

Introduced by

Representative Klemin

1 A BILL for an Act to create and enact a new section to chapter 12.1-32 of the North Dakota
2 Century Code, relating to exceptions from mandatory minimum sentences and the use of funds
3 saved due to those exceptions.

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

5 **SECTION 1.** A new section to chapter 12.1-32 of the North Dakota Century Code is created
6 and enacted as follows:

7 **Mandatory sentences - Exceptions - Reinvestment of savings.**

8 1. Notwithstanding any other provision of law, when sentencing an individual convicted of
9 a violation for which there is a mandatory minimum sentence, the court may depart
10 from the applicable mandatory minimum sentence if the court, in giving due regard to
11 the nature of the crime, history and character of the defendant, and the defendant's
12 chances of successful rehabilitation, finds substantial and compelling reasons on the
13 record that imposition of the mandatory minimum sentence would result in substantial
14 injustice to the defendant and that the mandatory minimum sentence is not necessary
15 for the protection of the public.

16 2. Subsection 1 does not apply if:

17 a. The defendant used, attempted to use, or threatened to use serious physical
18 force against another individual or caused serious physical injury of another
19 individual;

20 b. The defendant intentionally used a firearm in a manner that caused physical
21 injury during the commission of the offense;

22 c. The defendant committed an offense that involved any sexual contact against a
23 minor, other than an offense involving sexual conduct in which the victim was at

- 1 least thirteen years old and the offender was not more than four years older than
2 the victim and the sexual conduct was consensual;
3 d. The defendant has been convicted for a substantially similar offense during the
4 ten-year period before the commission of the offense; or
5 e. The defendant was the leader, manager, or supervisor of others in a continuing
6 criminal enterprise.
- 7 3. Upon departing from a mandatory minimum sentence, a judge shall report to the state
8 court administrator who shall make available in electronic form and on the world wide
9 web an annual report as to the number of departures from mandatory minimum
10 sentences made by each judge in the state.
- 11 4. In preparing budget data under section 54-44.1-06, the director of the budget shall
12 estimate the general fund savings realized as a result of subsection 1 during the
13 present biennium and shall include in draft appropriation acts for the next biennium
14 funding equivalent to twenty-five percent of the estimated biennial savings to be used
15 to advance evidence-based practices shown to reduce recidivism.