

FISCAL NOTE
Requested by Legislative Council
12/21/2018

Bill/Resolution No.: HB 1039

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
Counties	\$0	\$0	\$0
Cities	\$0	\$0	\$0
School Districts	\$0	\$0	\$0
Townships	\$0	\$0	\$0

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

No fiscal impact

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

No fiscal impact

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

No Fiscal impact

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

No Fiscal impact

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

No fiscal impact

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Date Prepared: 12/27/2018

2019 HOUSE JUDICIARY

HB 1039

2019 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

HB 1039
1/8/2019
30544

☐ Subcommittee
☐ Conference Committee

Committee Clerk: DeLores D. Shimek

Explanation or reason for introduction of bill/resolution:

A BILL relating to culpability of a juvenile.

Minutes:

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Chairman K. Koppelman: Opened the hearing on HB 1039.

Samatha Kramer, LC: Introduced this bill. This bill is basic. It is revising to current age of culpability for a juvenile from seven to ten.

Rep. McWilliams: Under the age of ten is that defining the tenth birthday?

Samatha Kramer: It would mean that someone that has not reached the age of ten.

Rep. McWilliams: Does a judge have the opportunity to determine the culpability of an individual or is it strictly based on age?

Samatha Kramer: Judicial discursion is always able to a court. I would defer to experts in the courtroom for more information.

Rep. Roers Jones: Can you give us an insight on the discussion of the committee that took us to the age of ten and why ten?

Samatha Kramer: The committee received testimony that across the county the age is being raised the age to ten and that is how it landed in the bill.

Rep. Roers Jones: Can you give us an average across the country. Do you have that information?

Samatha Kramer: I don't have that in front of me. I can provide it later if I need to.

Rep. Vetter: If you have an 8-year-old charged with a crime, what is the difference now versus with this if this law is passed?

Samatha Kramer: I would again defer to the experts. There are various factors that are considered.

Rep. Magnum: We are saying if you are under ten years of age you can never be charged for any crime? Between 10 and 14 you can be charged for a crime and then 14 and older they can be charged as an adult?

Samatha Kremer: I am not sure.

Rep. Paur: Representative Klemin was on the justice reinvestment and very seldom anyone under 14 gets charged as a criminal. It just doesn't happen.

Chairman K. Koppelman: What does happen if someone is under this age of culpability?

Representative Jones: Is there something else involved here that we are not taking into consideration?

Samatha Kramer: No this is solely for a criminal action.

Opposition: None

Hearing closed.

Chairman K. Koppelman: Reopened the hearing.

Cathy Ferderer, Supreme Court, Director of the ND Juvenile Court: Gave general information. The Supreme Court does support the bill and I am not offering testimony. The court feels these juveniles would be handled better through the Dept. of Human Services. That avenue will have them deal with both the family and the child. Right now the juvenile court is only able to provide services to adolescence is for the seven to ten-year-old; if some referral could be made to the department they would have the same type of services that we would have in juvenile court for that youth, but they would not have services in juvenile court for the family. This is related to years of work with child welfare and all the child services to make sure we are addressing the needs that families have. Judges here are very careful with their decisions here and waiving that.

Rep. Roers Jones: Did the court have any discussion on the age and ten seems young.

Cathy Ferderer: Yes there was discussion to raising it to 12. We would also support that position.

Rep. Hanson: Do we already have a policy that you have to be age 12 to go into the ND Youth Correctional Facility?

Cathy Ferderer: Yes that is correct. That would just align with our current practices of focusing in giving services to kids.

Rep. Hanson: Can someone in the audience speak on the research on brain development.

Cathy Ferderer: I am not an expert on little kid's brains.

Rep. Hanson: Can some of the audience can speak to brain development? With decision making at that age.

Lisa Bjergaard: All of the things you said are true. Logic around where you serve a child by their behavior you can see something going on; if a person is adjudicated then child welfare is better to assist the whole family. The youth at the age of 12 cannot go into the youth correctional center. Want to serve families together and this is best practice.

Rep. McWilliams: Do you see any advantages of changing the bill from age 10 to 12?

Lisa Bjergaard: I think it would make everything cleaner.

Rep. Roers Jones: I would like your opinion as to changing the age of 14 to 16.

Lisa Bjergaard: I don't think they are capable of understanding the weight. I think across the country the age is moving up. ND did not do this and decided to move some offenses into the category to help the child.

Representative Satrom: Do we have data to support keeping young people out of the criminal justice system? The long term projector has definitely changed in a long term way if you put them into criminal just system.

Lisa Bjergaard: When you separate young people from their communities you need to be careful to separate It does not help to keep them separated and their environments are important. Also we are expensive and you can do a lot more in the community with a family and someone who can see several families.

Chairman K. Koppelman: I have a question on the age and the committee did look at that. A 12-year-old could be in junior high, middle school. You talked about the difference between adult brain and a younger child and we have to put numbers in the law.

Lisa Bjergaard: There is research that on this. Discussion on how youth mature.

Hearing Closed.

Chairman K. Koppelman reopened to the meeting.

Rep. Roers Jones made a motion to amend the age of culpability from ten to twelve. Seconded by Rep. Becker.

Discussion:

Rep. Vetter: That just moved me to a no vote.

Rep. Hanson: I support the amendment because it aligns with our actual practices. Youth under the age of twelve cannot be placed in a correctional facility now.

Rep. Paur: I think the justice reinvestment committee has heard a lot more testimony about this than we have and if they suggest ten I am going to go with that.

Rep. McWilliams: I support going to twelve.

Representative Simons: I may be bias on this one. Fourteen years of working in the prison system we had a young man go through at the age of nine year's old that was with a meth addict walking a railroad for miles and they came across a lady thirty and they identified her by her teeth. At twelve years old in the person system he was ding life without chance of parole. I have seen too much.

Rep. Vetter: We are moving this to twelve; yet fourteen they can be an adult; so in 2 years we are moving it to an adult. I think that is not right.

Chairman K. Koppelman: I do think Rep. Paur comment is constructive. The interim committee talked about twelve. My concern is if you support this idea I would hope that our amendment wouldn't hurt the bill. Personally I am going to resist the amendment. I support the bill because it is not practiced. This statement in statute is very serious so we need to be careful.

Rep. McWilliams: In Justice Reinvestment committee was there any discussion in going with the birthday of eleven years old?

Representative Hanson: It was not discussed. It was between ten and twelve because it aligns with practice.

Voice vote failed.

Rep. Rick Becker made a motion to amend the bill on page 1, line 10 change 14 to 16. Seconded by Rep. McWilliams

Discussion:

Rep. Vetter: What would that change then. That would mean a 14-year-old murders somebody they can be tried as an adult. So this would be 16 you would be tried as an adult.

Representative Satrom: I was on the Justice Reinvestment committee and we did not discuss this. This takes me out of my comfort level. We have no data to back it up.

Rep. Roers Jones: The court has discretion. I don't think 14 years should be the age of an adult for legal purposes. I am concerned about jeopardizing the bill for this.

Chairman K. Koppelman: We do have a lot of inconsistency's in our laws.

Rep. Simons: I do not see any abuse by the judges now. I will resist this motion.

Rep. McWilliams: I was a little quick to second that motion with Rep. Rick Becker.

Rep. Rick Becker: It is interesting that the exact argument we are making against this motion is the argument we used in favor of going from 7 to 10.

Voice vote failed.

Do Pass Motion made by Rep. Roers Jones; Seconded by Representative Satrom:

Discussion:

Rep. Simons: I think we are tying judge's hands by changing this.

Roll Call Vote: 13 Yes 1 No 0 Absent; Carrier: Rep. Roers Jones

Closed.

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
HB 1039**

House Judiciary Committee

☐ Subcommittee

Amendment LC# or Description: Change 10 to 12

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Roers Jones Seconded By Rep. Rick Becker

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman			Rep. Buffalo		
Vice Chairman Karls			Rep. Karla Rose Hanson		
Rep. Becker					
Rep. Terry Jones					
Rep. Magrum					
Rep. McWilliams					
Rep. B. Paulson					
Rep. Paur					
Rep. Roers Jones					
Rep. Satrom					
Rep. Simons					
Rep. Vetter					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Voice Vote Failed

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
HB 1039**

House Judiciary Committee

☐ Subcommittee

Amendment LC# or Description: Page 1 line 10 change 14 to 16

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Rick Becker Seconded By Rep. McWilliams

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman			Rep. Buffalo		
Vice Chairman Karls			Rep. Karla Rose Hanson		
Rep. Becker					
Rep. Terry Jones					
Rep. Magrum					
Rep. McWilliams					
Rep. B. Paulson					
Rep. Paur					
Rep. Roers Jones					
Rep. Satrom					
Rep. Simons					
Rep. Vetter					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Voice Vote Failed

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
HB 1039**

House Judiciary Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Roers Jones Seconded By Representative Satrom:

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman	X		Rep. Buffalo	X	
Vice Chairman Karls	X		Rep. Karla Rose Hanson	X	
Rep. Becker	X				
Rep. Terry Jones	X				
Rep. Magrum	X				
Rep. McWilliams	X				
Rep. B. Paulson	X				
Rep. Paur	X				
Rep. Roers Jones	X				
Rep. Satrom	X				
Rep. Simons		X			
Rep. Vetter	X				

Total (Yes) 13 No 1

Absent 0

Floor Assignment Rep. Roers Jones

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1039: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **DO PASS**
(13 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). HB 1039 was placed on the
Eleventh order on the calendar.

2019 SENATE JUDICIARY

HB 1039

2019 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

HB 1039
2/5/2019
Job #32162 (10:30)

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Meghan Pegel

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact section 12.1-04-01 of the North Dakota Century Code, relating to culpability of a juvenile.

Minutes:

No Attachments

Chair Larson opens the hearing on HB 1039.

Samantha Kramer, Legislative Council, neutral party

Kramer: This bill came out of the interim justice reinvestment committee. We received testimony that across the country, the age of culpability is higher than what our current Century Code has it at as 7 years, so the committee decided to raise it to 10 years.

Chair Larson: Do you know why there is a fiscal note?

Kramer: I do not.

(1:55) Cathy Ferderer, Juvenile Court Coordinator for the Court System, neutral party

Ferderer: We provided information to the reinvestment committee regarding the age of jurisdiction and the court system does see a fair amount of people under the age of 10 that come through. It would be a more appropriate referral to other places, not the juvenile court system. Some of these 7 and 8 year olds who have truancy or things like that- is it really the child's responsibility to get themselves to school or is it the parent? There are a lot of things we see that would be more appropriately addressed with some sort of behavioral health or CPS response. It doesn't make sense to us at times for these kids to be brought into the juvenile court system. A lot of the principles about the processes for juvenile court such as looking at the best responses really do tell us that that is probably not an appropriate age to deal with it through a criminal justice response versus behavioral health or CPS.

Senator Myrdal: What kind of things would someone under 10 come into court for?

Ferderer: In looking at the 2018 statistics, we saw a few disorderly conducts, a lot of truancy, some ungovernable behavior, things like that. Some are behavioral issues possibly in schools.

Senator Myrdal: Is there a scientific reason for 10 being the new age?

Ferderer: I don't know if there is science, but there is research around the adolescent's ability to be held accountable for decisions that they're making, brain research and such, that says their brains may not be mature enough at that point in time. The committee and the House also looked at the age of 12 and there was debate in even raising it further to that.

Chair Larson: In surveying most of the other states, the most common age was 10. There were only a few states that still had 7 and others had a higher age. I wasn't on that justice reinvestment interim committee but I have worked with the topic.

Senator Bakke: They're still in Elementary school at 10. Do you feel that 12 would be a better age?

Ferderer: We support the age of 10 or 12. We worked with some national consultants who supported 10-12 as well. Our preference would be to see an increase in age in general.

Chair Larson: I worked for 23 years at the Police Youth Bureau. I had juveniles 7-9 years old occasionally for shoplifting. When it was for being ungovernable or unruly, that was usually the parent reporting their child to police because they weren't listening to the rules. They were then redirected to some parenting classes. Truancy usually is because the kid went to school then left, not because the parent didn't get them there because then that's educational neglect. Disorderly conduct was usually initiated in the schools or neighborhoods. Restorative justice practices in schools are making a huge difference with those kinds of things. I think age 10 is young enough to make it a change in the juvenile's behavior at a young age, yet old enough to say the younger ones can be handled in different systems.

Chair Larson closes the hearing on HB 1039.

Senator Myrdal: Moves for a Do Pass.

Senator Bakke: Seconds.

A Roll Call Vote Was Taken: 6 yeas, 0 nays, 0 absent. Motion carries.

Chair Larson will carry the bill.

**2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1039**

Senate Judiciary Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Senator Myrdal Seconded By Senator Bakke

Senators	Yes	No	Senators	Yes	No
Chair Larson	X		Senator Bakke	X	
Vice Chair Dwyer	X				
Senator Luick	X				
Senator Myrdal	X				
Senator Osland	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Chair Larson

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1039: Judiciary Committee (Sen. D. Larson, Chairman) recommends **DO PASS**
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1039 was placed on the
Fourteenth order on the calendar.