

2023 HOUSE JUDICIARY

HCR 3026

2023 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Room JW327B, State Capitol

HCR 3026
3/8/2023

Resolution directing the Legislative Management to consider studying improving re-entry outcomes for incarcerated adults and youth.

11:00 AM Chairman Klemin opened the hearing. Members present: Chairman Klemin, Vice Chairman Karls, Rep. Bahl, Rep. Christensen, Rep. Cory, Rep. Henderson, Rep. S. Olson, Rep. Rios, Rep. S. Roers Jones, Rep. Satrom, Rep. Schneider, Rep. VanWinkle, and Rep. Vetter.

Discussion Topics:

- Re-entry outcomes for Adults and Youth
- Reform Criminal Justice System
- Program for Productive Citizens
- ND Job Service pilot program with DOCR.
- Data Driven Justice Reinvestment Approach
- Strategies to Reduce Spending
- Invest Savings in Reducing Recidivism

Rep. Hanson: Introduced the bill. Testimony #22780

Tom Erhardt, Director of Parole & Probation, DOCR: Testimony #21987

Jacob Agus-Kleinman, Senior Policy Analyst, Council of State Governments Justice Center: Testimony #21469

Daniel Gulya, Attorney with P&A: Testimony # 22410

Rep. Satrom moved a Do Pass;

Seconded by Vice Chairman Karls

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

Representative Lori VanWinkle	N
Representative Steve Vetter	Y

Roll call vote: 8 Yes 5 No 0 Absent; Motion carried.
Carrier: Rep. Satrom

Additional written testimony:

Andrew Frobig, Administrator for the Cass County Sheriff's Office: Testimony #22285

Pamela Mack, Director of Advocacy Services, P&A: Testimony #21299

Patrick Bertagnoli, Executive Director, Job Service ND: Testimony #21334

Sister Kathleen Atkinson, Ministry on the Margins: Testimony #21474

The hearing closed at 11:48 AM.

Delores Shimek, Committee Clerk by Donna Lynn Knutson

REPORT OF STANDING COMMITTEE

HCR 3026: Judiciary Committee (Rep. Klemin, Chairman) recommends **DO PASS** (8 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HCR 3026 was placed on the Eleventh order on the calendar.

2023 SENATE WORKFORCE DEVELOPMENT

HCR 3026

2023 SENATE STANDING COMMITTEE MINUTES

Workforce Development Committee Fort Lincoln Room, State Capitol

HCR 3026
3/23/2023

A concurrent resolution directing the Legislative Management to consider studying improving re-entry outcomes for incarcerated adults and youth

10:31 AM **Chairman Wobbema** called the hearing to order. **Senators Wobbema, Axtman, Elkin, Larson, Sickler, Piepkorn** were present.

Discussion Topics:

- Criminal justice
- Reform
- Safety
- Penalties
- Recovery program
- Juvenile
- Reentry outcomes

10:31 AM **Representative Hanson** introduced HCR 3026 and testified in favor. #26348

10:47 AM **Tom Erhardt, Director, Parole and Probation**, testified in favor. #26394

10:54 AM **Sister Kathleen Atkinson, Executive Director, Ministry on the Margins**, testified in favor. #26407

10:58 AM **Chairman Wobbema** closed the hearing.

Patricia Lahr, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Workforce Development Committee Fort Lincoln Room, State Capitol

HCR 3026
3/23/2023

A concurrent resolution directing the Legislative Management to consider studying improving re-entry outcomes for incarcerated adults and youth

3:18 PM **Chairman Wobbema** called the meeting to order. **Senators Wobbema, Axtman, Elkin, Larson, Sickler, Piepkorn** were present.

Discussion Topics:

- Reform
- Study

Chairman Wobbema called for discussion.

Senator Axtman moved **DO PASS** as was amended on March 17, 2023.
Senator Larson seconded the motion.

Roll call vote.

Senators	Vote
Senator Michael A. Wobbema	Y
Senator Michelle Axtman	Y
Senator Jay Elkin	Y
Senator Diane Larson	Y
Senator Merrill Piepkorn	Y
Senator Jonathan Sickler	Y

Motion passed 6-0-0.

Senator Axtman will carry HCR 3026.

3:24 PM **Chairman Wobbema** closed the meeting.

Patricia Lahr, Committee Clerk

REPORT OF STANDING COMMITTEE

HCR 3026: Workforce Development Committee (Sen. Wobbema, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3026 was placed on the Fourteenth order on the calendar. This resolution affects workforce development.

TESTIMONY

HCR 3026



PROTECTION & ADVOCACY PROJECT

400 EAST BROADWAY, SUITE 409

BISMARCK, ND 58501-4071

701.328.2950

**House Judiciary Committee
House Concurrent Resolution 3026
March 1, 2023**

Chairman Klemin and members of the House Judiciary Committee, I am Pamela Mack, Director of Advocacy Services with the Projection & Advocacy Project (P&A). P&A protects the human, civil, and legal rights of people with disabilities. The agency's programs and services seek to make positive changes for people with disabilities where we live, learn, work, and play.

For several years now P&A has worked collaboratively with various entities within North Dakota to include the Department of Corrections, the Department of Human Services, our county jails, and community-based partners to address the high percentage of individuals with disabilities who become involved in the juvenile and criminal justice systems.

In looking at the language in House Concurrent Resolution, P&A strongly supports the proposed study, with an emphasis on re-entry

services and the efforts to address the high percentage of recidivism that we experience within the state. However, this topic is very important, and I would suggest that the Committee consider changing this to a required study and not one that would be considered by Legislative Management.

Thank you so much for your time today. I would be happy to answer any questions that you may have. If you have any further questions, please feel free to contact me at pmack@nd.gov or by phone at P&A, (701) 328-3975.

House Judiciary Committee
HCR 3026
March 1, 2023

Chairman Klemin and members of the House Judiciary Committee, my name is Patrick Bertagnolli, and I am the Executive Director for Job Service North Dakota. I submit this testimony in support of HCR 3026.

I have been a member of the Workforce Development Council (The Council) since 2014 and continue to serve on The Council in my current capacity as Executive Director of Job Service North Dakota. Through The Council's work, we have recognized the need to provide support to populations with barriers to employment, and Ex-Offenders were identified as one such population. These individuals experience barriers to entering the workforce, including the life-long impact of a criminal conviction on their record. Without a steady paycheck allowing for basic needs to be met, many ex-offenders return to the prisons as indicated by North Dakota's recidivism rate of 40.3% in 2020.

Currently North Dakota has returned to pre-pandemic unemployment levels with a rate of 2.2% in December of 2022. North Dakota is also one of five states who have the highest labor participation rate in the nation, but we continue to have a high number of open jobs. These are key indicators that there is a gap in the availability of workers across the state. Ex-offenders are a target group to fill these jobs, including in-demand positions in skilled trades, transportation, IT, and a wide variety of other industries.

Job Service North Dakota Workforce Centers work with ex-offenders across the state, often partnering with other agencies to help remove barriers to meaningful employment. With support of The Council, we requested additional funding for a Job Placement Pilot program through a partnership with the Department of Corrections and Rehabilitation. This program will allow a more focused approach to the ex-offender population.

We welcome the opportunity to participate in studies to assess re-entry services available throughout the state and we support having the ability to recognize and maximize resources through state and private partnerships. Through this type of holistic approach, we can identify additional strategies to remove barriers and allow ex-offenders to engage in meaningful work and improve employment outcomes.

Testimony on House Concurrent Resolution 3026
By Jacob Agus-Kleinman, Senior Policy Analyst, Council of State Governments Justice Center
March 1, 2023

Good morning,

Thank you for the opportunity to testify today on House Concurrent Resolution 3026. My name is Jacob Agus-Kleinman and I am a Senior Policy Analyst at the Council of State Governments (CSG) Justice Center. The CSG Justice Center is a national, non-profit, non-partisan organization that works with all branches of government to help states improve outcomes for youth and adults in the justice system. As part of our work, we have supported states across the country in implementing re-entry practices designed to improve outcomes and reduce recidivism across both juvenile and adult justice systems.

Over the last seven years, the CSG Justice Center has had the opportunity to work with both the adult and juvenile justice systems in North Dakota to facilitate a range of efforts to align policies and practices with what we know from research works to reduce recidivism and improve outcomes for youth and adults. This has included establishing a designation of Child in Need of Services to support access to services outside of the Juvenile Court and investing savings from reductions in corrections populations to invest in community behavioral services for individuals in the criminal justice system. These successes provide a strong foundation for North Dakota to make even further improvements to its juvenile and criminal justice systems and focus on ensuring that every young person and adult are successfully reintegrated into the community following a period of incarceration.

As a national organization that has worked in almost every state throughout the country, we consistently see the impact that research based best practice has on reducing recidivism and improving outcomes for youth and adults re-entering the community. States have worked to implement these best practices across a range of topics, including behavioral health, economic mobility, and education in order to improve re-entry, reduce recidivism, and improve outcomes. For example, in Florida, a partnership with community based treatment providers to deliver pre- and post-release services to individuals with co-occurring mental health and substance use disorders was part of a series of reforms which dropped the three year recidivism rate 27 percent. Similarly, in South Dakota, after a statewide assessment process, the South Dakota Reentry Council worked to improve interagency case management, identify statutory and practice-based barriers to reintegration, and addressed gaps in community-based re-entry services as part of an effort that led to a 14 percent reduction in the recidivism rate across the state. Furthermore, as knowledge around the impacts of barriers has continued to evolve, states have engaged in projects to reduce barriers to licensure and hiring and increased access to post-secondary education to support individuals in pursuing meaningful careers as they re-enter the community. A RAND study found that nationally, individuals who engaged in correctional education had 43 percent lower odds of recidivating than those who did not, and were 13 percent more likely to be employed post release.

These examples show the public safety benefits of improving reentry policies and practices. Ensuring that the highest-risk offenders in the juvenile and criminal justice system have effective reentry services and supports is amongst the most important next steps that North Dakota can take to promote increased community safety and create pathways to economic mobility for youth and adults in the justice system. Thank you for your time and the opportunity to testify today, and I am happy to answer any questions.

Kathleen Atkinson, osb
701.426.8747

Committee Testimony for House Concurrent Resolution 3026
House Judiciary Committee

Mister Chairman and Members of the Judiciary Committee.
Thank you for the opportunity to speak today.

My name is Sister Kathleen Atkinson. I serve as the director of *Ministry on the Margins*, an ecumenical, volunteer-based program serving over 1200 people a week. Along with a food pantry, street outreach, and emergency sheltering; we're involved with spiritual groups in the men's penitentiary, women's penitentiary and Missouri River Correctional Center, the *Free Through Recovery* Program, a Families of the Incarcerated Support Group, and the DOCR Children of the Incarcerated Initiative. Ministry on the Margins currently employs 6 people who are second chance hires and we're actively involved in supporting men and women who have been incarcerated to **attain** and **maintain** employment. I've been blessed to do this work full time for 9 years.

Many of these programs are possible because of the work of previous legislative studies, committees, and the subsequent laws passed. A great amount of funding is being invested in rehabilitation and re-entry of our incarcerated citizens back into the community – more than 95% will once again become our neighbors, employees, colleagues. Success of these public and private programs not only save taxpayer dollars, but support more people to become taxpayers and contributing community members. There **is success** and there **is also a great challenge** as evidenced by North Dakota's 40.3 percent recidivism rate. House Concurrent Resolution No 3026 continues the process of any successful strategic planning: 1)Identify the problem, 2)Promote possible solutions, 3)Establish funding, 4)Implement, 5) Evaluate, 6)Improve. This resolution simply establishes a study for steps 5 and 6 – evaluate and improve.

It is fiscally responsible to do so.

Even more profoundly, re-entry is about changing lives rather than just doing time and that's hard work. But it's worth it. Because our people and our communities are worth it.

**HOUSE JUDICIARY COMMITTEE
REPRESENTATIVE LAWRENCE KLEMIN, CHAIR
MARCH 8, 2023**

**TOM ERHARDT, DIRECTOR, PAROLE AND PROBATION
PRESENTING TESTIMONY IN SUPPORT OF HOUSE CONCURRENT RESOLUTION
3026**

Chairman Klemin and members of the House Judiciary Committee, my name is Tom Erhardt, and I am the Director of Parole and Probation, a division of the North Dakota Department of Corrections and Rehabilitation (DOCR). I stand before you today to provide testimony in support of House Concurrent Resolution 3026, which would direct Legislative Management to consider studying re-entry outcomes for incarcerated adults and youth.

North Dakota has a history of engaging in re-entry efforts. In 2003, the DOCR applied to the National Institute of Corrections (NIC) for technical assistance to implement the Transition from Prison to Community Initiative (TPCI). Formal assistance from NIC ended in 2009. The initiative was based on the following assumptions: (1) Corrections, sentencing and release authorities, supervision, and human service agencies have a common interest in improving transition, and all benefit from improved transition; (2) These agencies need to collaborate to align practices and policies, strategically plan and problem solve together, improve case planning and management, and implement performance-based monitoring; and (3) practices should be based on recidivism-reduction research. The DOCR and other stakeholders involved in the TPC initiative adopted the philosophy of recidivism reduction and focused efforts on implementing research-based strategies to reduce recidivism. Recidivism was defined

as reducing the number of people released from prison who return to prison within 12, 24, and 36 months following their release.

In 2007, the DOCR invited state, local, and community based agency leaders from the Department of Human Services, Department of Health, county sheriff, district judge, legislators, Housing Finance Agency, Job Service, Department of Commerce, ND Homeless Coalition, Department of Transportation, ND Indian Affairs Commission, ND States Attorney's Association, Minot State University Rural Crime and Justice Center, Mental Health America of North Dakota, Commission on Legal Defense for Indigents, and the Office of the State Court Administrator to work on re-entry issues. These leaders studied several issues and commissioned a Steering Committee to develop strategies to address barriers to successful reentry.

The accomplishments of the initiative and ongoing efforts include the following:

- Improved sharing of the presentence investigation.
- Developed the sex offender and mental health release and integration project to provide collaborative case management and communication between prisons, parole and probation, and service providers.
- Created an arrangement with the Department of Transportation for visits to the prisons to issue state ID cards to incarcerated people being released.
- Enhanced employability by assessing and providing workforce training to incarcerated people.
- Reduced short-sentenced offenders sentenced to 6 months or less, because it does not allow time to deliver risk-reduction programming.
- Expanded local reentry teams to Grand Forks and Devils Lake
- Contracted with transitional facilities in Grand Forks, Devils Lake, Fargo, Bismarck, and Mandan to provide the ability for a more gradual transition process. Approximately half of the people being released from incarceration do so through either a transitional facility or a minimum-security placement.
- Referred incarcerated people to Free Through Recovery so they can establish a relationship with a care coordinator prior to release and receive assistance scheduling needed referrals.

North Dakota also adopted the TPC Model, in which reentry starts at sentencing.

State laws and sentences have a significant impact on re-entry. For example, N.D.C.C.

Section 12.1-32-09.1 prevents defendants who are convicted of certain violent offenses from being released from incarceration until eighty-five percent of their sentence is served. Because this is roughly the length of a sentence less good time, this often does not allow time for parole or stepped down release from prison.

On the surface, one could argue that a long sentence of traditional incarceration is fair punishment for violent crimes. But I always ask people is, “How do you want violent offenders to come back to your community?”, because they are coming back to your community. As of February 27, 2023, there are 52 individuals incarcerated in the DOCR with a life without parole sentence, and 43 with a life with the possibility of parole sentence. That is 95 people. On February 27, 2023, the DOCR population count was 1,823. This means that 1,753 people, or 96 percent of the current prison population will be released back to our communities. Because the “85 percent” law does not allow for parole supervision, and it is not guaranteed that the court will order supervised probation after the incarceration, some of these offenders end up back in the community without supervision and without an appropriate opportunity to transition. Wouldn't you rather have some assurance that these violent offenders have correctional supervision and preferably be directed to stay at an approved location away from their victims as they reenter and adjust to the community after incarceration?

The DOCR also understands that re-entry planning for those 1,753 people needs to start the day they arrive in prison. Incarcerated people go through a four-week orientation phase to assess their risk, classify them for housing, and evaluate them for treatment needs. At week four, the DOCR's case planning committee meets to review the assessments, recommend a parole review date if the individual is eligible, and plan

for recommended treatment to occur as close to release as possible. The individual is then placed in a housing unit to serve their sentence, and take advantage of other education, work, and rehabilitative opportunities.

Re-entry planning is managed by the DOCR's Transitional Planning Services division (TPS). Transitional Planning Services Director, Steve Hall, is also the clerk to the North Dakota Parole Board. Approximately 70 percent of all releases from incarceration in North Dakota are by the authority of the Parole Board.

N.D.C.C. Chapter 12-59 provides the authority for the Governor to appoint a six-member Parole Board to review applications for parole and decide on releases. The Parole Board meets once per month, three members meet on a rotating basis, and two of the three must agree for any action to take place. Each individual applying for parole must submit a parole plan that is investigated by parole and probation staff, and a report submitted to the Board.

Other transitional opportunities for incarcerated people include placement in transitional facilities throughout the state and an opportunity for job placement if housed at the minimum-security Missouri River Correctional Center for males or the Heart River Correctional Center and Dakota Women's Correctional and Rehabilitation Center for females. The DOCR has also started working with Ward County Detention Center and Southwest Multi County Correctional Center in Dickinson to transition individuals through these local correctional facilities and provide them with treatment and work release opportunities as they return to those communities.

In 2013, the DOCR focused resources on a complete overhaul of the treatment services it offers. Manualized, cognitive-behavioral, skill-based treatment was

implemented throughout the DOCR's facilities and contract transitional facilities.

Research shows that programs that teach individuals how to think differently and behave differently in risky situations result in the greatest reduction in recidivism.

The re-entry goals the DOCR has recently established in our strategic plan are:

- By 2025, reduce the percentage of incarcerated people who return to prison to under 15 percent within one year, under 28 percent within two years, and under 35 percent within three years.
- Increase the percentage of residents who release from incarceration with an ID card from 65 percent to 75 percent.
- Increase the percentage of parole releases to stable housing (instead of transitional facilities) from 55 percent to 63 percent.
- Increase the percentage of individuals discharging from prison who have applied for Medicaid from 29 percent to 33 percent.
- Establish a baseline and increase the percentage of individuals released from prison who are employed within 90 days by 15 percent.
- Establish a baseline and reduce the percentage of adults on supervision who are homeless by 15 percent.
- Increase the percentage of residents eligible for Free Through Recovery releasing from prison who apply for Free Through Recovery from 28 percent to 32 percent.
- Establish a baseline and reduce the percentage of individuals who are in Free Through Recovery who return to prison, abscond supervision, or drop out of the program without completing their goals.
- Increase the percentage of incarcerated individuals who have at least one in-person visit from 9 percent to 11 percent.
- Establish a baseline and increase the percentage of incarcerated individuals with a valid driver's license or other reliable transportation by 15 percent.

In summary, the DOCR has taken the approach that re-entry starts upon arrival, and successful re-entry for incarcerated people causes less crime, fewer victims, and less taxpayer money spent on corrections. However, the DOCR cannot achieve successful re-entry for incarcerated adults without help from a wide range of stakeholders. A study of re-entry in North Dakota should provide policy and resources for all stakeholders to support not only the goals the DOCR has established and consider new goals to enhance the public safety of our great State. Mr. Chairman and

members of the Committee, I ask you to adopt the recommendation for this study on re-entry outcomes for incarcerated adults and youth. I will stand for any questions.

House Judiciary Committee
HR 3026
March 6, 2023

Chairman Klemin and members of the Committee,

My name is Andrew Frobig. I am the Jail Administrator for the Cass County Sheriff's Office, and I am submitting this testimony in support of HR 3026, a resolution to study improving re-entry outcomes.

Re-entry services are a crucial component in reducing the recidivism rate in our state. For however many legislative sessions I can recall, there have been multiple efforts undertaken to address this issue, and from many perspectives. There has been legislation to modify sentencing and offense levels for crimes such as drug and drug paraphernalia possession, regrading of theft offenses, and a presumption of probation for first-offense felonies, all in an effort to reduce the negative impacts on offenders. At the same time, we have seen legislative efforts to address other crimes such as DUI with a deterrent approach, by increasing mandatory minimums or implementing mandatory monitoring programs such as the 24/7 program, and efforts during the current session in progress at increasing offense levels or mandatory minimums in other crime categories.

Still, in the law enforcement community, and especially within corrections, we continue to experience turnover of repeat offenders at an alarming rate. Further, there are identifiable trends with many of those who recidivate by committing larger and more serious offenses. From the inside, over the course of my career, I repeatedly witness individuals who accelerate on a downward spiral of addiction, possession offenses that escalate to trafficking offenses, minor thefts that escalate to burglary rings, arrest resistance that escalates to aggravated assault of medical or law enforcement professionals, minor domestics that escalate to aggravated and repeated abuse. Various stakeholders debate the proper way to address this escalating recidivism, with no discernable positive impact in the overall rates. The negative consequences of addiction continue to escalate beyond any ability or efforts to address them, the court system continues to be overburdened, and the correctional facilities are unable to keep up with demand for space.

But, in the backdrop of all of those problems, we have also seen a tremendous effort on the part of many private entities to develop and offer various supports in the areas of employment, housing, treatment, education, and other forms of care or assistance. There are positive outcomes being realized with the relatively small number of individuals who are being connected thru these services.

But, they are still a patchwork of services. We collaborate with each other, and attempt to share data, to help with informed decisions, but often this is insufficient to convince local stakeholders to fund or expand. These services often meet resistance, hesitation to support, and lack of prioritization in conversations or efforts to address crime and recidivism.

I believe this study would be crucial to help identify which of these services are achieving positive results. It will enable the collection and aggregation of data from various sources in a manner that is useful to all stakeholders. It will increase the capacity of governing bodies to make informed and fiscally responsible decisions, to understand the benefits and value of supporting and funding such efforts, and the ability to rationalize those expenses and efforts to the voting public.

Re-entry supports are a critical component if we are to have any hope of improving our criminal justice outcomes. This state would benefit greatly from taking, and funding, an evidence-based approach to these efforts – to better identify those individuals to target with services and better identify which services to provide.



PROTECTION & ADVOCACY PROJECT

400 EAST BROADWAY, SUITE 409

BISMARCK, ND 58501-4071

701.328.2950

**House Judiciary Committee
House Concurrent Resolution 3026
March 8, 2023**

Chairman Klemin and members of the House Judiciary Committee, my name is Daniel Gulya and I am an attorney with the Projection & Advocacy Project (P&A). P&A protects the human, civil, and legal rights of people with disabilities. The agency's programs and services seek to make positive changes for people with disabilities where we live, learn, work, and play.

For several years now P&A has worked collaboratively with various entities within North Dakota to include the Department of Corrections, the Department of Human Services, our county jails, and community-based partners to address the high percentage of individuals with disabilities who become involved in the juvenile and criminal justice systems.

P&A strongly supports the proposed study in this House Concurrent Resolution, with an emphasis on re-entry services and the

efforts to address the high percentage of recidivism that we experience within the state. This topic is very important, and I would suggest that the Committee consider changing this to a shall study rather than one that may be considered by Legislative Management.

Thank you so much for your time today. I would be happy to answer any questions that you may have. If you have any further questions, please feel free to contact me at danigulya@nd.gov or by phone at P&A, (701) 328-3975.

HCR 3026 – Study of Reentry Outcomes

House Judiciary Committee – March 8, 2023 Testimony from Rep. Karla Rose Hanson – District 44

Chairman Klemin and members of the House Judiciary Committee,

My name is Karla Rose Hanson and I represent District 44 in Fargo. Today, I'm introducing House Concurrent Resolution 3026, which seeks to begin our next phase of criminal justice reform in North Dakota by studying reentry outcomes for incarcerated adults and youth.

Background: Criminal Justice Reform in ND

For the last eight years, the North Dakota Legislature has been on a journey to reform our criminal justice system – to maximize public safety, use taxpayer dollars more efficiently, and help people who are justice involved become more productive citizens.

Justice Reinvestment:

This journey began in October 2015 when Gov. Dalrymple, Chief Justice VandeWalle, Attorney General Stenehjem, and Republican and Democratic-NPL legislative leaders requested technical assistance from the Council of State Governments (CSG) Justice Center with support from the Pew Charitable Trusts and the US DOJ Bureau of Justice Assistance to use a data-driven justice reinvestment approach.

The result of this work was the passage of HB 1041 in 2017. This major reform aimed to contain ND's rapidly growing spending on correctional facilities and reinvest a portion of the savings into strategies to reduce recidivism and increase public safety. Primary aspects of the bill included reducing penalties for certain low-level, non-violent offenses and creating Free Through Recovery, an outcomes-driven program to address the fact that a large majority of incarcerated individuals have addiction and mental health issues.

Juvenile Justice:

Following this major reform to our adult system, we next turned to our juvenile system. Thanks to leadership from Chairman Klemin, a newly created Juvenile Justice Commission – which includes both legislators and practitioners – partnered with CSG to conduct an in-depth analysis of current practices and policies related to ND kids who are justice involved. The group reviewed data, statutes and policies and worked with a broad group of stakeholders, including state attorneys, public defenders, court staff, law enforcement, educators, tribal representatives, behavioral health professionals and child welfare officials.

The result of these findings and recommendations was HB 1035, which became law in 2021. HB 1035 modernized state laws related to juvenile justice, which hadn't been overhauled

since 1969, with the purpose of increasing access to services and improving outcomes for youth. Some key provisions in HB 1035 were to create distinct categories for juvenile delinquency, deprivation and child welfare to clearly delineate between these populations so each type of case is handled more consistently and to better enable youth to access social services without formal involvement in the justice system.

What's Next: Reentry Reform

Our next reform opportunity is to improve North Dakota's reentry outcomes.

Reentry is more than avoiding a return to prison or jail. It means meeting a wide variety of needs to help people successfully transition back to society. It includes education and job training, the removal of barriers to employment and stable housing, transportation, mental health services, recovery support, parenting and other personal skill building, and more.

As you know, roughly 95% of people who are incarcerated in North Dakota's prisons and jails are eventually released – so they return to being our neighbors. We have a strong interest in ensuring our neighbors can be as successful as possible in our communities.

North Dakota releases about 1,400 people from its state prison system every year, plus thousands more from our county jails.

Thankfully, our state has a strong network of both public and private services to reduce the chance of these folks returning to prison or jail. These state agencies and non-profit organizations help on many fronts. They reduce barriers to stable employment and housing, connect people to substance use treatment and recovery services, deliver support services and more. Let me highlight some of the excellent reentry work being done today:

- **DOCR:** The forward-thinking leaders at DOCR have developed a multi-pronged approach to improving reentry success for offenders – including a variety of education initiatives, community supervision and coaching done by Parole & Probation officers, and transitional planning efforts.
- **DHHS:** In addition to offering direct services for behavioral health needs through regional human services centers, the Free Through Recovery Program created by the 2017 reforms has been very successful. It has served just shy of 5,000 people over five years and has reduced recidivism with those at higher criminogenic risk.
- **ND Job Service:** Seeing an opportunity to connect formerly incarcerated people with our state's 30,000+ open jobs, ND Job Service has envisioned a Job Placement Pilot Program in partnership with DOCR to help ex-offenders re-enter the workforce and stay there successfully.
- **Local Jails:** Our county jails are on the front lines, connecting people to supportive services such as care coordinators, housing navigators (in Cass County, 40% of those

in jail with local charges are homeless), drug treatment programs, and faith-based group programming to improve skills around parenting and anger management.

- **F5 Project:** This statewide nonprofit organization provides personalized support for those leaving incarceration, aiming to reduce barriers to finding employment and housing, helping them develop life skills, and creating a bridge to other resources.
- **Ministry on the Margins:** This volunteer-based ecumenical ministry in Bismarck supports people during times of transition, including prison-to-society support. Sister Kathleen Atkinson, director of this program, is unable to attend this hearing today but submitted testimony in support of this study. She emphasized how this work can change people's lives and help them become contributing members of society.

Despite these important efforts, however, **North Dakota's recidivism rate is around 40%**. The law enforcement community sees concerning trends related to repeat offenders; this is emphasized in the submitted testimony from Captain Andrew Frobig who leads the Cass County jail. Leaders doing this work tell me that we see the most success when we connect people to services to help their transition, but unfortunately, the existing reentry services can be an insufficient patchwork.

By taking a comprehensive look at our reentry efforts, and identifying and building on the most effective services, we can reduce the rate that people return to prison and jail – which will save taxpayer dollars, improve public safety, and help people become productive members of our workforce and society.

Phase One: Assessment

This resolution asks for a legislative study on reentry as our next phase of criminal justice reform. I envision that this work could be handled in a similar way to the adult and juvenile reforms we've enacted over the last eight years.

I propose a holistic approach over at least two biennia. **This study resolution focuses on the first phase, where we would assess the landscape** of the current range of reentry services during the first biennium. In the subsequent biennium, as part of phase two, we would implement the resulting recommendations.

As part of the assessment in phase one, we can look at data, practices and policies; identify gaps in services and needed coordination across groups; and recommend ways to take the most effective & efficient services to the next level to maximize impact. Given our state's workforce shortages and the fact that financial resources are not unlimited, these recommendations will help us be smart about our priorities and investments going forward.

We can model our approach after the adult and juvenile work done previously, forming a **dedicated working group** that includes both legislators and practitioners and partnering with a national justice organization for technical support.

The resolution before you lists who might participate in such a working group: legislators, representatives from nonprofit organizations that assist with re-entry, community members with re-entry experience, plus representatives from the DOCR, county jails, the Behavioral Health Division of DHHS, the courts, job service or the business community, adult and postsecondary education institutions, and tribal nations. We should ensure the workgroup members represent both urban and rural communities.

The working group may want to have a special focus on targeted services for specific populations that have a **disproportionate representation** in our criminal justice system. These include members of tribal nations, people ages 18-24, the seriously mentally ill, and women. North Dakota also struggles to provide adequate reentry services in our rural areas.

By receiving **technical assistance** from either the CSG Justice Center or the Crime and Justice Institute, we could get a clear picture of what has worked well elsewhere and how those **data-driven best practices** could be incorporated into the work we do here. Their recommendations would establish the scope of work for phase two, the implementation phase in the subsequent biennium. We have several options for funding the technical assistance, if you chose to go that route. Legislative Management has a budget for its interim studies, including third-party assistance. Or, there may be grant opportunities through federal legislation including the Safer Communities Act and Second Chance Act. Additionally, CSG or CJI may be able to assist us in securing additional federal grants for the subsequent phase of implementing whatever recommendations result from the assessment.

Committee, thank you for considering this study on reentry outcomes as our next phase of criminal justice reform in North Dakota. I'm happy to answer any questions.

HCR 3026 – Study of Reentry Outcomes

Senate Workforce Development Committee – March 23, 2023

Testimony from Rep. Karla Rose Hanson – District 44

Chairman Wobbema and members of the Senate Workforce Development Committee,

My name is Karla Rose Hanson and I represent District 44 in Fargo. Today, I'm introducing House Concurrent Resolution 3026, which seeks to begin our next phase of criminal justice reform in North Dakota by studying reentry outcomes for incarcerated adults and youth.

Background: Criminal Justice Reform in ND

For the last eight years, the North Dakota Legislature has been on a journey to reform our criminal justice system – to maximize public safety, use taxpayer dollars more efficiently, and help people who are justice involved become more productive citizens.

Justice Reinvestment:

This journey began in October 2015 when Gov. Dalrymple, Chief Justice VandeWalle, Attorney General Stenehjem, and Republican and Democratic-NPL legislative leaders requested technical assistance from the Council of State Governments (CSG) Justice Center with support from the Pew Charitable Trusts and the US DOJ Bureau of Justice Assistance to use a data-driven justice reinvestment approach.

The result of this work was the passage of HB 1041 in 2017. This major reform aimed to contain ND's rapidly growing spending on correctional facilities and reinvest a portion of the savings into strategies to reduce recidivism and increase public safety. Primary aspects of the bill included reducing penalties for certain low-level, non-violent offenses and creating Free Through Recovery, an outcomes-driven program to address the fact that a large majority of incarcerated individuals have addiction and mental health issues.

Juvenile Justice:

Following this major reform to our adult system, we next turned to our juvenile system. A newly created Juvenile Justice Commission – which includes both legislators and practitioners – partnered with CSG to conduct an in-depth analysis of current practices and policies related to ND kids who are justice involved. The group reviewed data, statutes and policies and worked with a broad group of stakeholders, including states attorneys, public defenders, court staff, law enforcement, educators, tribal representatives, behavioral health professionals and child welfare officials.

The result of these findings and recommendations was HB 1035, which became law in 2021. HB 1035 modernized state laws related to juvenile justice, which hadn't been overhauled

since 1969, with the purpose of increasing access to services and improving outcomes for youth. Some key provisions in HB 1035 were to create distinct categories for juvenile delinquency, deprivation and child welfare to clearly delineate between these populations so each type of case is handled more consistently and to better enable youth to access social services without formal involvement in the justice system.

What's Next: Reentry Reform

Our next reform opportunity is to improve North Dakota's reentry outcomes.

Reentry is more than avoiding a return to prison or jail. It means meeting a wide variety of needs to help people successfully transition back to society. It includes education and job training, the removal of barriers to employment and stable housing, transportation, mental health services, recovery support, parenting and other personal skill building, and more.

About 96% of people who are incarcerated in North Dakota's prisons and jails are eventually released – so they return to being our neighbors. North Dakota releases about 1,400 people from its state prison system every year, plus thousands more from our county jails. We have a strong interest in ensuring our neighbors can be as successful as possible in our communities.

Thankfully, our state has a strong network of both public and private services to reduce the chance of these folks returning to prison or jail. These state agencies and non-profit organizations help on many fronts. They reduce barriers to stable employment and housing, connect people to substance use treatment and recovery services, deliver support services and more. Let me highlight some of the excellent reentry work being done today:

- **DOCR:** The forward-thinking leaders at DOCR have developed a multi-pronged approach to improving reentry success for offenders – including a variety of education initiatives, community supervision and coaching done by Parole & Probation officers, and transitional planning efforts.
- **DHHS:** In addition to offering direct services for behavioral health needs through regional human services centers, the Free Through Recovery Program created by the 2017 reforms has been very successful. It has served just shy of 5,000 people over five years and has reduced recidivism with those at higher criminogenic risk.
- **ND Job Service:** Seeing an opportunity to connect formerly incarcerated people with our state's 30,000+ open jobs, ND Job Service has envisioned a Job Placement Pilot Program in partnership with DOCR to help ex-offenders re-enter the workforce and stay there successfully.
- **Local Jails:** Our county jails are on the front lines, connecting people to supportive services such as care coordinators, housing navigators (in Cass County, 40% of those

in jail with local charges are homeless), drug treatment programs, and faith-based group programming to improve skills around parenting and anger management.

- **F5 Project:** This statewide nonprofit organization provides personalized support for those leaving incarceration, aiming to reduce barriers to finding employment and housing, helping them develop life skills, and creating a bridge to other resources.
- **Ministry on the Margins:** This volunteer-based ecumenical ministry in Bismarck supports people during times of transition, including prison-to-society support. Sister Kathleen Atkinson, director of this program, supports this study and emphasizes how this work can change people's lives and help them become contributing members of society.

Despite these important efforts, however, **North Dakota's recidivism rate is around 40%**. The law enforcement community sees concerning trends related to repeat offenders; this is emphasized in the submitted testimony from Captain Andrew Frobig who leads the Cass County jail. Leaders doing this work tell me that we see the most success when we connect people to services to help their transition, but unfortunately, the existing reentry services can be an insufficient patchwork.

By taking a comprehensive look at our reentry efforts, and identifying and building on the most effective services, we can reduce the rate that people return to prison and jail – which will save taxpayer dollars, improve public safety, and help people become productive members of our workforce and society.

Phase One: Assessment

This resolution asks for a legislative study on reentry as our next phase of criminal justice reform. I envision that this work could be handled in a similar way to the adult and juvenile reforms we've enacted over the last eight years.

I propose a holistic approach over at least two biennia. **This study resolution focuses on the first phase, where we would assess the landscape** of the current range of reentry services during the first biennium. In the subsequent biennium, as part of phase two, we would implement the resulting recommendations – which would be our Reentry Success Act.

As part of the assessment in phase one, we can look at data, practices and policies; identify gaps in services and needed coordination across groups; and recommend ways to take the most effective & efficient services to the next level to maximize impact. Given our state's workforce shortages and the fact that financial resources are not unlimited, these recommendations will help us be smart about our priorities and investments going forward.

We can model our approach after the adult and juvenile work done previously, forming a **dedicated working group** that includes both legislators and practitioners and partnering

with a national justice organization for technical support. This could be our Reentry Success Council.

The resolution before you lists who might participate in such a working group: legislators, representatives from nonprofit organizations that assist with re-entry, community members with re-entry experience, plus representatives from the DOCR, county jails, the Behavioral Health Division of DHHS, the courts, job service or the business community, adult and postsecondary education institutions, and tribal nations. We should ensure the workgroup members represent both urban and rural communities.

The working group may want to have a special focus on targeted services for specific populations that have a disproportionate representation in our criminal justice system. These include members of tribal nations, people ages 18-24, the seriously mentally ill, and women. North Dakota also struggles to provide adequate reentry services in our rural areas.

By receiving **technical assistance** from either the CSG Justice Center or the Crime and Justice Institute, we could get a clear picture of what has worked well elsewhere and how those **data-driven best practices** could be incorporated into the work we do here. Their recommendations would establish the scope of work for phase two – the implementation phase in the subsequent biennium. These organizations have worked with other states, including Florida, South Dakota, Nevada and Tennessee, to do similar assessments followed by implementation of recommendations, and these states have seen significant improvements in recidivism rate as a result.

We have several options for funding the technical assistance, if you chose to go that route. Legislative Management has a budget for its interim studies, including third-party assistance. Or, there may be grant opportunities through federal legislation including the Safer Communities Act and Second Chance Act. Additionally, CSG or CJI may be able to assist us in securing additional federal grants for the subsequent phase of implementing whatever recommendations result from the assessment.

Committee, thank you for considering this study on reentry outcomes as our next phase of criminal justice reform in North Dakota. I'm happy to answer any questions.

**SENATE WORKFORCE DEVELOPMENT COMMITTEE
SENATOR MICHAEL WOBBERMA, CHAIR
MARCH 23, 2023**

**TOM ERHARDT, DIRECTOR, PAROLE AND PROBATION
PRESENTING TESTIMONY IN SUPPORT OF HOUSE CONCURRENT RESOLUTION
3026**

Chairman Wobbema and members of the Senate Workforce Development Committee, my name is Tom Erhardt, and I am the Director of Parole and Probation, a division of the North Dakota Department of Corrections and Rehabilitation (DOCR). I stand before you today to provide testimony in support of House Concurrent Resolution 3026, which would direct Legislative Management to consider studying re-entry outcomes for incarcerated adults and youth.

North Dakota has a history of engaging in re-entry improvement efforts. In 2003, the DOCR applied to the National Institute of Corrections (NIC) for technical assistance to implement the Transition from Prison to Community Initiative (TPCI). Formal assistance from NIC ended in 2009. The DOCR and other stakeholders involved in the TPC initiative adopted the philosophy of recidivism reduction and focused efforts on implementing research-based strategies to reduce recidivism. Recidivism was defined as reducing the number of people released from prison who return to prison within 12, 24, and 36 months following their release.

In 2007, the DOCR invited federal, state, local, and community based agency leaders from to work on re-entry issues. These leaders studied several issues and commissioned a Steering Committee to develop strategies to address barriers to successful reentry.

North Dakota also adopted the TPC Model, focusing on different decision points within a person's incarceration and community supervision to make system improvements. Reentry planning starts upon arrival in prison where assessments, treatment, and education services are offered to incarcerated individuals. Release planning starts approximately 6 months prior to the release date. Individuals are released from prison to parole supervision for those eligible and granted, probation supervision for those sentenced ordered by the district court, or to expiration of sentence where no community supervision will take place.

As of February 27, 2023, there are 52 individuals incarcerated in the DOCR with a life without parole sentence, and 43 with a life with the possibility of parole sentence. That is 95 people. On February 27, 2023, the DOCR population count was 1,823. This means that 1,753 people, or 96 percent of the current prison population will be released back to our communities. HCR 3026 would help improve outcomes leading to more productive citizens and less crime in North Dakota. The re-entry goals the DOCR has recently established in our strategic plan are:

- By 2025, reduce the percentage of incarcerated people who return to prison to under 15 percent within one year, under 28 percent within two years, and under 35 percent within three years.
- Increase the percentage of residents who release from incarceration with an ID card from 65 percent to 75 percent.
- Increase the percentage of parole releases to stable housing (instead of transitional facilities) from 55 percent to 63 percent.
- Increase the percentage of individuals discharging from prison who have applied for Medicaid from 29 percent to 33 percent.
- Establish a baseline and increase the percentage of individuals released from prison who are employed within 90 days by 15 percent.
- Establish a baseline and reduce the percentage of adults on supervision who are homeless by 15 percent.

- Increase the percentage of residents eligible for Free Through Recovery releasing from prison who apply for Free Through Recovery from 28 percent to 32 percent.
- Establish a baseline and reduce the percentage of individuals who are in Free Through Recovery who return to prison, abscond supervision, or drop out of the program without completing their goals.
- Increase the percentage of incarcerated individuals who have at least one in-person visit from 9 percent to 11 percent.
- Establish a baseline and increase the percentage of incarcerated individuals with a valid driver's license or other reliable transportation by 15 percent.

In summary, the DOCR has taken the approach that re-entry starts upon arrival, and successful re-entry for incarcerated people leads to less crime, fewer victims, and less taxpayer money spent on corrections. However, the DOCR cannot achieve successful re-entry for incarcerated adults without help from a wide range of stakeholders. A study of re-entry in North Dakota should provide policy and resources for all stakeholders to support not only the goals the DOCR has established and consider new goals to enhance the public safety of our great State. Mr. Chairman and members of the Committee, I ask you to adopt the recommendation for this study on re-entry outcomes for incarcerated adults and youth. I will stand for any questions.

Kathleen Atkinson, osb
701.426.8747

Committee Testimony for House Concurrent Resolution 3026
Senate Workforce Committee

Mister Chairman and Members of the Committee.
Thank you for the opportunity to speak today.

My name is Sister Kathleen Atkinson. I serve as the director of *Ministry on the Margins*, an ecumenical, volunteer-based program serving over 1200 people a week. Along with a food pantry, street outreach, and emergency sheltering; we're involved with spiritual groups in the men's penitentiary, women's penitentiary and Missouri River Correctional Center, the *Free Through Recovery* Program, a Families of the Incarcerated Support Group, and the DOCR Children of the Incarcerated Initiative. Ministry on the Margins currently employs 6 people who are second chance hires and we're actively involved in supporting men and women who have been incarcerated to **attain** and **maintain** employment. I've been blessed to do this work full time for 9 years.

Many of these programs are possible because of the work of previous legislative studies, committees, and the subsequent laws passed. A great amount of funding is being invested in rehabilitation and re-entry of our incarcerated citizens back into the community – more than 95% will once again become our neighbors, employees, colleagues. Success of these public and private programs not only save taxpayer dollars, but support more people to become taxpayers and contributing community members. There **is success** and there **is also a great challenge** as evidenced by North Dakota's 40.3 percent recidivism rate. House Concurrent Resolution No 3026 continues the process of any successful strategic planning: 1)Identify the problem, 2)Promote possible solutions, 3)Establish funding, 4)Implement, 5) Evaluate, 6)Improve. This resolution simply establishes a study for steps 5 and 6 – evaluate and improve.

It is fiscally responsible to do so.

Even more profoundly, re-entry is about changing lives rather than just doing time and that's hard work. But it's worth it. Because our people and our communities are worth it.