

## NORTH DAKOTA LEGISLATIVE MANAGEMENT

## Minutes of the

**JUDICIARY COMMITTEE**

Tuesday, February 4, 2020  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Representative Lawrence R. Klemin, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Representatives Lawrence R. Klemin, Ruth Buffalo, Karla Rose Hanson, Pat D. Heinert, Mary Johnson, Daniel Johnston, Terry B. Jones, Karen Karls, Kim Koppelman, Aaron McWilliams, Bob Paulson, Shannon Roers Jones, Steve Vetter; Senators JoNell A. Bakke, Michael Dwyer, Diane Larson, Larry Luick, Janne Myrdal

**Members absent:** Senator John Grabinger; Representative Jim Kasper

**Others present:** Representative Karen M. Rohr, Mandan, member of the Legislative Management  
See [Appendix A](#) for additional persons present.

**It was moved by Senator Larson, seconded by Senator Bakke, and carried on a voice vote that the minutes of the November 13-14, 2019, minutes be approved as distributed.**

**JUVENILE JUSTICE STUDY**

Chairman Klemin called on Mr. Josh Weber, Deputy Division Director, Corrections and Reentry, Council of State Government's Justice Center, for a presentation ([Appendix B](#)) relating to best practice research and the process to be used for the juvenile justice study in North Dakota.

In response to a question from Senator Myrdal, Mr. Weber said faith-based groups are a key aspect of community support for youth.

In response to a question from Representative Hanson, Mr. Weber said some juveniles are incarcerated because of family or mental health needs. He said rather than place the juvenile in a secure facility, the goal is to place a juvenile with someone else in the young person's life for 24 to 36 hours.

In response to a question from Representative Koppelman, Mr. Weber said the Council of State Governments Justice Center's (CSG) initial scope of work is a readiness phase. He said although CSG will not be able to complete a full data analysis, CSG will meet with system stakeholders to compare research and provide preliminary recommendations. He said the hope is to proceed with a consensus-based, data-driven system assessment.

In response to a question from Representative Jones, Mr. Weber said system collaboration will be necessary to determine what services are available through the justice system and child welfare system. He said although the system should increase family engagement through the creation of a family team, including the young person, the family, and service providers, the concept of a family team generally is encouraged through a treatment plan rather than through law.

In response to a question from Senator Bakke, Mr. Weber said one of the key goals is to reduce racial and ethnic disparities. He said data supports the theory that Native American youth in North Dakota are being arrested more frequently and are receiving more intensive services.

Representative Klemin said the Commission on Juvenile Justice's responsibilities are similar to those of the interim judiciary committee. He said the commission also will complete a study of the juvenile justice process and review of North Dakota Century Code Chapter 27-20. He said the commission will submit a report to the Children's Cabinet which may include recommendations for a specific appropriation for updated technology to be used for data collection.

Chairman Klemin called on Dr. Shauna Eberhardt, Clinical Director, and Ms. Emily Altoff, MST Unit Supervisor, MST Services, Southeast Human Service Center, for a presentation ([Appendix C](#)) relating to multisystemic (MST)

therapy for juveniles. Dr. Eberhardt said although the traditional private practice model is focused on individual therapy with a child and lacks family intervention, the Southeast Human Service Center has focused on youth and family interventions. She said the Southeast Human Service Center wanted to look at an evidence-based model with reliable outcomes and now is implementing MST therapy for juveniles.

In response to a question from Senator Dwyer, Dr. Eberhardt said although MST is not operational statewide, there is an effort to determine what model would work best in each region. She said the Southeast Human Service Center chose to pilot MST because the 90-mile radius around the Southeast Human Service Center allows practitioners to provide the intensive level of therapies required.

### **POTENTIAL IMPLICATIONS OF RECREATIONAL MARIJUANA STUDY**

Chairman Klemin called on Ms. Lauren Niehaus, Government Relations Specialist, Harvest Health and Recreation, Inc., for a presentation (Appendices [D](#) and [E](#)) relating to the impact the legalization of recreational marijuana may have on medical marijuana.

In response to a question from Representative Hanson, Ms. Niehaus said although states with recreational marijuana generate sales and excise taxes, most states also allow localities to add tax.

Chairman Klemin called on Ms. Jodi Bjornson, General Counsel, Workforce Safety and Insurance, for a presentation ([Appendix F](#)) relating to the impact recreational marijuana may have on existing law relating to medical marijuana.

In response to a question from Representative Jones, Ms. Bjornson said the statutes that make use of marijuana noncompensable would need to be reviewed. She said it is very difficult to determine intoxication levels based on THC because there is not yet a reliable test to depict a specific intoxication level accurately.

Chairman Klemin called on Mr. David Owen, Chairman, Legalize ND, for a [presentation](#) regarding a statutory measure allowing the use of recreational marijuana. Mr. Owen said if the statutory measure passes, the use of marijuana while driving would remain illegal. He said the measure would establish a 10 percent excise tax to be combined with the local sales tax.

In response to a question from Representative Klemin, Mr. Owen said the sponsoring committee has collected about 11 percent of the required signatures to place the initiative on the ballot.

Chairman Klemin called on Mr. Winston E. Satran, former warden, North Dakota State Penitentiary, for a presentation (Appendices [G](#) and [H](#)) relating to the potential impact of the legalization of marijuana.

Chairman Klemin called on Dr. Joel Blanchard, Enterprise Medical Director, Sanford Health Occupational Medicine Clinics, for a presentation ([Appendix I](#)) relating to the impact of recreational marijuana.

In response to a question from Representative Vetter, Dr. Blanchard said impairment means an individual's reaction time is slowed and the individual's judgment is impaired. He said there is scientific evidence that marijuana use impairs an individual by slowing response time and judgment. He said although there may be differences in the level of impairment depending on the specific drug an individual ingests, impairment is impairment.

In response to a question from Senator Luick, Dr. Blanchard said research indicates an individual subjected to second hand marijuana smoke will have detectable amounts of THC in the individual's blood.

### **CIVIL COMMITMENT STUDY**

Chairman Klemin called on Ms. Karlei Neufeld, Assistant State's Attorney, Burleigh County, for a presentation ([Appendix J](#)) relating to domestic violence protection orders and restraining orders in relation to red flag laws.

In response to a question from Representative Hanson, Ms. Neufeld said the existing orders are used for an individual who is the recipient of a threat. She said the orders typically are not used in a proactive way. She said in her experience, judges always restrict an individual's access to firearms when there is a threat of violence in a domestic violence case.

In response to a question from Representative Vetter, Ms. Neufeld said each order is different and the judge has discretion to limit access to firearms. She said the defendant is responsible for surrendering all firearms to the local sheriff within 4 hours of release.

At the request of Chairman Klemin, the Legislative Council staff reviewed a bill draft [21.0038.01000] relating to preliminary treatment and involuntary hearings. The Legislative Council staff said sections 2 and 3 of the draft include language requiring all parties in a civil commitment proceeding to receive a copy of the medical report pertaining to the hearing at least 24 hours before the hearing. She said the remaining sections update references to coincide with existing definitions.

### IMPLEMENTATION OF ARTICLE XIV STUDY

Chairman Klemin called on Mr. David Thiele, Executive Director, North Dakota Ethics Commission, for a presentation ([Appendix K](#)) relating to the implementation of the North Dakota Ethics Commission.

In response to a question from Representative Koppelman, Mr. Thiele said the Ethics Commission does not want the complaint process to be used as a political weapon. He said the goal is to establish a fair process.

In response to a question from Representative Hanson, Mr. Thiele said although there was initial confusion relating to confidentiality, additional legislative changes are not necessary. He said focusing on the complainant as separate from the witness solves any potential problems because an individual will need to waive confidentiality for the complaint to be used. He said although the commission still is considering whether to accept anonymous complaints, the commission would like to create a process to address the rare situation in which a detailed accounting of a crime is submitted anonymously.

In response to a question from Representative Johnson, Mr. Thiele said traditional rules of evidence do not apply in an administrative process.

In response to a question from Representative Vetter, Mr. Thiele said educating elected officials will be a significant aspect of the commission's work. He said the commission will provide information to prevent other elected officials from making the same mistake.

In response to a question from Representative Jones, Mr. Thiele said although the commission does not have explicit direction to provide advisory opinions, the ability to provide an opinion would be beneficial for everyone.

### REPORTS

Chairman Klemin called on Mr. Randy Miller, Director, North Dakota Lottery, for a report ([Appendix L](#)) regarding the operation of the lottery.

Chairman Klemin called on Mr. Jack K. Schulz, Director, North Dakota Racing Commission, for a report ([Appendix M](#)) regarding the operation of the North Dakota Racing Commission.

Chairman Klemin called on Mr. Travis W. Finck, Deputy Director, Commission on Legal Counsel for Indigents, for a report (Appendices [N](#) and [O](#)) regarding the operation of the Commission on Legal Counsel for Indigents.

### Committee Discussion

Representative Hanson distributed two bill drafts [21.0059.01000] and [21.0060.01000] and a summary ([Appendix P](#)) for the committee to review for the next meeting.

Chairman Klemin said the next meeting is scheduled for March 24, 2020.

No further business appearing, Chairman Klemin adjourned the meeting at 3:30 p.m.

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Samantha E. Kramer  
Counsel

ATTACH:16