

Fifty-sixth Legislative Assembly, State of North Dakota, begun in the Capitol in the City of Bismarck, on Tuesday, the fifth day of January, one thousand nine hundred and ninety-nine

HOUSE BILL NO. 1304
(Representatives L. Thoreson, B. Thoreson, Nottestad, Ekstrom)
(Senator Lee)

AN ACT to amend and reenact sections 12-44.1-09, 12-44.1-18.2, and subsection 4 of section 39-08-01 of the North Dakota Century Code, relating to inmate placement and programs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

1. Female inmates from male inmates.
2. Juveniles from adults.
3. Persons detained for hearing or trial from inmates under sentence of imprisonment, unless authorized to be housed together by the administrator for security, order, or rehabilitation.
4. Persons detained for hearing or trial or under sentence of imprisonment from persons otherwise detained by order of the court, unless authorized to be housed together by the administrator for security, order, or rehabilitation.
5. Inmates who may have special needs as determined by the correctional facility or whose behavior may present a serious threat to the safety or security of the correctional facility, the staff, the inmate, or other inmates.

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

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

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

4. A person convicted of violating this section, or an equivalent ordinance, must be sentenced in accordance with this subsection.

- a. For a first offense, the sentence must include both a fine of at least two hundred fifty dollars and an order for addiction evaluation by an appropriate licensed addiction treatment program.
- b. For a second offense within five years, the sentence must include at least four days' imprisonment or placement in a minimum security facility, of which forty-eight hours must be served consecutively, or ten days' community service; a fine of at least five hundred dollars; and an order for addiction evaluation by an appropriate licensed addiction treatment program.
- c. For a third offense within five years, the sentence must include at least sixty days' imprisonment or placement in a minimum security facility, of which forty-eight hours must be served consecutively; a fine of one thousand dollars; and an order for addiction evaluation by an appropriate licensed addiction treatment program.
- d. For a fourth or subsequent offense within seven years, the sentence must include one hundred eighty days' imprisonment or placement in a minimum security facility, of which forty-eight hours must be served consecutively and a fine of one thousand dollars.
- e. The execution or imposition of sentence under this section may not be suspended or deferred under subsection 3 or 4 of section 12.1-32-02 except that a fine or a sentence of imprisonment or placement in a minimum security facility may be suspended in any of the following instances:
 - (1) Upon conviction of being in actual physical control of a motor vehicle in violation of this section or equivalent ordinance.
 - (2) If the defendant is under age eighteen when convicted except that if the defendant has, within the preceding five years, previously been convicted of violating section 39-08-01 or equivalent ordinance, the sentence must include at least forty-eight consecutive hours imprisonment or placement in a minimum security facility or at least ten days of community service. The execution of the sentence may not be suspended nor the imposition of sentence deferred under subsection 3 or 4 of section 12.1-32-02.
- f. For purposes of this section, conviction of an offense under a law or ordinance of another state which is equivalent to this section must be considered a prior offense if such offense was committed within the time limitations specified in this subsection.
- g. If the penalty mandated by this section includes imprisonment or placement upon conviction of a violation of this section or equivalent ordinance, and if an addiction evaluation has indicated that the defendant needs treatment, the court may order the defendant to undergo treatment at an appropriate licensed addiction treatment program and the time spent by the defendant in the treatment must be credited as a portion of a sentence of imprisonment or placement under this section.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1304.

House Vote: Yeas 95 Nays 0 Absent 3

Senate Vote: Yeas 48 Nays 0 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 1999.

Approved at _____ M. on _____, 1999.

Governor

Filed in this office this _____ day of _____, 1999,

at _____ o'clock _____ M.

Secretary of State