

**FIRST ENGROSSMENT
with Senate Amendments**

Fifty-sixth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1304

Introduced by

Representatives L. Thoreson, B. Thoreson, Nottestad, Ekstrom

Senator Lee

1 A BILL for an Act to amend and reenact sections 12-44.1-09, 12-44.1-18.2, and subsection 4 of
2 section 39-08-01 of the North Dakota Century Code, relating to inmate placement and
3 programs.

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

5 **SECTION 1. AMENDMENT.** Section 12-44.1-09 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **12-44.1-09. Housing of inmates.** Each correctional facility shall adopt a classification
8 system for inmates to provide for the security, safety, and order of the correctional facility and
9 for the safety and security of the community. If the correctional facility has adopted a
10 classification system approved by the department of corrections and rehabilitation, the
11 correctional facility is not required to comply with subsections 3, 4, and 5 of this section. In
12 grade one and grade two correctional facilities and, where practicable, in grade three
13 correctional facilities, the following groups of inmates must be housed separately from each
14 other:

- 15 1. Female inmates from male inmates.
- 16 2. Juveniles from adults.
- 17 3. Persons detained for hearing or trial from inmates under sentence of
18 imprisonment, unless authorized to be housed together by the administrator for
19 security, order, or rehabilitation.
- 20 4. Persons detained for hearing or trial or under sentence of imprisonment from
21 persons otherwise detained by order of the court, unless authorized to be housed
22 together by the administrator for security, order, or rehabilitation.

- 1 5. Inmates who may have special needs as determined by the correctional facility or
2 whose behavior may present a serious threat to the safety or security of the
3 correctional facility, the staff, the inmate, or other inmates.

4 **SECTION 2. AMENDMENT.** Section 12-44.1-18.2 of the North Dakota Century Code
5 is amended and reenacted as follows:

6 **12-44.1-18.2. Work release program - Room and board costs to be paid by**
7 **inmate.** Any inmate who participates in a work release program shall pay the correctional
8 facility for the room and board costs incurred by the inmate while confined in the correctional
9 facility, residential halfway house, or similar alternative facility. The administrator shall
10 determine the amount of meal and lodging costs to be paid by the inmate. The amount to be
11 paid by the inmate while confined in a correctional facility may not exceed ~~ten~~ fifteen dollars per
12 day or the funds earned by the inmate, whichever is less. The amount to be paid by the inmate
13 while placed in a residential halfway house or similar alternative facility may not exceed the
14 actual cost per day or the funds earned by the inmate, whichever is less.

15 **SECTION 3. AMENDMENT.** Subsection 4 of section 39-08-01 of the North Dakota
16 Century Code is amended and reenacted as follows:

- 17 4. A person convicted of violating this section, or an equivalent ordinance, must be
18 sentenced in accordance with this subsection.
- 19 a. For a first offense, the sentence must include both a fine of at least two
20 hundred fifty dollars and an order for addiction evaluation by an appropriate
21 licensed addiction treatment program.
- 22 b. For a second offense within five years, the sentence must include at least four
23 days' imprisonment or placement in a minimum security facility, of which
24 forty-eight hours must be served consecutively, or ten days' community
25 service; a fine of at least five hundred dollars; and an order for addiction
26 evaluation by an appropriate licensed addiction treatment program.
- 27 c. For a third offense within five years, the sentence must include at least sixty
28 days' imprisonment or placement in a minimum security facility, of which
29 forty-eight hours must be served consecutively; a fine of one thousand
30 dollars; and an order for addiction evaluation by an appropriate licensed
31 addiction treatment program.

- 1 d. For a fourth or subsequent offense within seven years, the sentence must
2 include one hundred eighty days' imprisonment or placement in a minimum
3 security facility, of which forty-eight hours must be served consecutively and a
4 fine of one thousand dollars.
- 5 e. The execution or imposition of sentence under this section may not be
6 suspended or deferred under subsection 3 or 4 of section 12.1-32-02 except
7 that a fine or a sentence of imprisonment or placement in a minimum security
8 facility may be suspended in any of the following instances:
- 9 (1) Upon conviction of being in actual physical control of a motor vehicle in
10 violation of this section or equivalent ordinance.
- 11 (2) If the defendant is under age eighteen when convicted except that if the
12 defendant has, within the preceding five years, previously been
13 convicted of violating section 39-08-01 or equivalent ordinance, the
14 sentence must include at least forty-eight consecutive hours
15 imprisonment or placement in a minimum security facility or at least ten
16 days of community service. The execution of the sentence may not be
17 suspended nor the imposition of sentence deferred under subsection 3
18 or 4 of section 12.1-32-02.
- 19 f. For purposes of this section, conviction of an offense under a law or
20 ordinance of another state which is equivalent to this section must be
21 considered a prior offense if such offense was committed within the time
22 limitations specified in this subsection.
- 23 g. If the penalty mandated by this section includes imprisonment or placement
24 upon conviction of a violation of this section or equivalent ordinance, and if an
25 addiction evaluation has indicated that the defendant needs treatment, the
26 court may order the defendant to undergo treatment at an appropriate
27 licensed addiction treatment program and the time spent by the defendant in
28 the treatment must be credited as a portion of a sentence of imprisonment or
29 placement under this section.