

2023 HOUSE JUDICIARY

HB 1280

2023 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Room JW327B, State Capitol

HB 1280
1/24/2023

Relating to temporary restricted licenses; and to declare an emergency

Chairman Klemin opened the hearing on HB 1280 at 9:00 A.M. Members present: Vice Chairman Karls, Rep. Bahl, Rep. Christensen, Rep. Cory, Rep. Henderson, Rep. S. Olson, Rep. Rios, Rep. S. Roes Jones, Rep. Satrom, , Rep. Schneider, Rep. VanWinkle, Rep. Vetter

Discussion Topics:

- Mental health issues
- Drug court violations
- Restrictive driving license

Rep. Shannon Roers Jones: Introduced the bill. No written testimony.

Mark Friese, Attorney in Fargo, ND: Testimony #14969

Todd Ewell, Deputy Director, NDCLCI: Testimony #15719

Kristen Kiemele: Probation and Correction Officer, Dept. of Correction and Rehabilitation: Testimony #16158

Brad Schaffer, Director of Driver License, NDDOT: Testimony #16129

Additional written testimony:

Nick Samuelson, Assistant State's Attorney for Cass County. Testimony #15848

Hearing closed at 9:33 AM

Delores Shimek, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Room JW327B, State Capitol

HB 1280
1/24/2023

Relating to temporary restricted licenses; and to declare an emergency
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Chairman Klemin opened the hearing on HB 1280 at 9:49 A.M. Members present: Vice Chairman Karls, Rep. Bahl, Rep. Christensen, Rep. Cory, Rep. Henderson, Rep. S. Olson, Rep. Rios, Rep. S. Roes Jones, Rep. Satrom, , Rep. Schneider, Rep. VanWinkle, Rep. Vetter

Discussion Topics:

- Comparison of HB 1280 and 1277

Rep. Shannon Roers Jones: Explained the difference between her sponsored HB 1280 and HB 1277.

Meeting closed at 9:55 AM.

Delores Shimek, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Room JW327B, State Capitol

HB 1280
1/25/2023

Relating to temporary restricted licenses; and to declare an emergency

Chairman Klemin opened the meeting on HB 1280 at 3:48 PM. Members present: Chairman Klemin, Vice Chairman Karls, Rep. Bahl, Rep. Christensen, Rep. Cory, Rep. Henderson, Rep. S. Olson, Rep. Rios, Rep. S. Roers Jones, Rep. Satrom, , Rep. Schneider, Rep. VanWinkle, Rep. Vetter

Discussion Topics:

- HB 1280 and HB1277 comparison
- License suspension
- Non-commercial Driver's license
- Commercial drivers' licenses

Representative Roers Jones moved to amend HB 1280 with 23.0784.01001.

Representative Schneider seconded.

Roll Call Vote:

Representatives	Vote
Representative Lawrence R. Klemin	Y
Representative Karen Karls	Y
Representative Landon Bahl	A
Representative Cole Christensen	Y
Representative Claire Cory	Y
Representative Donna Henderson	Y
Representative SuAnn Olson	Y
Representative Nico Rios	Y
Representative Shannon Roers Jones	Y
Representative Bernie Satrom	Y
Representative Mary Schneider	Y
Representative Lori VanWinkle	Y
Representative Steve Vetter	Y

Motion carried: 12-0-1.

Representative Roers Jones moved a Do Pass as Amended on HB 1280.

Representative Schneider seconded.

Roll call vote:

Representatives	Vote
Representative Lawrence R. Klemin	Y
Representative Karen Karls	Y
Representative Landon Bahl	A
Representative Cole Christensen	Y
Representative Claire Cory	Y
Representative Donna Henderson	Y
Representative SuAnn Olson	Y
Representative Nico Rios	Y
Representative Shannon Roers Jones	Y
Representative Bernie Satrom	Y
Representative Mary Schneider	Y
Representative Lori VanWinkle	Y
Representative Steve Vetter	Y

Motion Carried 12-0-1.

Representative Christensen will carry the bill.

Meeting closed at 4:01 PM.

Delores Shimek, Committee Clerk

23.0784.01001
Title.02000

Adopted by the House Judiciary Committee

January 25, 2023

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1280

Page 1, line 14, after "any" insert "noncommercial license"

Renumber accordingly

JA 1-25-23

REPORT OF STANDING COMMITTEE

HB 1280: Judiciary Committee (Rep. Klemin, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1280 was placed on the Sixth order on the calendar.

Page 1, line 14, after "any" insert "noncommercial license"

Renumber accordingly

2023 SENATE WORKFORCE DEVELOPMENT

HB 1280

2023 SENATE STANDING COMMITTEE MINUTES

Workforce Development Committee Fort Lincoln Room, State Capitol

HB 1280
3/9/2023

Relating to temporary restricted licenses, restoration of revoked or suspended licenses upon successful completion of drug court, and partial suspension of twenty-four seven sobriety program for drug court program participants; and relating to temporary restricted licenses; and to declare an emergency.

2:50 PM **Chairman Wobbema** called the hearing to order. **Senators Wobbema, Axtman, Elkin, Larson, Sickler, Piepkorn** were present.

Discussion Topics:

- Drug court
- Drug testing
- Alcohol testing
- Bracelet
- Reinstating temporary driving license privileges
- Grant incentives
- Tracking and monitoring
- Outpatient treatment

2:52 PM **Representative Roers Jones District 46**, introduced HB 1280 and verbally testified in favor.

3:00 PM **Travis Finck, Executive Director, North Dakota Commission on Legal Counsel for Indigents**, testified in favor. #23339

3:05 PM **Kristen Kiemele, Parole and Probation/Drug Court Officer, North Dakota Department of Correction and Rehabilitation**, testified online in favor. #22956

3:15 PM **Robin Rehborg, Driver Safety Deputy Director, North Dakota Department of Transportation**, verbally testified neutral.

Additional written testimony:

Mark Friese in favor #22577

Nick Samuelson, Assistant State's Attorney, Cass County State's Attorney, in favor #23263

3:16 PM **Chairman Wobbema** closed the hearing.

Patricia Lahr, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Workforce Development Committee Fort Lincoln Room, State Capitol

HB 1280
3/10/2023

Relating to temporary restricted licenses, restoration of revoked or suspended licenses upon successful completion of drug court, and partial suspension of twenty-four seven sobriety program for drug court program participants; and relating to temporary restricted licenses; and to declare an emergency.

9:45 AM **Chairman Wobbema** called the meeting to order. **Senators Wobbema, Axtman, Elkin, Larson, Sickler, Piepkorn** were present.

Discussion Topics:

- Temporary driver's license
- Drug court program
- Punishment and incentives
- Good citizen

Chairman Wobbema calls for discussion.

9:51 AM **Representative Roers Jones**, verbally provided information.

Senator Diane Larson moves DO PASS.

Senator Sickler seconded the motion.

Roll call vote.

Senators	Vote
Senator Michael A. Wobbema	Y
Senator Michelle Axtman	Y
Senator Jay Elkin	Y
Senator Diane Larson	Y
Senator Merrill Piepkorn	Y
Senator Jonathan Sickler	Y

The motion passed 6-0-0.

Senator Larson will carry HB 1280.

10:02AM **Chairman Wobbema** closed the meeting.

Patricia Lahr, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1280, as engrossed: Workforce Development Committee (Sen. Wobbema, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1280 was placed on the Fourteenth order on the calendar. This bill affects workforce development.

TESTIMONY

HB 1280



Phone: 701.237.6983
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mfriese@vogellaw.com

January 22, 2023

The Honorable Lawrence R. Klemin
Chair, ND House Judiciary Committee
600 East Boulevard Avenue
Bismarck, ND 58505

Submitted electronically only:

Re: Testimony in support of HB 1280

Dear Chairman Klemin and members of the House Judiciary Committee,

I write individually in support of HB1280. I am an attorney in private practice in Fargo. I am a lifelong North Dakota resident, currently residing in Legislative District 45. Prior to law school, I served as a Bismarck Police officer. I retired from the North Dakota Army National Guard after serving twenty-four years. I have served on the East Central Judicial District Adult Drug Court Advisory Board for more than 15 years.

I am familiar with the origin of House Bill 1208, which resulted from recommendations of drug court programs across the state. Probation officers, treatment providers, participants, and judges overseeing adult drug court programs continue to experience substantial difficulty in obtaining driving privileges for drug court participants. Effective treatment and rehabilitation depend on a participant’s ability to drive to meet the rigors of these intensively supervised programs. This bill is designed to correct those ongoing problems.

North Dakota “drug courts” are hybrid. They include drug and DUI offenders. Probation officers, who are licensed peace officers, supervise participating probationers. Also included in the drug court team are the State’s Attorney, defense counsel, treatment providers, law enforcement, and community service providers. Detailed information is available on the North Dakota Courts website at this address: <https://www.ndcourts.gov/other-courts/adult-hybrid-dwi-drug-court>.

A. Section 1

If adopted, Section 1 would require the director of the department of transportation to fully reinstate the driving privileges of a drug court graduate with a waiver of any reinstatement fee. The director would be required to do so only if ordered by the district court. Drug court is

intensive, restrictive, and participants are intensively supervised. The program is a minimum of fourteen months in duration but may be longer. Completing drug court is far more challenging than serving a sentence for the underlying offense. Reinstating driving privileges as a reward for successful completion of this intensive programming provides incentives for enrollment, continued participation, and successful completion.

B. Sections 2 and 3

Sections 2 and 3 are intended clarify that the director of the department of transportation must issue a temporary restricted license to offenders who are participating in and compliant with the twenty-four seven sobriety program. Although the Assembly has made clear that drivers who comply with programming and maintain sobriety will be rewarded with restricted driving privileges, drug court participants regularly experience denials of their applications. Clarifying this statutory language will preclude unsupported denials of restricted license applications for those with suspensions or revocations for out-of-state offenses and for those suspended or revoked prior to initially obtaining a North Dakota license.

Section 3 is intended to prevent the director from denying temporary restricted driving privileges for a driver participating in the twenty-four seven sobriety program who also has an out-of-state suspension or revocation which cannot be resolved in this state. Upon close review, I believe the existing language is ambiguous and arguably creates a conflict with the language outlined in Section 1. I would urge the Committee to instead consider amending the statute as follows:

Notwithstanding any out-of-state license suspension or revocation, if an offender has been charged with, or convicted of, a second or subsequent violation of section 39-08-01 or equivalent ordinance, or if the offender's license is subject to suspension suspended or revoked under chapter 39-20 and the offender's operator's license is not subject to an unrelated suspension or revocation in this state, the director shall issue a temporary restricted license to the offender upon the restriction the offender participate in the twenty four seven sobriety program under chapter 54-12. The offender shall submit an application to the director for a temporary restricted license along with submission of proof of financial responsibility and proof of participation in the twenty four seven sobriety program to receive a temporary restricted license.

Studies show more than seventy five percent of suspended drivers continue to drive despite a license suspension. Most insurance companies will not insure drivers with suspended licenses. The risk to the motoring public is significant. Those with DUI offenses who are successfully participating in the twenty four seven sobriety program are not drinking. Extending temporary driving privileges to these offenders who submit proof of liability insurance enhances the work force and protects the public from suspended, uninsured drivers.

C. Section 4

This section would permit a drug court judge to order the issuance of a temporary restricted license for an offender undergoing intensive supervision in an approved adult drug court program. A court ordering the issuance of a restricted license can establish conditions and limitations on the restricted license. An applicant receiving a restricted license under this section would be required to provide proof of liability insurance to the director.

Unlike restricted licenses issued by the director, a restricted license under this section would be subject to continuous monitoring by a licensed peace officer as part of intensive supervision within the drug court.

D. Section 5

This section would allow a drug court judge to partially suspend participation in the twenty four seven sobriety program for participants. The twenty-four seven sobriety program is much like a safety net. Historically, when drug court participants graduate, they are simultaneously removed from the twenty-four seven sobriety program. As a result, the safety net is gone, and the participant is no longer under intensive supervision.

Drug court professionals are recommending this proposal so that near the end of treatment, the participant can transition off the twenty-four seven sobriety program while still under intensive supervision, and while still actively participating in treatment. This transition would take place only if ordered by the court.

CONCLUSION

Completing drug court is far more challenging than serving a sentence for the underlying offense. Incentives for enrollment, continued participation, and completion are appropriate. Removing roadblocks to recovery will provide treatment providers and participants with the tools necessary to meet the rigors of the program. I respectfully ask the Committee to consider the proposed amendment, and to thereafter recommend “do pass.”

Respectfully submitted,

/s/ Mark A. Friese

Mark A. Friese

cc: Sen. Ronald Sorvaag, *via email only*
Rep. Carrie McLeod, *via email only*
Rep. Scott Wagner, *via email only*

HB 1280
House Judiciary Committee
January 24, 2023
Testimony of Todd N. Ewell, Deputy Director, NDCLCI

Good Morning. Chairman Klemin, members of the Committee, my name is Todd Ewell and I am the Deputy Director of the North Dakota Commission on Legal Counsel for Indigents (hereinafter "the Commission"). We are the state agency responsible for the delivery of public defense services in the State of North Dakota.

I rise today to in support of HB 1280. The Commission believes that enabling drug court judges to restore the driving privileges for successful drug court participants will make a positive impact on the lives of those participants and family members. On behalf of the Commission, I request a Do Pass recommendation for HB 1280.

Respectfully submitted:

A handwritten signature in black ink that reads "Todd Ewell". The signature is written in a cursive style with a long, sweeping underline that extends to the left.

Todd N. Ewell, Deputy Director
N.D.C.L.C.I

January 23, 2023

The Honorable Lawrence R. Klemin
Chair, North Dakota House Judiciary Committee
600 East Boulevard Avenue
Bismarck, ND 58505

Chairman Klemin and Members of the House Judiciary Committee,

My name is Nick Samuelson. I am an assistant state's attorney for Cass County and serve on the multi-disciplinary team for one of Cass County's two adult drug courts. I write in favor of House Bill 1280.

A lot is asked of drug court participants. They must attend regular court appearances before a district court judge, attend treatment, submit to random drug testing, maintain regular attendance at community support meetings, and maintain full time employment or be enrolled in educational or vocational training. The program's length is determined by the participant's progress but cannot take less than 12 months.

For a variety of reasons, many participants enter the program with suspended, revoked, or otherwise cancelled driving privileges. One of the most common barriers to success in drug court is transportation. With treatment, meetings, and work attendance requirements, a reliable way to get around is a must. For this reason, current law allows the Department of Transportation to issue temporary restricted driver's licenses to active drug court participants. N.D.C.C. § 39-06.1-11(3)(b).

Those who graduate drug court have successfully participated in the program for at least 12 months. They have demonstrated at least 90 consecutive days of verified abstinence from alcohol and controlled substances. They have set and met individual goals in treatment and have developed a relapse prevention plan. Research shows that court graduation is statistically significant in reducing recidivism.

Reinstatement of a drug court graduate's driving privileges is an appropriate incentive for the graduate's hard work. It is also in line with existing policy

favoring reinstatement. *See* N.D.C.C. § 39-06-42(3) (allowing a court to dismiss a charge of driving under suspension upon proof of reinstatement). It is better for society to have licensed drivers on the road because they are able to register their vehicles and obtain insurance.

Graduation from drug court is significantly more difficult than simply serving a prison sentence. Everyone wins—the participant, the public, law enforcement, taxpayers, etc.—when someone successfully completes drug court. Because drug court graduates demonstrate remarkable resolve to reach graduation, reinstatement of driving privileges is an appropriate reward. I respectfully ask the Committee recommend “do pass.”

Respectfully submitted,

/s/ Nick Samuelson

Nick Samuelson

**House Bill No. 1280****Judiciary Committee**

327B | January 24, 2023, 9 a.m.

Brad Schaffer, Driver License

Good morning, Mr. Chairman and members of the committee. I'm Brad Schaffer, Director of Driver License for the North Dakota Department of Transportation (NDDOT). I'm here to provide information relating to HB 1280.

House Bill 1280 would allow the restoration of revoked or suspended licenses upon successful completion of drug court. The proposed language states the director shall reinstate the driving privileges of the individual for any suspension or revocation imposed under law. There are many suspensions that do not relate to drug court such as fail to appear, no liability, failure to file proof of insurance and child support. Any commercial related suspensions that would be released before the FMCSA (Federal Motor Carrier Administration) suspension timeframe is up such as disqualifications relating to railroad crossings, out of service orders, and human trafficking would put us out of compliance with the FMCSA.

This bill would also allow the issuance of a temporary restricted license to someone who is suspended in another state.

As we understand the language in this bill, it seems it conflicts with suspension and revocation of licenses in other portions of century code: 39-06-03(2), 39-06-31, 39-06-35, 39-06-36, and 39-06-49 (reinstatement fees).

Mr. Chairman, that concludes my testimony. I would be happy to answer any questions you may have.

HB 1280

My name is Kristen Kiemele. I am a Probation and Drug Court Officer for the Department of Corrections and Rehabilitation. I have been a licensed peace officer and probation officer for over six years. I have been a drug court officer for almost four years. The drug court I work with is based in Cass County.

Drug court's mission is to keep the community safe by holding clients accountable, providing opportunities for positive change, and reducing recidivism. The drug court team is made up of a district court judge, an assistant state's attorney, defense attorney, licensed addiction counselor, mental health coordinator and me, the probation/drug court officer.

Drug court is considered an intensive supervision program lasting a minimum of one year. Individuals in drug court are supervised at a greater extent than any other probationer in the state. Participants in drug court are placed under the following requirements in order to graduate: participate in and successfully complete intensive outpatient treatment and aftercare totaling around nine hours per week at first and then decreasing level of care as the client progresses through the program; meet with the probation officer once a week; attend two community support groups per week; provide a minimum of two drug and/or alcohol tests per week, even if those participants are on 24/7 monitoring; obtain and maintain full-time employment; and obtain and maintain suitable housing.

Throughout their time in the program, clients are also required to participate in Thinking for a Change, which is a cognitive restructuring class that educates on social skills, cognitive self-change and problem solving. It allows clients to identify risk and then develop and practice healthy coping skills when dealing with risk. This class has already been approved in lieu of the defensive driving course often required by the North Dakota Department of Transportation (DOT) for a client to complete prior to receiving a temporary restricted license or having their license reinstated.

The requirements listed above are mandatory for every client in our program, which means that if the client does not have legal means of transportation, i.e., a driver's license or temporary restricted license, they are burdened with relying on others for rides or paying exuberant amounts of money for public transportation. Both of these modes of transportation can be unreliable, putting the client at risk to violate their conditions of drug court due to circumstances out of their control, especially during the winter months. For example, public buses often don't run, or only run at certain times, when we experience inclement weather. Driver's license suspension may also have collateral and/or unintended consequences such as job loss, difficulty in finding employment, and reduced income. If clients cannot report as required or fulfill normal, everyday responsibilities because of transportation challenges, how do we expect them to meet the obligations the courts have placed upon them to be successful and function as productive members of society? Isn't that the goal?

The following portion is in reference to issuing a temporary restricted license:

The current process of applying for a temporary restricted license varies from person to person, however for most, the list of requirements prior to being able to even apply for a temporary restricted license is overwhelming. Clients are often required to pay all outstanding fines and fees across the state and provide notification of payment to the DOT, purchase new driver's licenses, pay reinstatement fees totaling hundreds of dollars, take a defensive driving course, retake the written and road tests, satisfy requirements with child support enforcement, obtain SR22 insurance, and clear all out-of-state suspensions and/or holds before even getting the opportunity to apply for a temporary restricted license. Such obstacles can discourage clients from even trying.

Individuals fresh out of jail or prison and in recovery already have the odds stacked against them from many angles. Lack of legal transportation does not need to be one of them. If an individual is granted a temporary restricted license while actively participating in the drug court program, it would eliminate the burden of relying on others for their own success. It would reduce the risk of a client driving under suspension to attend required programming ordered by the courts. It would also reduce the number of driving under suspension charges that create a revolving door of fines/fees, court time for appearances, failure to pay warrants, police time arresting on these warrants, and so on. Those who can pay the fines typically do. To them a ticket is a minor annoyance. For those who cannot pay, such as someone fresh out of jail or prison and in recovery with minimal resources, the simple citation can have devastating effects. In most jurisdictions, courts have several options when someone does not pay their fines. All too often the action of choice is further financial burdens, suspension of a driver's license or worse, incarceration. For those unable to pay, the traffic ticket does not change their driving behavior, it ruins their lives.

My philosophy since becoming a probation officer is that I work for the Department of Corrections and *Rehabilitation*. My job is to provide opportunities for change to my clients, while simultaneously keeping the community safe. The individuals we work with in drug court are coming out of very short-term jail or prison sentences, meaning they are going to be our neighbors one day – we want them to be good and law-abiding ones. Drug court provides the resources for recovery, employment, housing, mental health, finances, parenting, etc., that will make someone a good neighbor, so it's pertinent that clients have legal transportation to ensure that happens. If our goal is to reduce recidivism even on the smallest scale, then this is one way we can do that.

The following portion is in reference to the Court having authority to suspend 24/7 requirements while participating in drug court programming:

The requirements listed above are mandatory for every client in our program, and if a client is in drug court for DUI, they currently have additional mandatory conditions of 24/7 alcohol monitoring, either in the form of two breathalyzers a day or an alcohol monitoring ankle bracelet. If it is a DUI-drug offender, they are required to participate in 24/7 in the form of a drug patch.

Drug patches and 24/7 alcohol monitoring are a form of risk control, not risk reduction. Together, 24/7 alcohol and drug monitoring are simply a constant reminder not to drink or use drugs. However, it has no effect on the actual cognitive restructuring of a client, meaning it does not help a client to use new thinking regarding substance use. Drug court as a whole, on the other hand, is a program that provides the resources for risk control and risk reduction all in one, as evident by the conditions outlined at the beginning of this testimony.

Drug court is made up of a team. However, the district court judge is the ultimate decision maker, just as he or she is in a courtroom. The judge on our team is the lead discretion holder for everything including acceptance into the program, rewards, sanctions, no-contact orders, jail holds, intermediate measures, terminations, etc. The district court judge should also have discretion in suspending 24/7 requirements.

By giving the court the authority to suspend 24/7, it provides the client the opportunity to demonstrate the skills and healthy coping mechanisms learned in the program, while still under the jurisdiction of a district court in a controlled setting. If concerns would arise, or substance use would occur during the suspension, the team would quickly address the issue and the courts would respond appropriately, including placement back on 24/7.



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March 7, 2023

The Honorable Michael A. Wobbema
Chair, ND Senate Workforce Development Committee
600 East Boulevard Avenue
Bismarck, ND 58505

Submitted electronically only:

Re: Testimony in support of HB 1280

Dear Chairman Wobbema and members of the Senate Workforce Development Committee,

I write individually in support of HB1280. I am an attorney in private practice in Fargo. I am a lifelong North Dakota resident, currently residing in Legislative District 45. Prior to law school, I served as a Bismarck Police officer. I retired from the North Dakota Army National Guard after serving twenty-four years. I have served on the East Central Judicial District Adult Drug Court Advisory Board for more than 15 years.

I am familiar with the origin of House Bill 1208, which resulted from recommendations of drug court programs across the state. Probation officers, treatment providers, participants, and judges overseeing adult drug court programs continue to experience substantial difficulty in obtaining driving privileges for drug court participants. Effective treatment and rehabilitation depend on a participant’s ability to drive to meet the rigors of these intensively supervised programs. This bill is designed to correct those ongoing problems.

North Dakota “drug courts” are hybrid. They include drug and DUI offenders. Probation officers, who are licensed peace officers, supervise participating probationers. Also included in the drug court team are the State’s Attorney, defense counsel, treatment providers, law enforcement, and community service providers. Detailed information is available on the North Dakota Courts website at this address: <https://www.ndcourts.gov/other-courts/adult-hybrid-dwi-drug-court>.

A. Section 1

If adopted, Section 1 would require the director of the department of transportation to fully reinstate the driving privileges of a drug court graduate with a waiver of any reinstatement fee. The director would be required to do so only if ordered by the district court. Drug court is

intensive, restrictive, and participants are intensively supervised. The program is a minimum of fourteen months in duration but may be longer. Completing drug court is far more challenging than serving a sentence for the underlying offense. Reinstating driving privileges as a reward for successful completion of this intensive programming provides incentives for enrollment, continued participation, and successful completion.

B. Sections 2 and 3

Sections 2 and 3 are intended clarify that the director of the department of transportation must issue a temporary restricted license to offenders who are participating in and compliant with the twenty-four seven sobriety program. Although the Assembly has made clear that drivers who comply with programming and maintain sobriety will be rewarded with restricted driving privileges, drug court participants regularly experience denials of their applications. Clarifying this statutory language will preclude unsupported denials of restricted license applications for those with suspensions or revocations for out-of-state offenses and for those suspended or revoked prior to initially obtaining a North Dakota license.

Section 3 is intended to prevent the director from denying temporary restricted driving privileges for a driver participating in the twenty-four seven sobriety program who also has an out-of-state suspension or revocation which cannot be resolved in this state.

Studies show more than seventy five percent of suspended drivers continue to drive despite a license suspension. Most insurance companies will not insure drivers with suspended licenses. The risk to the motoring public is significant. Those with DUI offenses who are successfully participating in the twenty-four seven sobriety program are not drinking. Extending temporary driving privileges to these offenders who submit proof of liability insurance enhances the work force and protects the public from suspended, uninsured drivers.

C. Section 4

This section would permit a drug court judge to order the issuance of a temporary restricted license for an offender undergoing intensive supervision in an approved adult drug court program. A court ordering the issuance of a restricted license can establish conditions and limitations on the restricted license. An applicant receiving a restricted license under this section would be required to provide proof of liability insurance to the director.

Unlike restricted licenses issued by the director, a restricted license under this section would be subject to continuous monitoring by a licensed peace officer as part of intensive supervision within the drug court.

D. Section 5

This section would allow a drug court judge to partially suspend participation in the twenty-four seven sobriety program for participants. The twenty-four seven sobriety program is much like a safety net. Historically, when drug court participants graduate, they are simultaneously

removed from the twenty-four seven sobriety program. As a result, the safety net is gone, and the participant is no longer under intensive supervision.

Drug court professionals are recommending this proposal so that near the end of treatment, the participant can transition off the twenty-four seven sobriety program while still under intensive supervision, and while still actively participating in treatment. This transition would take place only if ordered by the court.

CONCLUSION

Completing drug court is far more challenging than serving a sentence for the underlying offense. Incentives for enrollment, continued participation, and completion are appropriate. Removing roadblocks to recovery will provide treatment providers and participants with the tools necessary to meet the rigors of the program. This measure passed the House with a 91 to 0 vote. I respectfully ask this Committee recommend “do pass.”

Respectfully submitted,

/s/ Mark A. Friese

Mark A. Friese

cc: Sen. Ronald Sorvaag, *via email only*
Rep. Carrie McLeod, *via email only*
Rep. Scott Wagner, *via email only*

**SENATE WORKFORCE DEVELOPMENT COMMITTEE
SENATOR MIKE WOBBERMA, CHAIR
MARCH 9, 2023**

**NORTH DAKOTA DEPARTMENT OF CORRECTIONS AND REHABILITATION
PRESENTING TESTIMONY IN SUPPORT OF HOUSE BILL 1280**

Chairman Wobbema and members of the Senate Workforce Development Committee, my name is Kristen Kiemele, and I am a Probation and Drug Court Officer for the North Dakota Department of Corrections and Rehabilitation (DOCR). I have been a licensed peace officer and probation officer for over six years, and a drug court officer for almost four years in Cass County. I am here to testify on behalf of the department in support of House Bill 1280.

Drug court's mission is to keep the community safe by holding clients accountable, providing opportunities for positive change, and reducing recidivism. The drug court team is made up of a district court judge, an assistant state's attorney, defense attorney, licensed addiction counselor, mental health coordinator and me, the probation/drug court officer.

Drug court is considered an intensive supervision program lasting a minimum of one year. Individuals in drug court are supervised at a greater extent than any other probationer in the state. Participants in drug court are placed under the following requirements in order to graduate: participate in and successfully complete intensive outpatient treatment and aftercare totaling around nine hours per week at first and then decreasing level of care as the client progresses through the program; meet with the probation officer once a week; attend two community support groups per week; provide a minimum of two drug and/or alcohol tests per week, even if those participants are on

24/7 monitoring; obtain and maintain full-time employment; and obtain and maintain suitable housing.

Throughout their time in the program, clients are also required to participate in Thinking for a Change, which is a cognitive restructuring class that educates on social skills, cognitive self-change and problem solving. It allows clients to identify risk and then develop and practice healthy coping skills when dealing with risk. This class has already been approved in lieu of the defensive driving course often required by the North Dakota Department of Transportation (DOT) for a client to complete prior to receiving a temporary restricted license or having their license reinstated.

The requirements listed above are mandatory for every client in our program, which means that if the client does not have legal means of transportation, i.e., a driver's license or temporary restricted license, they are burdened with relying on others for rides or paying exuberant amounts of money for public transportation. Both of these modes of transportation can be unreliable, putting the client at risk to violate their conditions of drug court due to circumstances out of their control, especially during the winter months. For example, public buses often don't run, or only run at certain times, when we experience inclement weather. Driver's license suspension may also have collateral and/or unintended consequences such as job loss, difficulty in finding employment, and reduced income. If clients cannot report as required or fulfill normal, everyday responsibilities because of transportation challenges, how do we expect them to meet the obligations the courts have placed upon them to be successful and function as productive members of society? Isn't that the goal?

The following portion is in reference to issuing a temporary restricted license:

The current process of applying for a temporary restricted license varies from person to person, however for most, the list of requirements prior to being able to even apply for a temporary restricted license is overwhelming. Clients are often required to pay all outstanding fines and fees across the state and provide notification of payment to the DOT, purchase new driver's licenses, pay reinstatement fees totaling hundreds of dollars, take a defensive driving course, retake the written and road tests, satisfy requirements with child support enforcement, obtain SR22 insurance, and clear all out-of-state suspensions and/or holds before even getting the opportunity to apply for a temporary restricted license. Such obstacles can discourage clients from even trying.

Individuals fresh out of jail or prison and in recovery already have the odds stacked against them from many angles. Lack of legal transportation does not need to be one of them. If an individual is granted a temporary restricted license while actively participating in the drug court program, it would eliminate the burden of relying on others for their own success. It would reduce the risk of a client driving under suspension to attend required programming ordered by the courts. It would also reduce the number of driving under suspension charges that create a revolving door of fines/fees, court time for appearances, failure to pay warrants, police time arresting on these warrants, and so on. Those who can pay the fines typically do. To them a ticket is a minor annoyance. For those who cannot pay, such as someone fresh out of jail or prison and in recovery with minimal resources, the simple citation can have devastating effects. In most jurisdictions, courts have several options when someone does not pay their fines. All too often the action of choice is further financial burdens, suspension of a driver's license or

worse, incarceration. For those unable to pay, the traffic ticket does not change their driving behavior, it ruins their lives.

My philosophy since becoming a probation officer is that I work for the Department of Corrections and *Rehabilitation*. My job is to provide opportunities for change to my clients, while simultaneously keeping the community safe. The individuals we work with in drug court are coming out of very short-term jail or prison sentences, meaning they are going to be our neighbors one day – we want them to be good and law-abiding ones. Drug court provides the resources for recovery, employment, housing, mental health, finances, parenting, etc., that will make someone a good neighbor, so it's pertinent that clients have legal transportation to ensure that happens. If our goal is to reduce recidivism even on the smallest scale, then this is one way we can do that.

The following portion is in reference to the Court having authority to suspend 24/7 requirements while participating in drug court programming:

The requirements listed above are mandatory for every client in our program, and if a client is in drug court for DUI, they currently have additional mandatory conditions of 24/7 alcohol monitoring, either in the form of two breathalyzers a day or an alcohol monitoring ankle bracelet. If it is a DUI-drug offender, they are required to participate in 24/7 in the form of a drug patch.

Drug patches and 24/7 alcohol monitoring are a form of risk control, not risk reduction. Together, 24/7 alcohol and drug monitoring are simply a constant reminder not to drink or use drugs. However, it has no effect on the actual cognitive restructuring of a client, meaning it does not help a client to use new thinking regarding substance

use. Drug court as a whole, on the other hand, is a program that provides the resources for risk control and risk reduction all in one, as evident by the conditions outlined at the beginning of this testimony.

Drug court is made up of a team. However, the district court judge is the ultimate decision maker, just as he or she is in a courtroom. The judge on our team is the lead discretion holder for everything including acceptance into the program, rewards, sanctions, no-contact orders, jail holds, intermediate measures, terminations, etc. The district court judge should also have discretion in suspending 24/7 requirements.

By giving the court the authority to suspend 24/7, it provides the client the opportunity to demonstrate the skills and healthy coping mechanisms learned in the program, while still under the jurisdiction of a district court in a controlled setting. If concerns would arise, or substance use would occur during the suspension, the team would quickly address the issue and the courts would respond appropriately, including placement back on 24/7.

Chairman Wobbema and members of the Senate Workforce Development Committee, on behalf of the DOCR, I ask that you support House Bill 1280. I will now stand for questions.

March 8, 2023

The Honorable Michael A. Wobbema
Chair, ND Senate Workforce Development Committee
600 East Boulevard Avenue
Bismarck, ND 58505

Chairman Wobbema and members of the Senate Workforce Development Committee,

I write in favor of House Bill 1280 and urge a “do pass” recommendation. I serve as an assistant state’s attorney in Cass County, and I am a member of one of the multi-disciplinary team for one of two adult drug courts sponsored by the East Central Judicial District in Fargo.

Drug court consists of several components: intensive supervision through probation, substance abuse treatment, frequent alcohol and drug testing, and ongoing contact with a district court judge. With each of these fundamental pieces, a lot is asked of drug court participants. They are required to meet weekly with a probation officer. They are required to meet weekly in court with a district judge. They are required to attend two community support groups (*e.g.*, alcoholics anonymous, narcotics anonymous, etc.). They have to meet regularly with a sponsor. They are also required to maintain regular, full-time employment or be enrolled in full-time education or vocational training.

For a variety of reasons, many drug court participants begin the program with a suspended, revoked, or otherwise cancelled driver’s license. The inability to legally operate a motor vehicle is a major barrier to all of the requirements listed above. Without reliable transportation, one cannot get to work, treatment, or court. While current law allows active drug court participants to obtain a temporary restricted license while in the program, HB 1280 would clarify statutory language to preclude denials for participants who have suspensions or revocations for out-of-state driving offenses.

Further, full reinstatement of driving privileges is appropriate as an incentive for successful completion of the drug court program. Those who graduate drug court have successfully participated in the program for at least 12 months. They have demonstrated at least 90 consecutive days of verified abstinence from alcohol and controlled substances. They have set and met individual goals

in treatment and have developed a relapse prevention plan. Research shows that court graduation is statistically significant in reducing recidivism.

So why is this a workforce issue? Drug court participants are highly motivated to obtain and maintain long-term employment. For them, the alternative is prison. Full-time employment is a condition of the program, but it is also fundamental to success and independence after drug court. I have heard many stories at drug court graduation ceremonies from past participants who, prior to drug court, had never held a steady job for more than a few weeks and have now built careers. These individuals were not in the workforce prior to the program and are now contributing to the economy in a meaningful way.

Respectfully submitted,

/s/ Nick Samuelson

Nick Samuelson

HB 1280
Senate Workforce Development Committee
March 9, 2023
Testimony of Travis W. Finck, Executive Director, NDCLCI

Good Morning. Chairman Wobbema, members of the Committee, my name is Travis Finck and I am the Director of the North Dakota Commission on Legal Counsel for Indigents (hereinafter "the Commission"). We are the state agency responsible for the delivery of public defense services in the State of North Dakota.

I rise on behalf of the Commission to support of HB 1280. The Commission believes that enabling drug court judges to restore the driving privileges for successful drug court participants will make a positive impact on the lives of those participants and family members. It serves as a motivational technique to encourage participants to follow all recommended treatments and requirements of the program. Thus, they can once again become productive members of our society. On behalf of the Commission, I request a Do Pass recommendation for HB 1280.

Respectfully submitted:



Travis W. Finck
Executive Director