

## JUVENILE JUSTICE SYSTEM

House Concurrent Resolution No. 3031 (2019) ([appendix](#)), provides for a study of the juvenile justice process, levels of collaboration among various service systems, implementation of dispositional alternatives, and methods for providing outcomes for juveniles involved in the process.

### BACKGROUND

North Dakota Century Code Section 27-20-03 provides the juvenile court has exclusive original jurisdiction of proceedings in which a child is alleged to be delinquent, unruly, or deprived. Under Chapter 27-20, "child" means an individual who is under the age of 18 and is not married or under the age of 20 with respect to a delinquent act committed while under the age of 18. Section 27-20-34 authorizes the court to transfer a juvenile proceeding to another court depending on various factors, such as the age of the child at the time of the alleged conduct, the age of the child at the time of the transfer request, and the child's amenability to treatment and rehabilitation.

Section 27-21-01 creates the Division of Juvenile Services within the Department of Corrections and Rehabilitation (DOCR). The division operates the Youth Correctional Center and eight regional community-based services offices. The community services staff provide comprehensive case management and community-based correctional services to youth in the state while juvenile corrections specialists provide community services and correctional case management across eight regions.

Section 27-21-02 provides "the division of juvenile services is the administrative agency which shall take custody of delinquent and unruly children committed to its care by the juvenile courts." Section 27-21-02 requires the division, upon taking custody of a child or prior to receiving custody of a child, to complete diagnostic testing and evaluate the child to develop an individualized treatment and rehabilitation plan. The plan may include placement in the care of the child's parent, relative, guardian, or in a foster home, or placement in the care of the Youth Correctional Center, a career or technical education program, or other treatment and rehabilitation institution. Section 12-52-01 authorizes the division, with the approval of the director of DOCR, to provide a juvenile aftercare program and other treatment and rehabilitation programs and to contract with public and private agencies to provide services for persons committed to the division.

### PRIOR STUDIES

During the 2017-18 interim, the Justice Reinvestment Committee conducted a study of the juvenile justice process as directed by Senate Concurrent Resolution No. 4003 (2017). The committee received testimony from representatives of DOCR, the Supreme Court, the Council of State Governments' Justice Center, the North Dakota Association of Counties, and the North Dakota Juvenile Justice State Advisory Group.

A representative from the Division of Juvenile Services indicated the juvenile justice system starts with law enforcement and includes the juvenile court, probation, child welfare, and the Division of Juvenile Services. Testimony further indicated the state's juvenile violent crime rate is less than one-half of the national rate; however, the state has a higher rate of drug and alcohol use and disorderly conduct. The higher rate of disorderly conduct cases was attributed to an increased law enforcement presence in schools; however, the committee was informed further analysis is needed to determine whether appropriate community resources exist to divert some of the higher risk youth. It was noted because the youth population in the criminal justice system is low, it is an opportune time to make changes to the system. Changes may help avoid the type of exponential growth in the incarceration rate of juveniles the adult system has experienced in recent years.

The committee received information from a representative of the Supreme Court which indicated juvenile court directors in the state are reviewing the age of juveniles entering the system compared to the age of criminal responsibility as outlined in Section 12.1-04-01. This section provides an individual under 7 years of age is deemed incapable of commission of an offense defined by the Constitution of North Dakota or Century Code. Testimony indicated the juvenile court budget designates \$11 per day per juvenile, with a total budget of \$14 million. Juvenile court offices are located in 11 cities across the state and the Division of Juvenile Services operates 8 regional offices. According to the testimony, the judicial branch budget for the 2017-19 biennium is \$11 million less than the 2015-16 biennium. Eleven positions were cut from the juvenile court and one office was closed.

A representative from the North Dakota Association of Counties indicated although prosecutors identified a lack of resources in rural areas and the western part of the state and issues with statewide polices, state's attorneys have expressed general satisfaction with the juvenile justice system.

Representatives from the juvenile court provided information regarding the process followed when a juvenile enters the juvenile court system. It was noted every juvenile is given a risk assessment to determine what is driving

the behavior. Juvenile officers also provide more cognitive-based classes with groups to discuss how to handle stressful situations, and efforts have been made to provide more family based counseling. The committee received information from numerous individuals relating to the need for increased mental health services for youth.

The committee received information indicating a need to streamline juvenile services to provide services and funds to those families in need. The Dual Status Youth Initiative has received assistance from the Robert F. Kennedy National Resource Center for Juvenile Justice in an effort to change the trajectory of alleged abused and neglected children from entering the juvenile justice system by establishing child and family centered multidisciplinary policies and practices.

The committee considered a bill to raise the age of culpability from 7 to 10 years old. The committee received overwhelming testimony in support of the bill draft. Testimony indicated a law enforcement referral for a juvenile who is 7 or 8 years old would be sent to social services regardless of the statutory age of culpability because social services deals with the family dynamics that could be causing negative behaviors. According to the testimony, a juvenile under 12 years of age is placed with social services regardless of the offense and the most common age of culpability across the country is between 10 and 12 years of age.

### RECENT LEGISLATION

The 66<sup>th</sup> Legislative Assembly passed several bills relating to the juvenile justice process, including:

- House Bill No. 1039, which amended Section 12.1-04-01 to increase the age of culpability from 7 to 10 years.
- House Bill No. 1478, which amended Section 27-20-24 relating to juvenile hearings to specify a juvenile hearing is open to the public only if the purpose of the hearing is to declare a person in contempt of court.
- House Bill No. 1520, which requires the juvenile court to establish a detention screen tool and requires law enforcement to use the detention screening tool on juveniles to assure the appropriate use of detention. The bill requires the juvenile court to include in the order of disposition any actions or steps to ensure the delinquent child receives appropriate treatment or rehabilitation, accountability to the victim, and safety of the community. The bill also requires the delinquent child to receive an age-appropriate social assessment to determine the level of required treatment in a case involving a sexual offense and authorizes a victim of the delinquent child or the victim's guardian to view the juvenile court files and records of the victim's case and specifies a violation of Section 27-20-51 is a Class B misdemeanor.

### JUVENILE SERVICES IN OTHER STATES

According to data from the United States Office of Juvenile Justice and Delinquency, in 2013 North Dakota ranked 6<sup>th</sup> highest in the nation for the number of youth placed in the juvenile justice system per 100,000 youth in the state with 253 youth per 100,000. According to an analysis of the same data by The Sentencing Project, the overall juvenile sentencing rate per 100,000 youth in the United States is 173 while the rate for American Indian youth is 334 per 100,000.

In 2016, Kansas enacted reforms intended to improve its juvenile justice system by reducing the use of out-of-home placements and investing in community supervision and rehabilitative services. According to a June 2017 analysis provided in *Juvenile Justice Reforms in Kansas Show Early Signs of Success*, by The PEW Charitable Trusts, the reforms restrict the placement of certain juveniles in correctional facilities, focus the system's most intensive responses on the highest-risk juveniles, and shift significant resources toward evidence-based alternatives that allow youth to be supervised safely while remaining at home. At the time of enactment, Kansas projected the new policies would cut juvenile residential placements approximately 60 percent by 2022, at a savings of \$72 million to be reinvested in alternatives to incarceration over 5 years.

On June 16, 2017, Nevada Governor Brian Sandoval signed the Juvenile Justice System Reform Act that calls for Nevada to adopt a statewide validated risk and needs assessment tool, requires state funding be used for evidence-based practices, establishes better data collection, and creates a single juvenile justice oversight body to guide and oversee the reforms.

### PROPOSED STUDY APPROACH

The committee may wish to proceed with the study by receiving testimony and information from representatives from DOCR, specifically the Division of Juvenile Services, representatives from regional human service centers, the Children's Cabinet and representatives from juvenile court to provide a review of the delivery of services in the juvenile justice system. The committee also may wish to seek technical assistance from the Council of Government's Justice Center and the National Conference of State Legislatures.

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