvenience, or in reckless disregard of the risk of causing such terror, disruption, or inconvenience, the person: 1. Threatens to commit any crime of violence or act dangerous to human life; or 2. Falsely informs another that a situation dangerous to human life or commission of a crime of violence is imminent knowing that the information is false”. An offender who is found guilty of terrorizing against a child is required to register as an offender against children pursuant to century code 12.1-32-15(1)(a). Thus, the current status of the law cares not whether it is a 10-year-old child frustrated at recess who threatens to kill his classmate, whether or not he/she truly intended on killing their classmate, or an adult who threatens to kill the same child on the playground. Clearly, something needs to be changed.

The above example is only 1 of the places where applying the adult criminal code to children creates unjust results. Legal precedent establishes juvenile offenders as being less culpable than their adult counterparts. Thus, it is only appropriate North Dakota stand up for its children and its families by studying the possibility of creating a separate code for juvenile delinquencies. A Do Pass on HB 1195

does exactly that. For all the reasons stated herein, the Commission on Legal Counsel respectfully requests the Senate Judiciary give a Do Pass recommendation to HB 1195.

Respectfully Submitted:

A handwritten signature in black ink, appearing to read 'Travis W. Finck', written over a horizontal line.

---

Travis W. Finck, Executive Director  
(701) 845-8632  
tfinck@nd.gov