

HOUSE JUDICIARY COMMITTEE
REPRESENTATIVE LAWERENCE R. KLEMIN, CHAIRMAN
MARCH 14, 2023

DAVID KRABBENHOFT, DIRECTOR, NORTH DAKOTA DEPARTMENT OF
CORRECTIONS & REHABILITATION
PRESENTING TESTIMONY RE: SB 2107

My name is Dave Krabbenhoft and I am the Director for the North Dakota Department of Corrections and Rehabilitation (DOCR). I am here to testify neutral on SB 2107.

From all we see and hear in the media and in data, it is apparent that gun crimes are growing concern in this state. We all share those concerns for the health and safety of our communities. If this bill is enacted in its current state, according to section 8 an additional Class B felony crime will be in statute that requires the judges to impose upon convicted individuals minimum mandatory incarceration sentences ranging from three to seven years. Keep in mind that the court may impose any sentence up to the maximum of allowed by law. Additionally, any sentence imposed according to this new law requires the following:

1. The individual serve 85% of the sentence without the benefit of parole,
2. The sentence may not run concurrently with any other sentence, and
3. Restricts the department from placing the individual in a halfway house, treatment facility or other community confinement.

Depending on the circumstances, incarceration of perpetrators committing violent offenses may be necessary; however, protecting the health and safety of our communities and victims does not end there. Our role in the Department of Corrections and **Rehabilitation** requires us working with individuals to make them better citizens. This includes engaging those incarcerated in evidence-based treatment, work, education and other programs and services to reduce the likelihood that the individual will continue to engage in criminal behavior upon their release (96% of those incarcerated will be released back to the community). It also is necessary to have some parole eligibility as an option for release planning as people transition back to our communities. Authorizing parole eligibility aids the DOCR by incentivizing people to engage in rehabilitative programs and services. It also plays a significant role in promoting public and victim safety by giving the parole board the opportunity to consider release and if granted, setting the terms and conditions for the parole release. Once on parole, officers can assist the individual in overcoming the obstacles they will face to obtain employment, transportation, housing and other community services. Parole officers can also proactively prevent crime by enforcing conditions of supervision which may result in the individual being returned to prison due to technical violations rather than waiting until the individual commits another crime and there are more victims. As much as arrest, conviction and incarceration are components to public health and safety, so too are rehabilitative programming, transitional planning and post-release supervision.

We also have some concerns with sections 1, 2 and 6 relating to presumptive sentences for crimes of fleeing, assault on a peace officer and preventing arrest. As written, the corresponding presumptive minimum sentences may not be served concurrently and must be served in jail. It is very possible that these sentences may be run consecutively to a state prison

sentence. This will result in deputies spending more time transporting people from prison to the jail to serve their sentences that may range from 14 – 30 days or more. This places additional strain on already limited jail and law enforcement resources. Additionally, this results in interruptions in the transition to supervision process that can result in housing, transportation and parole/probation supervision challenges.

Closing:

We support amendments to this bill focusing on public health and safety and encouraging effective use of resources. We emphasize that incentivizing people to engage in DOCR programs and services and having opportunities for parole release and supervision benefit the individual, but even more so, it benefits the health and safety of our communities. When you set requirements for punishing and removing people from society who use a firearm to commit a violent offense, it is our belief that rehabilitation services, transitional planning and parole supervision are standards that have at least equal necessity, if not greater, especially when we are dealing with people who have engaged in violent behavior using firearms.