

**HOUSE JUDICIARY COMMITTEE
REPRESENTATIVE LAWRENCE KLEMIN, CHAIR
JANUARY 18, 2023**

**LISA BJERGAARD, CHAIR, COMMISSION ON JUVENILE JUSTICE
PRESENTING TESTIMONY IN SUPPORT OF HOUSE BILL 1137**

Chair Klemin and members of the Judiciary Committee, my name is Lisa Bjergaard, and I am the Chairperson for the Commission on Juvenile Justice. I am also the Director of the Division of Juvenile Services, Department of Corrections and Rehabilitation. I am here to testify in support of House Bill 1137, relating to juvenile court procedures.

The bill we are presenting today marks another chapter in the process of juvenile justice reform than began in 2015. We expect the effort will continue at least one more biennium, with completion in 2025. We have organized our presentation today into two parts. The first part will provide you with a brief historical review of the process of juvenile justice reform thus far and provide a high-level overview of what is included in this bill. The second part will provide a detailed, line by line review of the proposed bill.

2015 marked an important milestone in juvenile justice reform. It was the year the Council of State Government's Justice Center (CSG) convened a 50-state forum to present the results of national juvenile justice research which had been completed in 2014. Researchers had carefully matched data from 10's of thousands of juvenile justice cases and had identified 8 core principles for

reducing recidivism and improving outcomes for youth involved in juvenile justice systems. Teams of practitioners and judicial leaders from every state attended, and CSG encouraged states who had not yet begun to implement the research-based findings.

North Dakota's Uniform Juvenile Court Act had not undergone any significant overhaul since it was enacted in the late 1960's. After attending the 50-state forum, juvenile justice reform in North Dakota began in earnest. Key points in the process occurred as the process began, with a 2016 letter of intent signed by leaders from all three branches of government, a study resolution proposed by Chief Justice VandeWalle in 2017, the legislative creation of the Commission on Juvenile Justice in 2019, the engagement of the CSG Justice Center in 2019 to serve as a consultant for an interim study during the 2019-2020 interim, the preparation of a detailed new Juvenile Court Act, and the passage of HB1035 in 2021.

HB1035 was 117 pages long. It was not 117 pages of new law, in fact the first 28 pages were cross references. Still, it was a comprehensive and somewhat complicated piece of legislation. The Council of State Governments Justice Center provided specific recommendations for practices supported by research evidence, and those recommendations formed the foundation for the reforms. In general terms, the newly created chapters separated the various juvenile court case types into their own chapters. The issue of guardian ship had been addressed in the 2019 legislative session and had been numbered Chapter 27-

20.1. Therefore, the new chapters began with the title, Chapter 27-20.2. Chapter 27-20.2 is the new Juvenile Court Act. This Chapter defines the jurisdiction, powers and duties, and practice of the juvenile court.

Chapter 27-2-.3 covers two case types that fall under the heading of Child Welfare. This chapter defines how the court will proceed for children who are in need of protection, formerly identified as deprived children. The acronym “CHIPS” is used to describe a ‘child in need of protection. This chapter also defines children who are in need of services, children who were previously defined as unruly. The acronym for this group of children is “CHINS”.

Chapter 27-20.4 describes how the court will proceed in cases of alleged juvenile delinquency.

Definitions were modernized, and a set of definitions was added to each chapter so that practitioners in the courtroom had the relevant definitions at their fingertips. Second, the original statute did not include the presumption of indigence for all youth regardless of a parent’s ability to pay. A key recommendation from CSG was to write a significant update to the section of the Juvenile Court Act that defines the right to counsel. Third, the new statute includes a specific section called “active efforts”, which applies to those children who fall under the jurisdiction of the Indian Child Welfare Act.

Recognizing that a change in statute will change practice, and large changes in practice require careful and planful rollout, there were some delayed

implementation dates for certain sections. The 2021 Legislature also passed HB 1427, which established three committees whose sole responsibility was to carefully consider the service delivery strategies prior to the implementation dates. Those groups reported to the Commission on Juvenile Justice and to the Children's Cabinet during the 21-22 interim.

As the committees finished their work, the Commission on Juvenile Justice convened a work group tasked with compiling edits and incorporating suggestions from practitioners and the committees. That work became the bill we have before us today, HB1137. I am here to introduce a bill that corrects, clarifies, and strengthens policy in a couple of areas.

HB1137 contains 39 sections. Most of those sections consist of corrected references omitted in error last session during the development of the new juvenile court act or language kept in the Century Code for the transition period of the three delayed portions of last session's House Bill 1035 that will no longer be needed. There are four more substantive amendments, and we will walk through those in detail as we move through the detailed review. This bill further improves the juvenile justice practices in North Dakota.

Improved practices will translate into better outcomes for North Dakota youth and their families. I support a "do pass" recommendation for HB1137.

