



North Dakota Legislative Council

Prepared for the Juvenile Justice Committee
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RE-ENTRY OUTCOMES FOR INCARCERATED INDIVIDUALS - BACKGROUND MEMORANDUM

House Concurrent Resolution No. 3026 (2023) ([appendix](#)) directs the Legislative Management to study methods for improving re-entry outcomes for incarcerated adults and youth. The study must include an assessment of current public and private re-entry services, policies, practices, statutes, data, and resource allocation with the goal of identifying opportunities to implement research-based strategies proven to reduce recidivism, improve education and employment outcomes, and maximize resources for the greatest public safety and return on taxpayer dollars. The study also must examine re-entry services in the areas of correctional supervision, employment, job training, housing, transportation, support services, and behavioral health services; levels of collaboration across service systems; and current disparities in re-entry outcomes.

BACKGROUND Justice Reinvestment

Since 2015, the North Dakota Legislative Assembly has strived to reform the state criminal justice system with the objective of maximizing public safety, using taxpayer dollars more efficiently, and helping people who are justice involved become more productive citizens.

In 2017, the Legislative Assembly passed House Bill No. 1041, which aimed to temper the state's rapidly growing spending on correctional facilities and reinvest a portion of the savings into strategies to reduce recidivism and increase public safety. The bill reduced penalties for certain low-level, nonviolent offenses, and created Free Through Recovery, an outcomes-driven program to address the fact that a large majority of incarcerated individuals have addiction and mental health issues.

Following the passage of House Bill No. 1041 (2017), the Legislative Assembly shifted its focus to the juvenile system. The newly created Juvenile Justice Commission partnered with the Council of State Governments to conduct an in-depth analysis of current practices and policies related to North Dakota youths who were justice involved. The group reviewed data, statutes, and policies, and worked with a broad group of stakeholders, including states attorneys, public defenders, court staff, law enforcement, educators, tribal representatives, behavioral health professionals, and child welfare officials. These efforts resulted in House Bill No. 1035 (2021), which modernized state laws related to juvenile justice. The bill created distinct categories for juvenile delinquency, deprivation, and child welfare to clearly delineate between these populations to allow each type of case to be handled more consistently and to better enable youth to access social services without formal involvement in the justice system.

House Concurrent Resolution No. 3026 (2023)

House Concurrent Resolution No. 3026 continues efforts to effectuate reform by directing a study of improving re-entry outcomes for incarcerated adults and youth. Re-entry outcomes refers to a wide variety of services to help individuals successfully transition back to society, including education and job training, the removal of barriers to employment and stable housing, transportation, mental health services, recovery support, parenting, and other personal skill building. In North Dakota, about 1,400 prisoners are released each year from state prisons and thousands more are released from county jails. Formerly incarcerated individuals have access to a range of public and private programs to assist in their transition back to society, including services related to employment, housing, and behavioral health. House Concurrent Resolution No. 3026 seeks to review these services and identify needed improvements in re-entry services which could reduce North Dakota's 40.3 percent recidivism rate to save taxpayer dollars and improve lives.

DEPARTMENT OF CORRECTIONS AND REHABILITATION Statutory Duties and Purpose

North Dakota Century Code Section 54-23.3-01 provides for the creation, duties, and programs of the Department of Corrections and Rehabilitation (DOCR). The section provides the department is responsible for the

direction, guidance, and planning of adult and juvenile correctional facilities and programs within the state. Included within the purview of the department are the state penitentiary and any of its affiliated facilities, parole and probation for adult offenders, the North Dakota Youth Correctional Center, community programs and services for juvenile offenders under the Division of Juvenile Services, and any other programs developed by the department.

Section 54-23.3-02 establishes the purpose of DOCR which includes:

- Providing for the care, custody, discipline, training, and treatment of persons committed to state correctional facilities and programs.
- Coordinating and providing a continuum of correctional services to both adult and juvenile clients.
- Working with local and state entities to develop alternatives to conventional incarceration for those offenders who can be handled more effectively in less-restrictive, community-based facilities and programs.

Section 54-23.3-04 lists the powers and duties of the Director of DOCR, which include in pertinent part:

- Developing necessary programs and services for adult and juvenile offenders, within legislative appropriations, to provide for their treatment and rehabilitation, and to recognize their special needs.
- Promoting the development of alternatives to conventional incarceration for those offenders who can be handled more effectively in less-restrictive, community-based facilities and programs.

Re-entry Improvement Efforts

In 2003, DOCR applied to the National Institute of Corrections for technical assistance to implement the Transition from Prison to Community Initiative. Formal assistance from the National Institute of Corrections ended in 2009. The Department of Corrections and Rehabilitation and other stakeholders involved in the Transition from Prison to Community Initiative adopted the philosophy of recidivism reduction and focused efforts on implementing research-based strategies to reduce recidivism. Recidivism was defined as reducing the number of people released from prison who return to prison within 12, 24, and 36 months following their release.

In 2007, DOCR invited federal, state, local, and community-based agency leaders to work on re-entry issues. These leaders studied several issues and commissioned a steering committee to develop strategies to address barriers to successful re-entry. North Dakota also adopted the Transition from Prison to Community Initiative model, focusing on different decision points within a person's incarceration and community supervision to make system improvements. Re-entry planning starts upon an individual's arrival in prison where assessments, treatment, and education services are offered to incarcerated individuals. Release planning starts approximately 6 months before an individual's release date. Individuals are released from prison to parole supervision for those eligible and granted, probation supervision for those ordered by the district court, or to expiration of sentence where no community supervision will take place.

As of February 27, 2023, of the 95 individuals incarcerated in DOCR with a life sentence, 52 were incarcerated with a life without parole sentence, and 43 were incarcerated with a life with the possibility of parole sentence. The remaining 96 percent of DOCR's prison population, the 1,753 individuals who are not serving a life sentence, will be released back into their local communities.

The re-entry goals recently established in DOCR's strategic plan are:

- By 2025, reducing the percentage of incarcerated people who return to prison to under 15 percent within 1 year, under 28 percent within 2 years, and under 35 percent within 3 years.
- Increasing the percentage of residents who are released from incarceration with an identification card from 65 percent to 75 percent.
- Increasing the percentage of parole releases to stable housing (instead of transitional facilities) from 55 percent to 63 percent.
- Increasing the percentage of individuals discharged from prison who have applied for Medicaid from 29 percent to 33 percent.
- Establishing a baseline and increasing the percentage of individuals released from prison who are employed within 90 days by 15 percent.
- Establishing a baseline and reducing the percentage of adults on supervision who are homeless by 15 percent.

- Increasing the percentage of residents eligible for Free Through Recovery from 28 percent to 32 percent.
- Establishing a baseline and reducing the percentage of individuals who are in Free Through Recovery who return to prison, abscond supervision, or drop out of the program without completing their goals.
- Increasing the percentage of incarcerated individuals who have at least one in-person visit from 9 percent to 11 percent.
- Establishing a baseline and increasing the percentage of incarcerated individuals with a valid driver's license or other reliable transportation by 15 percent.

The Department of Corrections and Rehabilitation views re-entry as beginning upon arrival and has developed a multipronged approach to improving re-entry success for offenders, including a variety of education initiatives, community supervision and coaching provided by parole and probation officers, and transitional planning efforts. However, DOCR cannot achieve successful re-entry for incarcerated adults without help from a wide range of stakeholders.

RE-ENTRY EFFORTS BY OTHER STATE AGENCIES

Department of Health and Human Services

The Department of Health and Human services offers direct services for behavioral health needs through the department's 8 regional human services centers. In addition, the department provides services through the department's Free Through Recovery Program, created in 2017. The program has served just under 5,000 people over 5 years and has reduced recidivism for those at higher criminogenic risk.

The Free Through Recovery Program is a community-based behavioral health program designed to increase recovery support services to individuals involved with the criminal justice system who have behavioral health concerns. The mission of Free Through Recovery is to improve health care outcomes and reduce recidivism by delivering high-quality community behavioral health services linked with community supervision. Free Through Recovery participants will work with local providers to receive:

- Care coordination:
 - Including an ongoing source of connection, helping participants access treatment and recovery support services, and creatively addressing barriers to individual success. It also includes the provision of assessment, care planning, referrals, and monitoring collaboration with clinical services and probation and parole.
- Recovery services:
 - Including access to supportive housing, educational opportunities, meaningful employment, leisure activities and wellness, family and community social supports, parenting education, spiritual engagement, nourishment assistance programs, and any other individualized resources needed to help participants lead a healthy and fulfilling life.
- Peer support:
 - Connection with a peer who has similar life experience. Peer support specialists provide mentorship, advocacy, and additional recovery support.

To be eligible for the Free Through Recovery Program an individual must:

- Be 18 years of age or older;
- Be involved in the criminal justice system (parole or probation, or transitioning from prison);
- Be at risk for future criminal justice involvement;
- Show signs of a behavioral health condition, such as:
 - Bipolar disorder;
 - Major depression;
 - Psychotic disorders of all types;
 - Post-traumatic stress disorder;
 - Obsessive compulsive disorder;

- Borderline personality disorder;
- Panic disorder; or
- Moderate and severe substance use disorders; and
- Display challenges in areas of daily living such as housing or employment.

Job Service North Dakota

Job Placement Pilot Program

Job Service North Dakota offers a Job Placement Pilot Program in partnership with DOCR to help ex-offenders re-enter the workforce and stay there successfully. The program serves and supports ex-offenders, and employers with a goal of placing recently or soon-to-be released ex-offenders into in-demand positions in the state.

Work Opportunity Tax Credit

The Work Opportunity Tax Credit program is an income tax credit incentive provided by the Internal Revenue Service and the United States Department of Labor, Employment and Training Administration. The one-time tax credit is available to for-profit employers hiring individuals with felony convictions. North Dakota employers can receive a tax credit up to \$9,600 per qualifying new employee during their first year of employment. There is no limit to the number of new hires who may qualify.

Federal Bonding Program

An individual who has committed a fraudulent or dishonest act is deemed not bondable by insurance companies, leading to routine denial of employment. The United States Department of Labor established the Federal Bonding Program in 1966 to provide fidelity bonds for at-risk, hard-to-place job seekers who may have had a high unemployment rate. Bonds are available for up to \$5,000, which is free of charge to employers. Individuals whom this program helps include:

- Ex-offenders with a record of arrest, conviction, or imprisonment;
- Anyone who has ever been on parole or probation or has a police record; and
- Recovering substance abusers rehabilitated through treatment for alcohol or drug abuse.

2nd Chance Job Fairs

Job Service North Dakota, in partnership with DOCR, hosts an annual 2nd Chance Job Fair in Bismarck, Fargo, and Grand Forks. The 2nd Chance Job Fair is an opportunity to bring jobseekers who may have barriers to employment, such as a criminal record, into direct contact with employers that are aware of their status and are willing to provide employment opportunities.

Veteran Outreach

Job Service North Dakota veteran staff go into county and city jails and the State Penitentiary to provide services to incarcerated veterans who will be transitioning to civilian life in the near term (90 days or less) and assist them with resume preparation, interview skills, and job searching.

ADDITIONAL RE-ENTRY EFFORTS

Local Jails

County jails connect people to supportive services such as care coordinators, housing navigators, drug treatment programs, and faith-based group programming to improve skills regarding parenting and anger management.

F5 Project

The founder of the F5 Project identified the three major factors which cause recidivism as the lack of employment opportunities, the lack of stable or safe housing, and the stigma that surrounds felons or addicts. The F5 Project addresses these factors by providing personalized support for those leaving incarceration, aiming to reduce barriers to finding employment and housing, helping develop life skills, and creating a bridge to other resources, such as addiction recovery. The organization has F5 houses in eight cities across the state.

Ministry on the Margins

Ministry on the Margins is a volunteer-based ecumenical ministry in Bismarck which supports people during times of transition, including prison-to-society support. The ministry employs six individuals who are second-chance hires and is actively involved in supporting men and women who have been incarcerated to attain and maintain

employment. More than 1,000 people per week are served through the ministry's clothing pantry, food pantry, support groups, and prison or Missouri River Correctional Center outreach.

Centre Inc.

Centre Inc. is a private nonprofit organization that serves as an adjunct to parole and probation supervision and provides rehabilitative services to individuals to achieve social reintegration. Centre Inc. has contracts with the Federal Bureau of Prisons, United States Probation and Pretrial Services, DOCR, the North Dakota Department of Health and Human Services, and the Department of Veterans Affairs.

SUGGESTED STUDY APPROACH

The committee may wish to receive testimony from representatives from nonprofit organizations that assist with re-entry, community members with re-entry experience, and representatives from DOCR, county jails, the Behavioral Health Division of the Department of Health and Human Services, the Supreme Court, Job Service North Dakota, adult and postsecondary education institutions, and tribal nations, regarding identifying opportunities to reduce recidivism, improve education and employment outcomes, and identify additional resources needed to improve re-entry outcomes for incarcerated adults and youth.

ATTACH:1