

House Bill No. 1035
House Judiciary Committee

Testimony Presented by
Karen Kringlie, Director of Juvenile Court
February 1, 2021

Chairman Klemin and members of the Committee. For the record my name is Karen Kringlie. I am the Director of Juvenile Court for the East Central and Southeast Judicial Districts. I am also the North Dakota State Court's representative on the Commission on Juvenile Justice which was established last legislative session and is codified at 50-06-43.2 and is tasked with review of current chapter 27-20. I have served as the court's representative on the work group that developed this bill draft and corresponding amendments.

As you are aware, supporting testimony regarding the need and support for this bill and its amendments was received by this committee on January 26, 2021. I am appearing today at Representative Klemin's request to cover in more specific detail the provisions of the bill draft and answer any questions you may have about how this bill will change or impact the current activities of the juvenile court.

You will note that the proposed bill and amendments repeals in its entirety the current Uniform Juvenile Court Act found in Chapter 27-20 of the North Dakota Century Code and creates three new chapters by case type:

- Chapter 27-20.2, The Juvenile Court Act
- Chapter 27-20.3, Child in need of supervision / Child in need of protection
- Chapter 27-20.4, Delinquency

Below is a table of contents of House Bill 1035, including the amendments, the statute numbers, and corresponding brief summary of the work group's rationale for the changes.

Bill Section (page number)	NDCC Section Section heading	Summary of change(s)
Section 1 (p.1)	11-16-01(16) Duties of States Attorney	Updates cross-references
Section 2 (p.2)	12.1-32-15	Updates cross-references

	Offenders against children and sexual offenders – registration	
Section 3 (p.21)	12.1-41-12(1) and (3) Human Trafficking - Immunity of a Minor	Updates cross-references
Section 4 (p. 22)	14-02.1-03.1(2) Parental consent or judicial authorization for abortion of unmarried minor	Updates cross-reference regarding service of process to Rules 3, 4, and 5 of N.D. Rules Juv. Pro.
Section 5 (p.23)	14.02.1-08(2) Protection of infant born alive – penalty	Updates term from “deprived” to “child in need of protection”
Section 6 (p.23)	14-07.1-18(2)(c) Domestic violence or sexual assault program records – confidentiality – exceptions – penalty	Updates cross-reference in section that allows release of program records for purpose of a child abuse and neglect court cases
Section 7 (p. 23)	14-15-11 Notice of petition – investigation and hearing (adoption chapter)	Updates cross-reference to 27-20.3 and requires notice to appropriate tribes
Section 8 (p.25)	15.1-09-33.4(1) and (2) Student misconduct – prohibition against participation in extracurricular activities	Updates cross-reference to 27-20.2-21 Inspection of records of juvenile court
Section 9 (p.26)	15.1-19-15 Record retention	Updates cross-reference to 27-20.2-21 Inspection of records of juvenile court
Section 10 (p.26-27)	20.1-13.1-01 Implied consent to determine alcohol concentration and presence of drugs (Intoxication testing of boat operators)	Updates cross-reference to 27-20.4-05 on taking into custody of youth
Section 11 (p.27-28)	20.1-15-01 Implied consent to determine alcohol concentration and presence of drugs (Intoxication testing of hunters)	Updates cross-reference to 27-20.4-05 on taking into custody of youth

Section 12 (p.28)	26.1-36-20 Juvenile's accident and health coverage to continue – Conditions	Updates cross-references to 27-20.3 and 27-20.4 to ensure youth under legal custody must continue to be covered by insurance companies
Section 13 (p.28)	26.1-40-11.1 Juvenile's suspension of driving privileges – nondelinquent conduct	Updates cross reference to 27-20.4-16 on adjudication; insurers can't use nontraffic delinquent adjudication to cancel or deny auto insurance policies of children or parents
Section 14 (p.29)	27-05-30(2) Judicial referees	Updates cross-reference to 27-20.2, 27-20.3, 27-20.4 as matters which can be assigned to a judicial referee
Chapter 27-20.1 Guardianship of a Child		
Section 15 (p.29-32)	27-20.1-01 Guardianship of a Child – definitions	Updates definitions of "child in need of services" and "child in need of protection"
Section 16 (p.32)	27-20.1-06 Contents of petition to appoint a guardian of a child	Updates cross-reference to "child in need of protection" as a basis for the filing of a guardianship petition and references definition in 27-20.1
Section 17 (p.32)	27-20.1-10 Conduct of hearings	Updates cross-reference to other hearings types held in juvenile court as listed in jurisdiction statute at 27-20.2-03
Section 18 (p.32)	27-20.1-11(1)(d) Appointment of guardian of a child	Updates cross-reference to "child in need of protection"
Section 19 (p. 32)	27-20.1-11(3) Appointment of guardian of a child	Updates cross-reference to "child in need of services" or "child in need of protection" and refers to new definitions
Section 20 (p. 32)	27-20.1-17(2) Expiration and termination of guardianship of a child	Updates cross-reference to 27-20.3-16 which regards 18+ foster care cases and guardianships which arise under that case category
Section 21 (p.32-33)	27-20.1-22 Confidentiality	Updates cross-reference to 27-20.2-21 which is the inspection of juvenile court files

NEW CHAPTER 27-20.2 “The Juvenile Court Act”		
Section 22 (p.33-36)	27-20.2-01 Definitions	Updates current 27-20-02 definitions and adds definitions for terms: “diversion”, “facility”, “restorative justice”, “the court”.
Section 22 (p.36-37)	27-20.2-02 Presumption of Age	Same as current law found at 27-20-02.1
Section 22 (p.37-36)	27-20.2-03 Jurisdiction	Updates 27-20-03 so that “unruly” becomes “child in need of services” and deprived becomes “child in need of protection”; (1)(e) adds the jurisdiction over guardianships of a child except for those governed by Ch. 30.1-27 (probate)
Section 22 (p.38)	27-20.2-04 Juvenile court personnel	Same as current law found at 27-20-05
Section 22 (p.38-39)	27-20.2-05 Powers and duties of the director of juvenile court	Updates the deprived and unruly terms to child in need of services and child in need of protection; current law is at 27-20-06
Section 22 (p.39)	27-20.2-06 Commencement of proceedings	(2) clarifies the date upon which a petition must be filed if a child is in shelter care
Section 22 (p.40)	27-20.2-07 Transfer from other courts	Same as current law found at 27-20-09
Section 22 (p.40)	27-20.2-08 Nonjudicial adjustment - Diversion	New statute that specifically adds diversion as an option prior to the filing of a petition and allows a designee of a director to take that action
Section 22 (p.40)	27-20.2-09 Nonjudicial adjustment – Informal adjustment	Current statute is found at 27-20-10 (1)(b) Replaces the word “counsel” with “information” (2) requires identified victims to be given notice of informal adjustments (3) reduces length of probation from nine months to six months , unless extended (4) protects youth from any incriminating statements given as part of a risk assessment to be used against them over objection in a court proceedings

Section 22 (p. 41)	27-20.2-10 Venue	Updates cross-references and adds venue option to be county where acts alleged occurred in addition to county of child's residence; otherwise same as 27-20-11
Section 22 (p.41)	27-20.2-11 Transfer to another juvenile court within the state	Updates term from unruly to child in need of services; otherwise same as current law found at 27-20-12
Section 22 (p.41-42)	27-20.2-12 Right to counsel	Expands right to counsel currently found at 27-20-26 (2) Clarifies the process by which a child may waive counsel (3) Court requirement of reimbursement of counsel appointed from the person having legal care, custody, or control and must be included in written findings of the court (5) clarifies that child may have counsel for an informal adjustment
Section 22 (p.42)	27-20.2-13 Other basic rights	Same as current law found at 27-20-27
Section 22 (p.43)	27-20.2-14 Orders directed to parents or guardians	Current law is found at 27-20-27.1. This takes out the language regarding parents who fail to comply being held in contempt of court as this is not needed to invoke court's contempt powers found in Chapter 27-10.
Section 22 (p.43)	27-20.2-15 Indian child welfare – Active efforts and procedures	New statute which incorporates federal law requirements found in the Indian Child Welfare act.
Section 22 (p.47-48)	27-20.2-16 Order of adjudication - Noncriminal	Same as current law found at 27-20-33
Section 22 (p.48-49)	27-20.2-17 Rights and duties of legal custodian	Same as from current law found at 27-20-38
Section 22 (p.49)	27-20.2-18 Guardian ad litem - Immunity	Same as current law found at 27-20-48
Section 22 (P.49-50)	27-20.2-19 Costs and expenses for care of child	No substantive change from current law at 27-20-49

Section 22 (p.51)	27-20.2-20 Protective Order	Same as current law found at 27-20-50
Section 22 (p.52-54)	27-20.2-21 Inspection of court files and records - Penalty	Same as current law found at 27-20-51
Section 22 (p. 54)	27-20.2-22 Disclosure of information needed to apprehend child	Same as current law found at 27-20-51.1
Section 22 (p.54-55)	27-20.2-23 Law enforcement and correctional facility records	Same as current law found at 27-20-52
Section 22 (p. 55-56)	27-20.2-24 Children's fingerprints, photographs	No change from current law found at 27-20-53 but updates cross-references
Section 22 (p.57)	27-20.2-25 Destruction of juvenile court records	Same as current law found at 27-20-54
Section 22 (p.58)	27-20.2-26 Appeals	Same as from current law found at 27-20-56
Section 22 (p.58)	27-20.2-27 Rules of court	No substantive change from current law found at 27-20-57 other than minor rewording for clarity
Section 22 (p.58)	27-20.2-28 In-state placement of juveniles - Exception	Same as current law found at 27-20-60
SECTION 23 New Chapter 27-20.3 Child in Need of Services / Child in Need of Protection		
Section 23 (p.58-64)	27-20.3-01 Definitions	Current law at 27-20-02 but this section only includes definitions of terms needed for case types of child in need of services or child in need of protection.
Section 23 (p.64)	27-20.3-02 Jurisdiction	Same as current law found at 27-20-03
Section 23 (p.64)	27-20.3-03 Venue	Current law is at 27-20-11. This replaces "unruly" and "deprived" with "child in need of services" and "child in need of protection"

Section 23 (p.64)	27-20.3-04 Powers and duties of director of juvenile court	Current law at 27-20-06 but removes duties around probation supervision as that will not be an outcomes of a child in need of services or protection case.
Section 23 (p.65)	27-20.3-05 Method of making a child in need of services referral	New statute which adds clarity about how a referral is made regarding a child in need of services (currently “unruly child”)
Section 23 (p.66)	27-20.3-06 Taking into protective custody	Current law is at 27-20-13 but this version adds word “protective” into heading for clarity and removes all language pertaining to delinquent children. Replaces “unruly” and “deprived” with “child in need of services” and “child in need of protection”
Section 23 (p.67)	27-20.3-07 Shelter care of child	Current law at 27-20-14(1) but this version eliminates all language referred to delinquent child who is detained.
Section 23 (p.67)	27-20.3-08 Release or delivery to court	Adds word “protective” in (1) for clarity of purpose; replaces “warrant” with “temporary custody order” in amendments to correct error; adds (3) to carry over prior law requirement of child’s release if petition is not filed
Section 23 (p.67)	27-20.3-09 Place of shelter care	Current law other than adding “shelter care” to heading for clarity
Section 23 (p.68)	27-20.3-10 Release from shelter care – hearing – conditions of release	Little change to current law other than allows human service zone to make a release prior to first shelter care hearing and adds Indian Child Welfare Act language in (1) for clarity and connection to federal law
Section 23 (p.69)	27-20.3-11 Diversion	New – clarifies that child in need of services (current “unruly” child category) can be diverted to services
Section 23 (p.69)	27-20.3-12 Petition – who may prepare and file - review	Replaces “deprived” with “child in need of protection” and requires state’s attorney to do the service of the petition

Section 23 (P.70)	27-20.3-13 Conduct of child in need of protection hearings	Replaces “deprived” with “child in need of protection”; adds back language in subsection (1) that the workgroup had left out by accident and inserted a cross-reference to the ND Rules of Juv. Procedure for clarity. Removes previous references to violations of 5-01-08 (MIC/MIP) as the work group ultimately decided to removed that from CHINS and leaves that to fall under delinquency chapter in order to allow a court process. Changes to subsection (5) closes contempt of court juvenile proceedings to the public.
Section 23 (p.70-71)	27-20.3-14 Adjudication	Current law found at 27-20-29 but pulls the deprived parts out to create this section and replaces “deprived” with “child in need of protection”.
Section 23 (p.71-72)	27-20.3-15 Disposition of a child in need of protection	Current law found at 27-20-30; replaces “deprived” with “child in need of protection”
Section 23 (p.72-73)	27-20.3-16 Disposition of child needing continued foster care services	Current law found at 27-20-30.1; replaces “deprived” with “child in need of protection”
Section 23 (p.73-74)	27-20.3-17 Human service zone to report to committing juvenile court	New statute which would strengthen transparency and collaboration between zones, families, and courts. Encourages more frequent communication to heighten efforts to return a child removed from parent’s custody home.
Section 23 (p.74-75)	27-20.3-18 Reasonable efforts to prevent removal or to reunify – when required	Current law at 27-20-32.3 with one updated cross-reference
Section 23 (p.75-79)	27-20.3-19 Indian child welfare – active efforts and procedures	New statute to bring in federal Indian Child Welfare Act language and provides clear definitions for courts and zones as they work with Indian children and families. Language for this section was submitted by the ND Court Improvement Committee and UND ICWA Partnership Grant team.

Section 23 (p.79-80)	27-20.3-20 Termination of parental rights	Current law at 27-20-44 with replacements of “deprived” with “child in need of protection” and some corrections as amendments where clerical errors were made in original bill draft.
Section 23 (p.80-83)	27-20.3-21 Petition for termination of parental rights	Current law at 27-20-45 but adds clarity that state’s attorney is responsible for the preparation, filing and service of the petition upon the parties to the case. Also updates cross-reference.
Section 23 (p.83-84)	27-20.3-22 Proceeding for termination of parental rights	Current law at 27-20-45; and updates with cross-reference to ND Rules of Juv Pro.
Section 23 (p.84-85)	27-20.3-23 Effect of order terminating parental rights or appointing a legal guardian	Same as current law at 27-20-46
Section 23 (p.85)	27-20.3-24 Disposition upon termination of parental rights	Same as current law at 27-20-47
Section 23 (p.85)	27-20.3-25 Court order required for removal of child	Same as current law at 27-20-32.1
Section 23(p.85-87)	27-20.3-26 Limitations of time on orders for disposition	Current law at 27-20-36 with all the delinquent child portions pulled out. Subsection (2) is new and allows for court ordered services where child remains in the home
Section 24 (p.87-88)	27-20.3-05 Method of making a child in need of services referrals	*DELAYED EFFECTIVE DATE OF AUGUST 1, 2022 Start date of child in need of services referrals being handled by the human service zones; juvenile court would no longer receive child in need of services referrals

SECTION 25 New Chapter 27-20.4 Delinquency		
Section 25 (p.88-91)	27-20.4-01 Definitions	Current law at 27-20-02 with only the delinquent case type terms and adds new definitions of: accountability, arrest, attendant care, community-based program, dispositional stage, diversion, division, evidence-based, facility, graduated sanctions, home confinement, incentives, informal adjustment, intensive supervision probation program, juvenile drug court, pick up and hold order, predisposition assessment, proceedings, QRTP, referral, risk factors, and treatment.
Section 25 (p.91)	27-20.4-02 Jurisdiction	Current law at 27-20-03 with updated cross reference
Section 25 (p.91)	27-20.4-03 Venue	Current law at 27-20-11 with only the delinquent case type language. Last sentence is new and is to guide a venue decision when the conduct takes place in more than one county.
Section 25 (p.91-92)	27-20.4-04 Powers and duties of director of juvenile court	Current law at 27-20-06 with only the delinquent case type duties. Adds term of “referrals” at (1)(b) and (1)(c) is likely a clerical error unaccounted for in the amendments as it pertains to CHINS/CHIPS cases from 27-20.3.
Section 25 (p.92-93)	27-20.4-05 Taking into custody	Current law at 27-20-13 with addition of “pick up order” instead of generic “order” and updates to reflect use of detention screening tool which passed as “Natalee’s Law” last session and also indicates the ability to use lesser restrictive places like attendant care or shelter care which was implied before. Transport at (3) is only as appropriate and is otherwise allowed in duties of director.
Section 25 (p.93-94)	27-20.4-06 Detention – Nonsecure care of child	Current law is at 27-20-14 (a) but this version goes on to add specifics about use of the detention screening tool, appropriate uses of detention, allows use of alternatives like electronic home monitoring or home confinement, and requires mental health and

		trauma screening to be done by detention center and shared with juvenile court.
Section 25 (p.94-95)	27-20.4-07 Release or delivery to court	Current law is at 27-20-15 but this version adds (1)(a) and (3). Also updates to use term “pick up and hold order” which is the common term used and is the juvenile version of the adult term of “warrant”
Section 25 (p.95-96)	27-20.4-08 Place of detention	Current law at 27-20-16 with the subsections regarding deprived children removed and placed in 27-20.3.
Section 25 (p.96-97)	27-20.4-09 Release from detention or nonsecure care – hearing – conditions of release	Current law at 27-20-17 but adds clear option to lesser restrictive nonsecure care; requires reasonable notice of release to victim; adds counsel to child regardless of income; requires court to consider detention screening tool; outlines what to do if child can be released but parents cannot be found or are unwilling; outlines referral to human service center if appears child may have an intellectual or developmental disability; outlines procedure for mental health disorder screening.
Section 25 (p.97-98)	27-20.4-10 Diversion	New statute that outlines the diversion process. It also lists when a diversion is or is not appropriate and includes in (3) a sunrise provision so that effective 8/1/2023, certain low level infractions or misdemeanors that occur at school during school day may not be referred to juvenile court.
Section 25 (p.98-99)	27-20.4-11 Informal Adjustment	Current law at 27-20-10 with addition of (2), (3), and (4) which list when informal is considered, requires notice to identified victims, and requires a prescreen risk assessment and sharing of results with child and family.
Section 25 (p. 99)	27-20.4-12 Petition – Preliminary Determination	Same as current law at 27-20-19

Section 25 (p.100)	27-20.4-13 Petition – who may prepare and file – review	Current law at 27-20-20 with added clarity that states attorney must prepare and serve the petition and requires juvenile court staff to provide the last known address of parents or guardians of the child.
Section 25 (p.100)	27-20.4-14 Conduct of hearings	Current law at 27-20-24; adds cross reference to ND Rules of Juvenile Procedure and corrects a clerical error in (1) when some current language was left out by the work group in error.
Section 25 (p.100-101)	27-20.4-15 Predispositional assessment	Current law at 27-20-28 (Investigation and report) but retitled; requires use of predisposition assessment of risk and needs; allows during pendency of a case for the court to order an evidenced-based risk and needs assessment, mental health screening, and trauma screening. Subsection (3)(e) creates a process to follow if child is found to be lacking competency or criminal responsibility. This ties the statute with Rule 11.2, ND Rules of Juvenile Procedure on juvenile competency
Section 25 (p.101-102)	27-20.4-16 Adjudication	Current law at 27-20-29 with the deprived child portions removed. Only other change is (3), line 11 which adds consideration of a predisposition assessment in deciding disposition.
Section 25 (p.102-103)	27-20.4-17 Disposition of a delinquent child	Current law at 27-20-31 with an edit at (1)(b) for clarity on “accountability to the victim” as repairing the harm. Also adds that probation conditions must be best suited to a child's individual needs for treatment and rehabilitation. Subsection (3) is new and places restrictions on when a child can be committed to the division of juvenile services.

Section 25 (p.103-104)	27-20.4-18 Probation of a delinquent child	New statute but based on the statutory authority to place a child on probation already existing at 27-20-31(2)(b). Adds clarity and details about the procedures of probation supervision. Requires use of graduated sanctions and incentives. Limits formal probation to 12 months from disposition. Allows early release if all terms completed. Limits extensions for noncompliance. Does not allow extension of probation solely to collect restitution.
Section 25 (p.104-105)	27-20.4-19 Delinquent children – suspension of driving privileges	Same as current law at 27-20-31.1
Section 25 (p.105)	27-20.4-20 Restitution	Same as current law at 27-20-31.2
Section 25 (p.106-107)	27-20.4-21 Transfer to other courts	Current law at 27-20-34; only change is elimination of 27-20-34(4) the once transferred, always transferred provision. In other words, each new charge would require another transfer or could be handled by juvenile court if child is still within age jurisdiction limits.
Section 25 (p.108)	27-20.4-22 Court order required for removal of child	Same as current law at 27-20-32.1
Section 25 (p.108-109)	27-20.4-23 Limitations of orders of disposition	Current law at 27-20-36 with some limits to probation extensions in subsection (1) and limits to DJS committal cases in subsection (2)(c) and (2)(d).
Section 25 (p. 109-110)	27-20.4-24 Reasonable efforts to prevent removal or to reunify – when required	Same as current law at 27-20-32.2
Section 25 (p.110-111)	27-20.4-25 Law enforcement and correctional facility records	Same as current law at 27-20-52

Section 25 (p.11-112)	27-20.4-26 Substance use programming	Similar to current law at 27-20-32.4; this is currently titled “Twenty-four seven sobriety program – participation” and the language was adjusted from “shall” to “may” and reduced period of participation from 9 months to up to six months.
Section 26 (p.112-114)	27-20.4-06 Detention – nonsecure care of child	*effective date of August 1, 2022 to allow time for subcommittee on alternative to detentions created by HB 1427 to develop process, procedures, and plan for statewide implementation and expansion of alternatives
Sections 27-28, 30-42	-----	Add cross-references
Section 29 (p.114-115)	27-21-09 Cooperation with other agencies and departments of the state – right to inspect facilities of state institutions – right to examine children	Same as current law at 27-21-09 with addition of subsection (1) to allow the division of juvenile services to enter contracts with service providers as needed to perform the mission.
Section 43 (p.122)	Chapter 27-20; 27-21-03	REPEAL
Section 44 (p. 122)	Sections 24 and 26 of HB1035	Effective dates of August 1, 2022.

This concludes my testimony on the specifics of House Bill 1035 and amendments. The North Dakota State Courts are in support of this House Bill 1035. Chairman and members of the committee, I will stand for questions.

Respectfully submitted:

Karen Kringlie, Director of Juvenile Court

Commission on Juvenile Justice bill draft workgroup members: Representative Klemin, Senator Kim Koppelman, Senator JoNell Bakke, Senator Diane Larson, Lisa Bjergaard (DJS), Lisa Jahner (NDACO), Cory Pedersen (DHS), Travis Finck (Indigent Defense Commission), Tessa Vaagen (Assistant Burleigh Co State’s Attorney), Josh Weber and Jacob Agus-Kleinman (Council of State Governments), Karen Kringlie (Juvenile Court)