

SENATE JUDICIARY COMMITTEE

Sixty-seventh Legislative Assembly of North Dakota

H.B. 1035

January 26, 2021

Greetings, Chairman Koppelman and members of the Committee. I am Mandy Dendy, a legal assistant with the North Dakota Protection and Advocacy Project (P&A). P&A is an independent state agency that acts to protect persons with disabilities from abuse, neglect and exploitation, and one that advocates for the human, civil and legal rights of persons with disabilities.

P&A supports House Bill 1035. P&A serves North Dakota youth with disabilities who become involved with the juvenile justice system as a result of their disability. These are often youth who have landed in the juvenile justice system as a predictable consequence of the lack of services provided for them outside the juvenile justice system. This practice is referred to as “misincarceration”.¹ Youth with disabilities generally do not benefit from a punitive justice system or from being confined. Studies show that youth who receive services in their homes, communities, and schools are more successful than those who are locked up. P&A supports HB 1035’s creation of Children in Need of Services “CHINS” because Children in Need of Services do not belong in juvenile court. We support the diversion of these youth to Human Resource Zones where their needs can be assessed, and where they will be referred to receive appropriate services.

I wanted to tell you today how many youth with disabilities are involved with the juvenile justice system but the data is insufficient because youth come to the system from many paths – the

¹ [“Probation Referral – A Model for Diversion of Children & Youth with Disabilities from the Juvenile Justice System”](#) by the National Disability Rights Network (NDRN) 2019

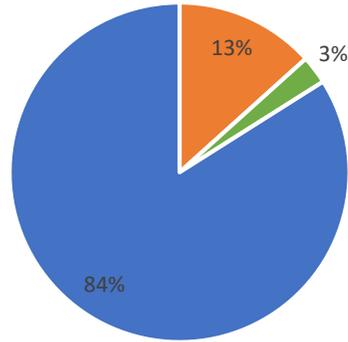
community, their homes, schools; and the only path tracking this data right now appears to be schools. Using data obtained from the 2017-18 Office of Civil Rights Civil Rights Data Collection “CDRC” survey, which is a mandatory biennial survey of all schools in the country, I found that despite making up only sixteen percent of North Dakota students, students with disabilities (meaning students on Individual Education Plans “IEPs” or 504 plans) are at least twice as likely to be referred to law enforcement or arrested.² This pathway to the juvenile justice system is often referred to as the school-to-prison pipeline and as you can see, there is a concerning disproportionate number of youth with disabilities becoming involved in our juvenile justice system.

House Bill 1035’s updates to juvenile justice laws in North Dakota are much-needed and long overdue. The bulk of our current Juvenile Court Act was adopted by North Dakota before radical shifts in legislation and ideology relating to the rights and treatment of persons with disabilities. Shifts which gave persons with disabilities rights and places within our communities. This bill has the potential to profoundly impact youth with disabilities as well as their families by decriminalizing behaviors which are best addressed through services and support in place of punishment and confinement. This, Chairman Koppelman and Committee members, may very well be the key to breaking the school-to-prison pipeline for youth with disabilities in North Dakota and we encourage a Do Pass on HB 1035.

Thank you. I am happy to answer any questions.

² [Civil Rights Data Collection Survey results page](#), using most recent data available – 2017-18 school year

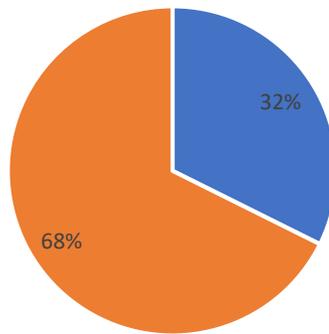
2017-18 ND STUDENT DEMOGRAPHICS



Source: 2017-18 CDRC Data Survey

■ IDEA Students ■ 504 Students ■ Students without Disabilities

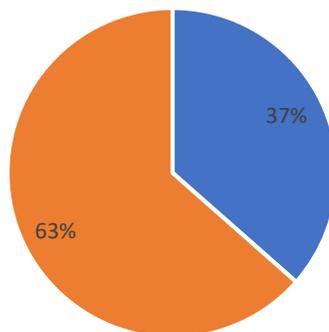
2017-18 ND SCHOOL LAW ENFORCEMENT REFERRALS



Source: 2017-18 CDRC Data Survey

■ SWD (Students with Disabilities) ■ SWD (Students without Disabilities)

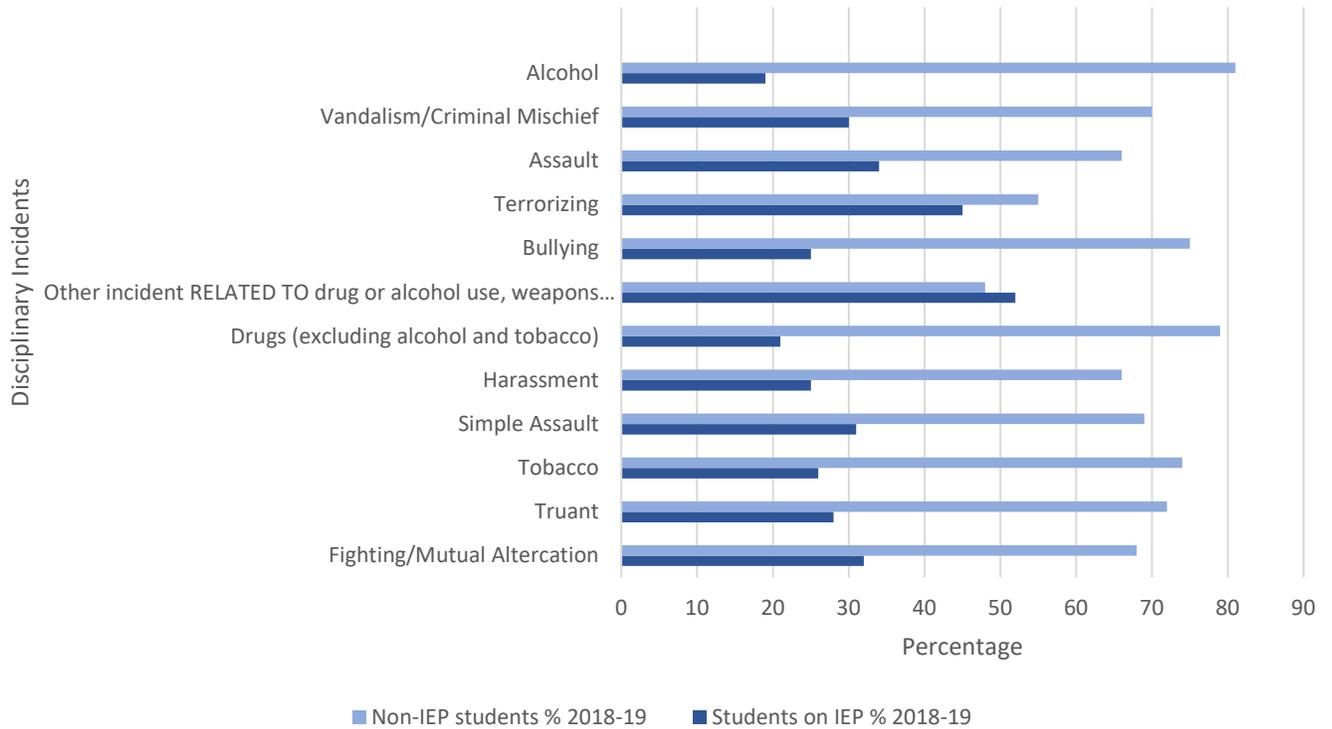
2017-18 ND SCHOOL RELATED ARRESTS



Source: 2017-18 CDRC Data Survey

■ SWD (Students with Disabilities) ■ SWD (Students without Disabilities)

2018-19 Commonly Cited Disciplinary Incidents in which Students were Involved - Source: ND DPI



2019-20 Commonly Cited Disciplinary Incidents in which Students were Involved - Source: ND DPI

