

This material represents the first draft of an eventual policy package; there will be several more iterations before the bill is finalized for submissions. Not all ideas discussed to date are included in this content, additional material will be brought forward at the September meeting. It is likely that not all ideas included in this content or corresponding bill draft will be included in the final bill filed in October. The goal of this document is to aid discussion the ideas and intent of the proposed policies.

You may notice discrepancies between the bill draft distributed today and ideas presented in these slides. Conversations with a number of stakeholders shaped these policy ideas, and some changes were made while the official bill draft was processing in the North Dakota system. Ideas presented in this content are more current than language in the bill draft.

GOALS OF JUSTICE REINVESTMENT IN NORTH DAKOTA

- **Avoid hundreds of millions in corrections spending.**
- **Improve services and resources for victims of crime.**
- **Reduce recidivism with stronger supervision.**
- **Expand access to high quality programs and treatment.**

POLICIES TO SUPPORT VICTIMS OF CRIME

- **Policy Option #1:** Create stronger protections for survivors of domestic violence and help promote reform and recovery for batterers.

POLICIES TO AVERT GROWTH IN PRISON POPULATIONS AND CORRECTIONS COSTS

- **Policy Option #2:** Hold people with lower-level offenses accountable with probation and treatment.
- **Policy Option #3:** Tailor responses to supervision based on risk and seriousness.
- **Policy Option #4:** Increase use of good time sentence reductions to limit time in incarceration.

POLICIES TO REDUCE RECIDIVISM BY STRENGTHENING COMMUNITY SUPERVISION

- **Policy Option #5:** Use swift, certain, and proportionate sanctions and incentives for individuals on probation or parole
- **Policy Option #6:** Frontload supervision resources during the period risk of recidivism is the highest.
- **Policy Option #7:** Focus supervision resources on those most likely to re-offend.
- **Policy Option #8:** Ensure that people with violent offenses released from prison to the community are supervised.

Detailed Policy Options

POLICIES TO SUPPORT VICTIMS OF CRIME

POLICY #1: Create stronger protections for survivors of domestic violence and help promote reform and recovery for batterers

1A. Require that all defendants with pending charges related to domestic violence undergo a pretrial risk assessment, including a **lethality assessment**, to inform decisions to detain or release before trial.

1B. Require that sentences for offenses defined as domestic violence include a **period of probation**, even for misdemeanor offenses.

1C. The sentence for a domestic violence offense must include an order to **complete a batterers intervention program** as a condition of probation.

1D. A **batterers intervention standards oversight committee** shall be formed to establish minimum standards for BIPs, revise the standards as is deemed necessary, and make the standards available to the public.

1E. A batterer's intervention programs must be **certified by the state** in order to meet the conditions of probation.

POLICIES TO AVERT GROWTH IN PRISON POPULATIONS AND CORRECTIONS COSTS

Policy #2: Hold people with lower-level offenses accountable with probation and treatment.

2A. Separate the more than **350 class C felonies** into two classes of offenses. Retain some offenses in as class C felonies and move certain offenses to class A misdemeanors. **Retain current penalties** for class C felonies.

2B. Statutorily establish that the court will impose a **sentence of probation or a fully suspended incarceration sentence** for class A misdemeanors.

2C. Statutorily establish that the court will impose a **sentence of community service** for class B misdemeanors.

2D. **Allow exceptions for sentences to incarceration** if the person is concurrently or consecutively sentenced to imprisonment on a more serious charge or there are substantial and compelling reasons why the defendant cannot be effectively and safety supervised in the community.

Policy #3: Tailor responses to supervision based on risk and seriousness.

3A. **Classify violations of probation and parole** into compliance violations, risk violations, and revocation violations.

3B. Restrict responses to compliance violations to **community sanctions** or short periods of incarceration.

3C. Allow community sanctions or longer periods of **confinement of up to 30 days** for risk violations.

3D. Allow for the initiation of **revocation proceedings** for revocation violations.

Policy #4: Increase use of good time sentence reductions to limit time in incarceration.

4A. Performance criteria includes participation in court-ordered or staff-recommended **treatment and education programs** and **good work performance**.

4B. While incarcerated in a correctional facility, an offender may earn no more than a one-day sentence reduction per six days served. An inmate sentenced to jail may receive good time sentence reductions for any sentence of which incarceration time is longer than 60 days.

4C. An offender may receive **sentence reduction for time spent in custody** prior to sentence and commitment but is not eligible for sentence reduction or sentence reduction credit for time on pretrial probation or other community supervision.

POLICIES TO REDUCE RECIDIVISM BY STRENGTHENING COMMUNITY SUPERVISION

Policy #5: Improve use of swift, certain, and proportionate sanctions and incentives for individuals on probation or parole.

5A. Require probation and parole to apply intermediate measures and incentives in accordance with a **formalized matrix of behaviors and corresponding responses**. The matrix must require officers to **respond swiftly, certainly, and proportionately** to the defendant based on the individual's risk and the severity of the violation and be used in pursuit of improved compliance.

5B. When a petition for revocation is submitted to the court, it must **include documentation of violations and responses to violations** imposed by probation or parole officers.

Policy #6: Frontload supervision resources during the period when risk of recidivism is the highest.

6A. Maintain current caps on **three year probation terms** for class AA, class A, class B and class C felony offenses and maintain the **360 day probation cap** for class B misdemeanors.

6B. **Reduce the cap** for class A misdemeanors to one year.

POLICY #7: **Focus supervision recourses** on those most likely to re-offend.

7A. A defendant is eligible for **presumptive termination and discharge** from probation after a period of 12 consecutive months on probation without a risk or revocation violation. **Exemptions** to automatic termination are made for violent offenders.

7B. If a departure is made from the presumptive termination, the judge shall state on the record the **reason for denying discharge** from supervision.

7C. A defendant with outstanding fines, fees, or restitution orders is **not eligible for early termination**, but may be placed on the lowest level of supervision for the remainder of the payment schedule.

POLICY OPTION 8: Ensure that people with violent offenses released from prison to the community are supervised.

8A. Require violent offenders as defined in subsection 1 of 12.1-32-09.1 to have one year of **post release supervision**.