

**2019 SENATE JUDICIARY**

**SB 2114**

# 2019 SENATE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Fort Lincoln Room, State Capitol

SB 2114  
1/8/2019  
#30575 (06:06)

- Subcommittee  
 Conference Committee

Committee Clerk: Meghan Pegel

## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact section 5-01-08 of the North Dakota Century Code, relating to the penalty for individuals under twenty-one years of age using alcoholic beverages or entering licensed premises; and to provide a penalty.

## Minutes:

1 Attachment

**Chair Larson** opened the hearing on SB 2114.

**Pamela Sagness**, Director of the Behavioral Health Division of the Department of Human Services, testifies in favor of bill (see attachment #1)

**Sagness:** This was a bill that was passed last session through the Human Services Policy committee. This is just to clarify an error, a number change. It was pointed out by previous Senator Armstrong that we had an error.

**(3:40) Vice Chairman Dwyer:** How was this mistake made?

**Sagness:** We were really surprised because this was not only introduced by the Department and drafted by our legal team, but it was also reviewed through two policy committees and voted. It was simply an error in the referencing of law.

**Vice Chairman Dwyer:** this law was passed 2 years ago?

**Sagness:** Correct.

**Senator Myrdal:** Congressman Armstrong just wants us to remember him.

**Sagness:** It was about a month after session was done that he brought it to our attention. I appreciate the feedback because it was very helpful.

**Senator Myrdal: Moved a Do Pass**

**Senator Osland: Seconded.**

**A Roll Call Vote Was Taken: 6 yeas, 0 nays, 0 absent. Motion carries.**

**Senator Myrdal will carry the bill.**

**2019 SENATE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2114**

Senate Judiciary Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar

Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Senator Myrdal    Seconded By Senator Osland

Senators	Yes	No	Senators	Yes	No
Chair Larson	X		Senator Bakke	X	
Vice Chair Dwyer	X				
Senator Luick	X				
Senator Myrdal	X				
Senator Osland	X				

Total    (Yes) 6    No 0

Absent 0

Floor Assignment Senator Myrdal

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2114: Judiciary Committee (Sen. D. Larson, Chairman) recommends DO PASS**  
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2114 was placed on the  
Eleventh order on the calendar.

**2019 HOUSE JUDICIARY**

**SB 2114**

# 2019 HOUSE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Prairie Room, State Capitol

SB 2114  
3/5/2019  
33224

- Subcommittee  
 Conference Committee

Committee Clerk: DeLores D. Shimek

## **Explanation or reason for introduction of bill/resolution:**

Relating to the penalty for individuals under twenty-one years of age using alcoholic beverages or entering licensed premises; and to provide a penalty.

## **Minutes:**

1

**Chairman Koppelman:** Opened the hearing on SB 2114.

**Pam Sagness, Director of Behavioral Health Division of the Dept., of Human Services:**  
(Attachment #1) Read testimony.

**Chairman K. Koppelman:** Relating to last session. I understand and support the idea we shouldn't have just anyone out there saying I am going to hand out a shingle and be a trainer or conductor of these classes or sessions. What kind of credentialing did we set up and is it reasonable?

**Pam Sagness:** We have been working on reducing regulation. We do know those barriers have been a big problem for us getting work force and excess to behavior health services moving forward. One thing we did was had this be a certification; not licensure. We are providing free training and this will actually increase access. We just trained 27 individuals in December so we are hoping this will open up access in local communities. In some communities in the state now a child will get a minor and they will have to sign up for a class that doesn't happen for six months because there weren't enough people providing. Our ultimate goal was access. There has been a huge investment from local public health. They see this is something they can do as a local service so we have seen local public health become trained and also some of the people who have been previously providing also participated in the training.

**Chairman K. Koppelman:** Do people know about it in the general public?

**Pam Sagness:** We didn't over advertise the first one. Until we can see where the program is going; then we can advertise.

**Rep. Jones:** Line 9 # 4 it says the court may refer the individual to an outpatient addiction facility licensed by the DHS? You just said you were changing from licensing to certification. Do we need to change this?

**Pam Sagness:** That is referring to the license treatment programs. There is a thing called ASAM which is addiction medicine requirements. The minor in possession classes is considered education and not treatment. If someone gets their first minor it is not assumed they need treatment. It would be assumed they need education so that is the level of certification. Licensure comes into play if you actually need treatment. We still license those programs, but that is a different level of care that requires the care of a professional credential.

**Chairman K. Koppelman:** When we talk about rules adopted by the department under 50-06-44; is it administrative code that is being referred to?

**Pam Sagness:** Yes. On the bottom of the first page of my testimony you will see we actually created chapter 75-09.2-01. That is actually the administrative rules that were drafted and done last session. There are rules that guide that certification and there are separate rules that do licensing. We really want to separate what needs a professional license versus what an education that can be done in the community.

**Rep. McWilliams:** So it is a misdemeanor if you are 18 or 19 or 20 years old and you have a beer?

**Pam Sagness:** I don't know if I could want to give reference to anything with what legal charges would be or what the current practice is. I would not want to give an opinion on that.

Opposition: None

Neutral: None

**Cathy Ferderer: Juvenile Court Coordinator for the State Court Administrator's Office:** I just wanted to address the question about the misdemeanor. It would conflict with the juvenile court act which is 27-20.02.19. When you look at that section of the code it defines a child who commits one of these offenses as an unruly child; so the misdemeanor language is more adult terminology, which is really not used in the Juvenile Court Act.

**Chairman K. Koppelman:** This is current law so it is already a Class B misdemeanor.

**Cathy Ferderer:** If you look at the Juvenile Court Act it does bring in the section so under that subsection d it says has committed an offense in violation of Section 5-01.08.

**Rep. Paur:** Line 5, page 2 the court shall sentence? Do you think that is proper?

**Cathy Ferderer:** We often do sentence kid's education classes for these types of offenses. My concern would be; is this available statewide so that is something that they are able to complete.

Hearing closed.

**Rep. Jones:** I like the discussion Rep. Paur brought forward to change that word from that word shall to may. The testimony was a lot of places in the state they don't have these things available and until they get every place available; on line 5, page 2.

**Chairman K. Koppelman:** My only concern about that is what we have done here in the past sessions; we have set this up as a definitive step in this process. This is something we want the court to do in every case. I understand the concerns about shall versus may, but the court doesn't object to that. If you put may then any judge that has a different idea somewhere can decide in his or her court, we are going to follow a whole different course of action. We are the policy makers and we are here to make law. If this is what we want, then we should just leave it this way.

### **Do Pass Motion Made by Rep. Satrom; Seconded by Vice Chairman Karls**

Discussion:

**Rep. Paur:** What about the concern about the contract with the Uniform Juvenile Court Act?

**Chairman K. Koppelman:** I understand that concern. I would defer to the law we have on the books and if there is a juvenile law that conflicts with that I would prefer what has been vented by our law makers. We can hold onto this bill if you want to investigate that further.

**Rep. McWilliams:** I have a problem with most of this bill. I will be opposing this bill. We are saying if a kid is manufacturing, purchasing, or attempting to purchase, consume alcohol under the age of 21 that a court shall sentence a violator to an evidence based alcohol or drug education program if they have a sip of beer.

**Chairman K. Koppelman:** I think that is a good idea. It is an early intervention. This bill just fixed an omission that was done.

**Rep. McWilliams:** I grew up with wine and beer with my father coming home after a deer hunt. I grew up drinking responsibly. I have never been high in my life. I think it is a fear mongering. I think that is expensive and harsh. An evidence based alcohol and drug education program; what evidence? There doesn't have to be a whole lot of evidence there to be an evidence based program.

**Chairman K. Koppelman:** I don't think we have authority breaking into homes and prosecuting minors who are drinking with their parents. That is not the thing that is contemplated here.

**Representative Simons:** The question came to mind; how many people had a drink of alcohol before we were 18 or 21? How many people would be going to this class? When I was young I drank alcohol and I don't think classes would have helped. If my dad would have found out that would have been bad. That helped me drink somewhat responsibly because I didn't want my dad to find out. We should let the judges decide what they want to do. I will be voting no on this bill.

**Chairman K. Koppelman:** I don't think the home circumstances that are being described are being charged and this is where someone is out doing something.

**Rep. Paur:** I don't like the law and I certainly am not going to vote to expand it.

**Rep. Vetter:** It adds subsection 1; if you are 16 years old and your dad calls the cops; I don't like the law. It just adds the school thing to it.

**Rep. Satrom:** Our brains, particularly men are not functioned until 25 or more. The reality is if you start drinking at an early age before 21; your chance of rewiring your brain in a negative way is very great. Practically everyone that is genetically tied to me; it is a bad plan. This bill really does make a difference. I think it is a great thing to do.

**Chairman K. Koppelman:** The whole idea is early intervention. The idea is to educate them on the evidence that may lay before them if they continue down that path.

**Rep. Rick Becker:** What Rep. Jones brought up is kind of clincher. I am trying to be consistent. I think I am going to oppose the motion. I we changed it to a may then I would be in favor of it. We want consistency. I question the science that our brains are wired. I am looking at what makes sense from the legal standpoint.

**Rep. McWilliams:** I understand there is an underage drinking problem. When we say in the law we shall sentence it takes away that judges discursion.

**Rep. Bob Paulson:** I have a concern for our underage drinking situation. I have a concern with trying the hands of the judge. I would like to change the shall to a may so for that reason I will oppose this motion.

**Rep. Hanson:** The whole idea is early intervention. It is a good idea to prevent things. It is better to focus on education instead of treatment later on.

**Rep. McWilliams:** I agree early intervention is important. When we fund early education and then we also expanded services on the other end; we are just building a giant bridge. We may not see the benefits unless way down the road.

**Chairman K. Koppelman:** Fiscal responsibility has been discussed. I don't know where it takes us if we take the teeth out of the bill and say the judge may but the judge may now. If we kill the bill the status is what it is. Nothing is preventing the judge from doing this now.

**Vice Chairman Karls:** Why weren't these concerns brought up when we had the hearing open?

**Rep. Rick Becker:** What I brought up doesn't pose any questions. It is an opinion and is the basis on how I am going to vote.

**Representative Simons:** That is why I didn't say anything either. My core principals are let judges be judges.

**Chairman K. Koppelman:** So should judges be above the law? So when the legislature passes a law we expect judges to sentence based on that law.

**Rep. Bob Paulson:** We have been pulling back on the mandatory minimum if we change the shall to may; it doesn't say you have to do that.

**Chairman K. Koppelman:** Discussed justice reinvestment. We need to judge each issue as it comes before us. I think there is a huge difference between mandatory minimum and a kid who gets caught drinking under age. I think it helps to go to the class and find out that this is really about.

**Roll Call Vote: 6 Yes 7 No 1 Absent Failed**

**Motion Made to amend the bill on page 2, line 5 overstrike shall and replace with may by Rep. McWilliams; Seconded by Rep. Satrom**

**Discussion:**

**Representative Simons:** Is there a reason we are leaving a Class B misdemeanor in there?

**Chairman K. Koppelman:** I think it is unwise to start changing criminal penalties based on testimony. It doesn't deal with this program.

**Rep. Paur:** Can a 14 or 15-year-old be charged with a Class B misdemeanor?

**Chairman K. Koppelman:** If they are tried as an adult they can.

**Rep. Satrom:** Withdrew his second.

**Vice Chairman Karls: Seconded the motion.**

**Voice vote carried.**

**Do Pass as Amended Motion Made by Vice Chairman Karls; Seconded by Rep. Jones**

**Discussion:**

**Representative Simons:** Discussion on judges.

**Chairman K. Koppelman:** Discussion on judge and situation and how we have awful situation and the policies that we do.

**Rep. McWilliams:** If we change the shall to a may I think if you have a 14,15,16-year-old. They don't always have a license to drive so the judge mandates they have to go to a class they are putting more of a burden on the parents than you are the individual having to attend the class.

**Rep. Vetter:** Having to take a class; I was one of those troubled kids and I drank for a summer and they told me I was an alcoholic and I had to set in a class, but it did straighten me out.

**Rep. Paur:** I still feel uncomfortable with this bill.

**Roll Call Vote: 9 Yes 4 No 1 Absent Carrier: Rep. McWilliams**

Closed.

DP 3/3/19

19.8098.01001  
Title.02000

Adopted by the House Judiciary Committee

March 5, 2019

PROPOSED AMENDMENTS TO SENATE BILL NO. 2114

Page 2, line 5, overstrike "shall" and insert immediately thereafter "may"

Renumber accordingly

**2019 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 SB 2114**

House   Judiciary   Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:    Adopt Amendment  
                            Do Pass    Do Not Pass    Without Committee Recommendation  
                            As Amended                            Rerefer to Appropriations  
                            Place on Consent Calendar  
 Other Actions:        Reconsider                            \_\_\_\_\_

Motion Made By   Rep. Satrom   Seconded By   Rep. Karls  

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman	X		Rep. Buffalo	X	
Vice Chairman Karls	X		Rep. Karla Rose Hanson	X	
Rep. Becker		X			
Rep. Terry Jones		X			
Rep. Magrum		X			
Rep. McWilliams		X			
Rep. B. Paulson		X			
Rep. Paur		X			
Rep. Roers Jones	-----				
Rep. Satrom	X				
Rep. Simons		X			
Rep. Vetter	X				

Total   (Yes)   6                             No   7  

Absent   1  

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

**Failed.**

**2019 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 SB 2114**

House   Judiciary   Committee

Subcommittee

Amendment LC# or Description:   on page 2, line 5 overstrike shall and replace with may  

- Recommendation:    Adopt Amendment  
                            Do Pass    Do Not Pass    Without Committee Recommendation  
                            As Amended                            Rerefer to Appropriations  
                            Place on Consent Calendar  
 Other Actions:        Reconsider                            \_\_\_\_\_

Motion Made By   Rep. McWilliams   Seconded By   Rep. Karls  

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman			Rep. Buffalo		
Vice Chairman Karls			Rep. Karla Rose Hanson		
Rep. Becker					
Rep. Terry Jones					
Rep. Magrum					
Rep. McWilliams					
Rep. B. Paulson					
Rep. Paur					
Rep. Roers Jones					
Rep. Satrom					
Rep. Simons					
Rep. Vetter					

Total   (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Voice vote carried



**REPORT OF STANDING COMMITTEE**

**SB 2114: Judiciary Committee (Rep. K. Koppelman, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). SB 2114 was placed on the Sixth order on the calendar.

Page 2, line 5, overstrike "shall" and insert immediately thereafter "may"

Renumber accordingly

**2019 TESTIMONY**

**SB 2114**

# |  
SB 2114  
1/9/2019

**Testimony**  
**Senate Bill 2114 - Department of Human Services**  
**Senate Judiciary Committee**  
**Senator Diane Larson, Chairman**

January 9, 2019

Chairman Larson and members of the Senate Judiciary Committee, I am Pamela Sagness, Director of the Behavioral Health Division of the Department of Human Services (Department). I appear today to provide testimony in support of Senate Bill 2114.

During the 65th Legislative Session, the Department of Human Services' Behavioral Health Division was authorized to certify Minor in Possession (MIP) providers in an effort to increase access to evidence-based early intervention services (N.D.C.C. § 50-06-44).

As is, subsection 3 of section 5-01-08 of the North Dakota Century Code requires the court to sentence a violator of subsection 2 to an evidence-based alcohol and drug education program operated under the rules adopted by the Department under section 50-06-44 of the North Dakota Century Code. Subsection 2 of section 5-01-08 only relates to an individual under twenty-one years of age who may not enter a licensed premise where alcoholic beverages are being sold or displayed. However, subsection 3 of section 5-01-08 does not reference subsection 1 of section 5-01-08, which states that an individual under twenty-one years of age may not manufacture, purchase, consume or be in possession of an alcoholic beverage.

Senate Bill 2114 adds a reference to subsection 1 in subsection 3 of section 5-01-08, in order to align with the original intent.

The Department developed administrative rules, chapter 75-09.2-01 in 2018, which detail the requirements and the process for individuals to become certified to provide

# 1  
SB 2114  
1/9

this effective service in the state. In December 2018, the Department hosted a training in one of the evidence-based alcohol and drug education programs which 27 individuals attended. Another training is planned for summer of 2019.

Senate Bill 2114 has potential to address Human Services Research Institute (HSRI) recommendations #2, 4, 5, 9, 10, 11, and 13.

This concludes my testimony, and I am happy to answer any questions.

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SB 2114  
3-5-19  
P.1

**Testimony**  
**Senate Bill 2114 - Department of Human Services**  
**House Judiciary Committee**  
**Representative Kim Koppelman, Chairman**

March 5, 2019

Chairman Koppelman and members of the House Judiciary Committee, I am Pamela Sagness, Director of the Behavioral Health Division of the Department of Human Services (Department). I appear today to provide testimony in support of Senate Bill 2114.

During the 65th Legislative Session, the Department of Human Services' Behavioral Health Division was authorized to certify Minor in Possession (MIP) providers in an effort to increase access to evidence-based early intervention services (N.D.C.C. § 50-06-44).

As is, subsection 3 of section 5-01-08 of the North Dakota Century Code requires the court to sentence a violator of subsection 2 to an evidence-based alcohol and drug education program operated under the rules adopted by the Department under section 50-06-44 of the North Dakota Century Code. Subsection 2 of section 5-01-08 only relates to an individual under twenty-one years of age who may not enter a licensed premise where alcoholic beverages are being sold or displayed. However, subsection 3 of section 5-01-08 does not reference subsection 1 of section 5-01-08, which states that an individual under twenty-one years of age may not manufacture, purchase, consume or be in possession of an alcoholic beverage.

Senate Bill 2114 adds a reference to subsection 1 in subsection 3 of section 5-01-08, in order to align with the original intent.

The Department developed administrative rules, chapter 75-09.2-01 in 2018, which detail the requirements and the process for individuals to become certified to provide

#1  
SB 2114  
3-5-19  
P. 2

this effective service in the state. In December 2018, the Department hosted a training of the evidence-based alcohol and drug education programs which 27 individuals attended. Another training is planned for summer of 2019.

This concludes my testimony, and I am happy to answer any questions.

# 1  
SB 2114  
3-5-19  
P. 3

During the 65th Legislative Session, the Department of Human Services' Behavioral Health Division was authorized to certify Minor in Possession (MIP) providers in an effort to increase capacity of the workforce and access to evidence-based early intervention services (NDCC 50-06-44).

Research suggests that investing in early intervention services can contribute to a reduction in health care costs and help ensure the improved health and well-being of individuals. Early initiation of problem behavior and involvement in the criminal justice system is a risk factor for substance abuse and related consequences. Therefore, ensuring that this population is receiving evidence-based early intervention services is important in preventing further problems.

## MINOR IN POSSESSION CERTIFICATION



### Goal of Minor in Possession Provider Certification:

Increase capacity of workforce to provide evidence-based alcohol and drug education services



Increase access to evidence-based early intervention services for youth sentenced to alcohol and drug education



Prevent the onset of substance use disorders (SUD) among youth who do not yet meet criteria for a SUD, but are exhibiting early warning signs

Twenty-five individuals attended a training hosted by the division in December 2018 with the goal of becoming a Certified Minor in Possession Provider for North Dakota valid for three years.

Another training is planned for the summer of 2019.

Administrative Rules 75-09.2-01 detail the requirements and the process for providers to become certified to provide this service in the state.