

**Fifty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 9, 2001**

HOUSE BILL NO. 1363
(Representatives Delmore, Carlisle, Mahoney)
(Senators Lyson, C. Nelson)

AN ACT to create and enact a new subsection to section 12.1-17-01 of the North Dakota Century Code, relating to a mandatory assessment process for simple assault in domestic violence cases; to amend and reenact subsection 2 of section 12.1-17-01 and subsection 1 of section 12.1-32-07 of the North Dakota Century Code, relating to the penalty for assault in a domestic violence case and supervision of probation; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 12.1-17-01 of the North Dakota Century Code is amended and reenacted as follows:

2. ~~Simple assault is a class B misdemeanor except~~ The offense is:
 - a. A class C felony when the victim is a peace officer or correctional institution employee acting in an official capacity, which the actor knows to be a fact, a person engaged in a judicial proceeding, or a member of a municipal or volunteer fire department or emergency medical services personnel unit or emergency department worker in the performance of the member's duties, ~~in which case the offense is a class C felony.~~
 - b. A class B misdemeanor for the first offense when the victim is an actor's family or household member as defined in subsection 4 of section 14-07.1-01 and a class A misdemeanor for a second or subsequent offense when the victim is an actor's family or household member as defined in subsection 4 of section 14-07.1-01 and the actor has a prior conviction for simple assault involving the commission of domestic violence as defined in subsection 2 of section 14-07.1-01. For purposes of this subdivision, a prior conviction includes a conviction of simple assault in which a finding of domestic violence was made under a law or ordinance of another state which is equivalent to this subdivision.
 - c. A class B misdemeanor except as provided in subdivision a or b.

SECTION 2. A new subsection to section 12.1-17-01 of the North Dakota Century Code is created and enacted as follows:

The sentence for an offense against an actor's family or household member as defined in subsection 4 of section 14-07.1-01 must include an order to complete a domestic violence offender treatment program, unless the court makes written findings for the record explaining why such a sentence would be inappropriate.

SECTION 3. AMENDMENT. Subsection 1 of section 12.1-32-07 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. When the court imposes probation upon conviction for a felony, the court shall place the defendant under the supervision and management of the department of corrections and rehabilitation. In class A misdemeanor cases, except for a violation of subdivision b of subsection 2 of section 12.1-17-01, the court may place the defendant under the supervision and management of the department of corrections and rehabilitation or other responsible party. In all other cases, the court may place the defendant under the supervision and management of a community corrections program other than the department of corrections and rehabilitation. If an appropriate community corrections program is not reasonably available, the court may place the defendant under the

supervision and management of the department of corrections and rehabilitation. The department of corrections and rehabilitation may arrange for the supervision and management of the defendant by a community corrections program selected by the department of corrections and rehabilitation. A community corrections program means a program for the supervision of a defendant, including monitoring and enforcement of terms and conditions of probation set by the court or pursuant to a conditional release from the physical custody of a correctional facility or the department of corrections and rehabilitation.

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-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1363.

House Vote: Yeas 95 Nays 0 Absent 3

Senate Vote: Yeas 47 Nays 0 Absent 2

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2001.

Approved at _____ M. on _____, 2001.

Governor

Filed in this office this _____ day of _____, 2001,

at _____ o'clock _____ M.

Secretary of State