

2021 HOUSE JUDICIARY

HB 1052

2021 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Room JW327B, State Capitol

HB 1052

1/11/2021

Relating to cooperative agreements to provide services to juveniles adjudicated in tribal court.

Chairman Klemin called the meeting to order at 10:00AM.

Representatives	Attendance
Representative Lawrence R. Klemin	P
Representative Karen Karls	P
Representative Rick Becker	P
Representative Ruth Buffalo	P
Representative Cole Christensen	P
Representative Claire Cory	P
Representative Karla Rose Hanson	P
Representative Terry B. Jones	P
Representative Jeffery J. Magrum	P
Representative Bob Paulson	P
Representative Gary Paur	P
Representative Shannon Roers Jones	P
Representative Bernie Satrom	P
Representative Steve Vetter	p

Discussion Topics:

- Juvenile service agreements between DOCR, Supreme court and Indian Affairs
- Extension of time for the agreements

Sara Behrens, Staff Attorney for State Court Administrator's office: introduced the bill.
Testimony # 331 10:02

Kathy Ferderer: Staff Attorney ND State Court Administrator's Office. Answered questions. 10:10

Lisa Bjergaard, Director, Division of Juvenile Services, ND Dep. Of Corrections and Rehabilitation: Testimony #329 & #334 10:14

Chairman Klemin closed the hearing at 10:15 AM.

Do Pass Motion Made by Rep. T. Jones; Seconded by Rep. Vetter

Representatives	Vote
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Representative Lawrence R. Klemin	Y
Representative Karen Karls	Y
Representative Rick Becker	Y
Representative Ruth Buffalo	Y
Representative Cole Christensen	Y
Representative Claire Cory	Y
Representative Karla Rose Hanson	Y
Representative Terry B. Jones	Y
Representative Jeffery J. Magrum	Y
Representative Bob Paulson	Y
Representative Gary Paur	N
Representative Shannon Roers Jones	Y
Representative Bernie Satrom	Y
Representative Steve Vetter	Y

Roll Call Vote: 13 Yes; 1 No Absent: 0; Carrier: Rep. B. Paulson

Chairman Klemin closed the meeting at 10:20 AM.

Delores Shimek, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1052: Judiciary Committee (Rep. Klemin, Chairman) recommends **DO PASS** (13 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1052 was placed on the Eleventh order on the calendar.

Houser Bill 1052
House Judiciary Committee
Testimony Presented by Sara Behrens
January 11, 2021

Good morning Chairman Klemin, members of the committee. My name is Sara Behrens and I am a staff attorney with the State Court Administrator's Office. I am here today in support of House Bill 1052. This bill amends section 27-20-61. This section authorizes juvenile services agreements among the Department of Corrections and Rehabilitation (Division of Juvenile Services), the Supreme Court (Juvenile Court), the Indian Affairs Commission and tribal government of a federally recognized Indian tribe in the state. Currently, this section is effective only through July 31, 2021. This bill would extend that date to July 31, 2023 to allow a longer period of time to work on expanding the number of agreements and obtaining data. This bill also adds the Department of Corrections and Rehabilitation to the particulars of the section because they are one of the vital partner agencies.

Currently, there is one memorandum of understanding (MOU) in place with Spirit Lake Tribal Court. The MOU was developed in the fall of 2019, was signed in January 2020 and was up and running in February of 2020. A report was provided to Legislative Management during the interim. At that time, there were 6 juveniles being served. That number has increased to 10 juveniles. Unfortunately, with the COVID pandemic, they did experience setbacks in staffing these cases. The team has since adjusted, much like everyone else, and now is meeting monthly to staff cases via Zoom. The meetings are among a multi-disciplinary team consisting of the Spirit Lake Nation, the Department of Juvenile Services, and the Juvenile Court. Additional meetings are held when an issue arises with a juvenile. Spirit Lake now has a juvenile intake officer who brings cases to the team to staff. These are juveniles solely under the jurisdiction of

tribal court. Sometimes, juveniles do have cases in both district court and juvenile court and they are discussed as well.

The main service provided so far is the Youth Assessment and Screening Instrument or YASI risk assessment. The tribal court now has a YASI license and has received training on the program. The Division of Juvenile Services has assisted tribal social services with accessing residential treatment facilities when needed, but, thus far, the use of the YASI assessment coupled with collaborative case planning among agencies has resulted in an emphasis on treatment services. Juveniles are also able to be referred into the Juvenile Drug Court Program. No juveniles have required a transfer of custody to the Division of Juvenile Services.

Because this collaboration has been in place for only about a year, more time is needed to see what the recidivism rate will be and determine the true success of the program. All entities involved feel that the program is worthwhile and would like to see it continue. Therefore, we are asking to extend the effective date for another biennium. The hope is that other tribal courts will see that the program is successful and enter into MOUs with the state agencies also. Thank you for your consideration and we urge a do pass.

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Sixty-seventh
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1052

Introduced by

Judiciary Committee

(At the request of the Supreme Court)

1 A BILL for an Act to amend and reenact section 27-20-61 of the North Dakota Century Code,
2 relating to cooperative agreements to provide services to juveniles adjudicated in tribal court.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 27-20-61 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **27-20-61. Tribal juvenile services cooperative agreement - Report to legislative**
7 **management. (Effective through July 31, ~~2021~~2023)**

8 1. The department of corrections and rehabilitation, through the division of juvenile
9 services; the supreme court, through the office of the state court administrator; and the
10 Indian affairs commission may negotiate and enter a memorandum of understanding
11 with the tribal government of a federally recognized Indian tribe in the state for the
12 purpose of accepting and providing for, in accordance with this chapter, the treatment
13 and rehabilitation of tribal juveniles who have been adjudicated in tribal court under
14 tribal or federal laws. Under the pilot program and terms of a memorandum of
15 understanding:

16 a. The tribal government, the department of corrections and rehabilitation, and the
17 juvenile court may exchange information relevant to the treatment and
18 rehabilitation needs of a tribal juvenile and the juvenile's family, including tribal
19 court orders, medical and psychiatric reports, law enforcement reports, and other
20 information pertinent to the referral;

21 b. The juvenile court and the department of corrections and rehabilitation shall
22 provide services based on the individualized need of each tribal juvenile referred
23 to and accepted by ~~both the tribal and~~ tribal court, juvenile court, and department of
24 corrections and rehabilitation;

- 1 c. The juvenile court and the department of corrections and rehabilitation shall
2 maintain regular contact with the tribe regarding each tribal juvenile who has
3 been placed in the supervision of the juvenile court and shall provide quarterly
4 case plans and more frequent reports if the juvenile's behavior
5 warrants respective agency; and
- 6 d. The juvenile court and the department of corrections and rehabilitation may limit
7 the number of tribal juveniles accepted based on criteria developed by the
8 juvenile court and the availability of state resources and services.
- 9 2. Before July first of each even-numbered year, the department of corrections and
10 rehabilitation, the juvenile court, and the Indian affairs commission shall report and
11 make recommendations to the legislative management on the status, effectiveness,
12 performance, and sustainability of a memorandum of understanding established under
13 this section.

**HOUSE JUDICIARY COMMITTEE
REPRESENTATIVE LAWRENCE KLEMIN, CHAIR
JANUARY 11, 2021**

**NORTH DAKOTA DEPARTMENT OF CORRECTIONS AND REHABILITATION
LISA BJERGAARD, DIRECTOR, DIVISION OF JUVENILE SERVICES
PRESENTING TESTIMONY IN SUPPORT OF HOUSE BILL 1052**

Chairman Klemin and members of the Judiciary Committee, my name is Lisa Bjergaard, and I am the Director of the Division of Juvenile Services for the North Dakota Department of Corrections and Rehabilitation. I am here to testify on behalf of the department in support of House Bill 1052, which would amend North Dakota Century Code 27-20-61, which was established during the 66th Legislative Assembly and is effective through July 31, 2021.

In November of 2019, we achieved the first signed agreement between Spirit Lake Nation Tribal Court, the Division of Juvenile Services, the North Dakota Juvenile Court, and the Indian Affairs Commission. The purpose of the Memorandum of Understanding was to establish effective cooperation in order to provide access to similar services for all North Dakota youth who were adjudicated, whether in a tribal juvenile court or a state juvenile court.

I hope you agree that this was an historic moment. We worked across branches of government and between governments in order to share expertise and plan together for some of North Dakota's most vulnerable and at-risk youth; those involved with the juvenile justice system.

We had hoped that during the convening of this legislative session, we would be able to report to you the data we obtained, and our plans to achieve similar agreements with other North Dakota tribal partners. However, the ongoing global pandemic has impacted our ability to do this work to the depth that we had hoped to achieve.

The bill asks that you extend the life of this project for another biennium so that we can continue this important work. Therefore, I urge a “do pass”.

2021 SENATE JUDICIARY

HB 1052

2021 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Peace Garden Room, State Capitol

HB 1052
2/9/2021

A BILL for an Act to amend and reenact section 27-20-61 of the North Dakota Century Code, relating to cooperative agreements to provide services to juveniles adjudicated in tribal court.

Meeting called to order all Senators are present: Myrdal, Luick, Dwyer, Bakke, Fors, Heitkamp, and Larson. [8:30]

Discussion Topics:

- Status of Juvenile Adjudication in the tribes
- Delegation of responsibilities

Sarah Behrens, ND Supreme Court provided testimony in favor #5827 [8:31]

Lisa Bjergaard, ND Juvenile Services testimony in favor #5910 [8:35]

Joseph Vetsch, Spirit Lake Tribal Court testimony in favor #6026 [8:40]

Shawn Peterson, ND Juvenile Court, testimony in favor #5906 [8:45]

Senator Luick Moved a DO PASS

Senator Myrdal Seconded
Vote passed 7-0-0

Chairwoman Larson Carried

Hearing adjourned [8:50]

Jamal Omar, Committee Clerk

DO PASS On HB 1070	Vote
Senator Diane Larson	Y
Senator Michael Dwyer	Y
Senator JoNell A. Bakke	Y
Senator Robert O. Fors	Y
Senator Jason G. Heitkamp	Y
Senator Larry Luick	Y
Senator Janne Myrdal	Y

REPORT OF STANDING COMMITTEE

HB 1052: Judiciary Committee (Sen. Larson, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1052 was placed on the Fourteenth order on the calendar.

House Bill 1052
Senate Judiciary Committee
Testimony Presented by Sara Behrens
February 9, 2021

Good morning Chair Larson, members of the committee. My name is Sara Behrens and I am a staff attorney with the State Court Administrator's Office. I am here today in support of House Bill 1052. This bill amends section 27-20-61. This section authorizes juvenile services agreements among the Department of Corrections and Rehabilitation (Division of Juvenile Services), the Supreme Court (Juvenile Court), the Indian Affairs Commission and tribal government of a federally recognized Indian tribe in the state. Currently, this section is effective only through July 31, 2021. This bill would extend that date to July 31, 2023 to allow a longer period of time to work on expanding the number of agreements and obtaining data. This bill also adds the Department of Corrections and Rehabilitation to sections 1 a., 1 b., 1 c., and 1 d. because they are one of the vital partner agencies in providing services.

Currently, there is one memorandum of understanding (MOU) in place with Spirit Lake Tribal Court. The MOU was developed in the fall of 2019, was signed in January 2020 and was up and running in February of 2020. A report was provided to Legislative Management during the interim. At that time, there were 6 juveniles being served. The total number of youth served as of the date of this report is 12 juveniles.

Unfortunately, with the COVID pandemic, the team was no longer able to meet in person. The team quickly adjusted, much like everyone else, and now is meeting at least monthly to staff cases via Zoom. The meetings are among a multi-disciplinary team consisting of the Spirit Lake Tribal Court, Spirit Lake Tribal Social Services, the Division of Juvenile Services, and the

Juvenile Court. Additional meetings are held when an urgent issue arises with a juvenile. Spirit Lake now has a juvenile intake officer who brings cases to the team to staff. These typically are juveniles solely under the jurisdiction of tribal court. Sometimes, juveniles do have cases in both State district court and Tribal Court and they are discussed as well.

Because this collaboration has been in place for only about a year, more time is needed to collect outcome data and determine the true success of the program. All entities involved feel that the program is worthwhile and would like to see it continue. Therefore, we are asking to extend the effective date for another biennium. The hope is that positive outcome data from this pilot project may lead to other tribal courts entering into MOUs with the state agencies also. Thank you for your consideration and we urge a do pass.

**SENATE JUDICIARY COMMITTEE
SENATOR DIANE LARSON, CHAIR
FEBRUARY 9, 2021**

**NORTH DAKOTA DEPARTMENT OF CORRECTIONS AND REHABILITATION
LISA BJERGAARD, DIRECTOR, DIVISION OF JUVENILE SERVICES
PRESENTING TESTIMONY IN SUPPORT OF HOUSE BILL 1052**

Chair Larson and members of the Judiciary Committee, my name is Lisa Bjergaard, and I am the Director of the Division of Juvenile Services for the North Dakota Department of Corrections and Rehabilitation. I am here to testify on behalf of the department in support of House Bill 1052, which would amend North Dakota Century Code 27-20-61, which was established during the 66th Legislative Assembly and is effective through July 31, 2021.

In November of 2019, we achieved the first signed agreement between Spirit Lake Nation Tribal Court, the Division of Juvenile Services, the North Dakota Juvenile Court, and the Indian Affairs Commission. The purpose of the Memorandum of Understanding was to establish effective cooperation in order to provide access to similar services for all North Dakota youth who were adjudicated, whether in a tribal juvenile court or a state juvenile court.

I hope you agree that this was an historic moment. We worked across branches of government and between governments in order to share expertise and plan together for some of North Dakota's most vulnerable and at-risk youth; those involved with the juvenile justice system.

We had hoped that during the convening of this legislative session, we would be able to report to you the data we obtained, and our plans to achieve similar agreements with other North Dakota tribal partners. However, the ongoing global pandemic has impacted our ability to do this work to the depth that we had hoped to achieve.

The bill asks that you extend the life of this project for another biennium so that we can continue this important work. Therefore, I urge a “do pass”.

House Bill 1052
Senate Judiciary Committee
Testimony Presented by Joseph Vetsch
February 9, 2021

Chairwoman Larson and members of the Committee. My name is Joseph Vetsch. I am a practicing attorney in the Northeast Judicial District (primarily). I also serve as the Chief Judge for the Spirit Lake Nation in Fort Totten, North Dakota. I wish to express my support of House Bill 1052. HB 1052 would amend N.D.C.C. 27-20-61 to extend the original time period that allowed for State, County and Tribal agencies to enter into agreements in order to provide much needed services to youth adjudicated in Tribal Courts in North Dakota. The underlying basis for the original legislation was that officials working in both Tribal and State juvenile justice systems agreed that delinquent youth who fall under Tribal Court jurisdiction(s) often do not have access to, or receive, the same rehabilitative services as youth who fall under State Court jurisdiction.

Prior to its original passage in 2019, this was a subject of discussion among State, County and Tribal justice officials for a number of years with Northeast Judicial District Judge Donovan Foughty spearheading the discussion. Much to our satisfaction, N.D.C.C. 27-20-61 finally came to fruition, gave traction to years of efforts and a "Pilot Program" was quickly developed.

Since its passage, I have had the privilege of working with Pilot Program professionals from Ramsey County, Benson County, the Northeast Judicial District, Spirit Lake Tribal Social Services, the ND Indian Affairs Commission, the Division of Juvenile Services (Department of Corrections and Rehabilitation), and the North Dakota Juvenile Court. The Pilot Program's work involved the development of a multi-disciplinary team (MDT) that operates under a memorandum of understanding (MOU) which was given its blessing by N.D.C.C. 27-20-61.

During the development of the MOU and subsequent MDT, in person meetings were held and numerous emails were exchanged. After nearly a year of developing a framework for how the Pilot Program envisioned the MDT would function, the MDT staffed its first adjudicated youth in February of 2020. The first few meetings of the MDT were held in person. Like many others since the Covid-19 pandemic began, the MDT has conducted most of its meetings via Zoom. We have also staffed many impromptu cases and held many impromptu "meetings" via email. To date, a total of twelve (12) youth (8 boys and 4 girls) have been referred to the MDT.

The approach this MDT has taken differs slightly from how the statute describes the cooperative agreements. Rather than State agencies simply providing all the supervision and services, the Spirit Lake Tribal Court and the MDT preferred that Spirit Lake staff work in tandem with State and County

staff, whenever possible, in the delivery of services. The philosophy behind this approach is that, if the MOU were to end, the systems that serve delinquent youth in Spirit Lake will forever be more effective because of what was/is learned by the co-mentoring process. Because the MDT has taken this co-mentoring approach, other than a few hours from the dedicated State and County partners each month, the Pilot Program has cost the State of North Dakota very little in expenses thus far.

One of the key developments over the first year was regarding risk and needs assessments. Assessing risk and needs is an evidence-based practice in the field of probationary practice. The ND Court System, through its Juvenile Drug Court Program, purchased a Youth Assessment Screening Instrument (YASI) software license for the Spirit Lake Tribal Court. The Tribal Court and Juvenile Court staff have worked side-by-side on training individuals on how to effectively utilize this risk assessment tool. So far, the team has conducted five YASI risk assessments on youth referred to the MDT. All the assessed youth scored moderate or high risk. The YASI results assisted the MDT team in further case planning. Regardless of the outcome of HB 1052, implementation of this risk and needs assessment tool will continue to benefit the Spirit Lake Tribal Court.

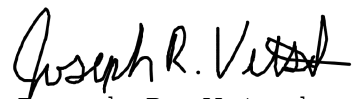
For youth in need of residential treatment services, Division of Juvenile Services staff have assisted Tribal Social

Services in the universal application process with the goal of matching the needs of the youth to treatment service options. Additionally, a procedure has been developed to allow Tribal Court youth to be referred to the State's Juvenile Drug Court Program in Devils Lake.

Thus far, collaboration among the many agencies involved in the MDT has been impressive. However, there is still so much more that can be accomplished. Additional time and opportunities to serve more youth are needed to see this Pilot Program through to completion and to compile outcome data that will show the true success of this much needed and long sought after legislation.

For reasons state above, **I strongly urge a "Do Pass" recommendation for HB 1052.** Thank you for your time and consideration in this matter. If you have any questions, comments and/or concerns, please feel free to contact me at any time.

Sincerely,



Joseph R. Vetsch
Chief Judge
Spirit Lake Tribal Court
Email: chiefjudge@gondtc.com
Cell Phone: 701-351-0371

House Bill 1052
Senate Judiciary Committee
Testimony Presented by Shawn Peterson
February 9, 2021

Good morning Chairwoman Larson and members of the Committee. My name is Shawn Peterson and I am a Juvenile Court Director with the North Dakota Court System. I wish to express my support of House Bill 1052. This bill amends N.D.C.C. 27-20-61 and would extend the time period allowing for agency agreements to provide services to youth adjudicated in Tribal Courts in North Dakota. An underlying reason for the need for this section is that officials working in both the Tribal and State juvenile justice agencies agree that delinquent youth under Tribal Court jurisdiction often do not have access to, or receive, the same rehabilitative services as youth in State Courts.

I have had the privilege of working with professionals from the Spirit Lake Tribal Court, Spirit Lake Tribal Social Services, the ND Indian Affairs Commission, the Division of Juvenile Services (Department of Corrections and Rehabilitation), and the Juvenile Court (ND Court System) in the development of a multi-disciplinary team operating under a memorandum of understanding under this Statute. The team staffed the first youth in February 2020 and to date, a total of twelve youth (8 boys and 4 girls) have been referred to the pilot program. In-person meetings were held during the development of the MOU as well as the first few meetings of the MDT team. Since the COVID-19 Pandemic, the team has conducted meetings via Zoom.

One of the key developments over the first year is in regards to risk and needs assessments. Assessing risk is an evidence-based practice in probation. The ND Court System, through its Juvenile Drug Court Program, purchased a Youth Assessment Screening Instrument (YASI) software license for the Spirit Lake Tribal Court. Tribal Court and Juvenile Court staff have worked side-by-side on training on the risk assessment tool. So far, the team has conducted five YASI risk assessments on youth referred to the pilot program. These youth all scored either

moderate or high risk and the YASI results assisted the MDT team in further case planning. Implementing this risk and needs assessment tool will benefit the Spirit Lake Tribal Court regardless of the outcome of this pilot program.

For youth in need of residential treatment services, Division of Juvenile Services staff have offered assistance to Tribal Social Services with the universal application process and matching the needs of the youth to the treatment service options. Additionally, a procedure has been developed to allow Tribal Court youth to be referred to the State's Juvenile Drug Court Program in Devils Lake.

The approach this pilot is taking differs slightly from how the statute describes the cooperative agreements. Rather than the State agencies simply providing all of the supervision and services, Spirit Lake Tribal Court Chief Judge Joseph Vetsch and the pilot team prefer that Tribal staff work in tandem with State staff, when possible, in the delivery of services. The philosophy behind this approach is that if the MOU were to end the systems that serve delinquent youth will be more effective from what is learned during the co-mentoring that happens during the partnership.

The collaboration amongst the agencies involved has been impressive thus far but there is more that can be accomplished. Additional time and opportunities to serve more youth are needed to be able to compile outcome data to show whether the pilot program is successful. Thank you for your time and I urge a "Do Pass" recommendation.