

Introduced by

Legislative Management

(Commission on Alternatives to Incarceration)

1 A BILL for an Act to amend and reenact sections 12-44.1-32, 12-54.1-01, 12-59-08, 12.1-17-13,  
2 and 12.1-23-05, subsection 2 of section 12.1-32-02, section 19-03.1-22.3, subsection 1 of  
3 section 19-03.1-22.5, subsection 5 and 7 of section 19-03.1-23, subdivision a of subsection 1 of  
4 section 19-03.1-23.1, section 19-03.4-03, subdivision f of subsection 5 of section 39-08-01,  
5 section 43-45-06, subsection 17 of section 50-06-05.1, and section 50-09-29 of the North  
6 Dakota Century Code, relating to sentence reduction credit, medical paroles, domestic violence  
7 offender treatment, grading of theft offenses, credit for time spent in custody, terms and  
8 conditions of probation, controlled substances and controlled substance paraphernalia,  
9 addiction counseling services, and the supplemental nutrition assistance program; to provide for  
10 the creation of a pretrial services program pilot project within the department of corrections and  
11 rehabilitation; to provide for a report to the legislative assembly; and to provide a penalty.

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

13 **SECTION 1. AMENDMENT.** Section 12-44.1-32 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15 **12-44.1-32. ~~Performance-based sentence~~ Sentence reduction credit.**

16 ~~The presiding judge of a judicial district in which a correctional facility is located, after~~  
17 ~~consultation with the other judges in the district, may authorize the facility administrator to~~  
18 ~~provide for~~ An inmate sentenced to a correctional facility under this chapter is eligible to earn  
19 sentence reductions based upon performance criteria established through ~~by~~ the administrator  
20 ~~except that sentence reductions may not be given to offenders sentenced under section~~  
21 ~~12-1-32-09.1, including sentence reduction for good conduct.~~ While incarcerated in a  
22 correctional facility, an offender may earn no more than a one-day sentence reduction per six  
23 days served.

1       **SECTION 2. AMENDMENT.** Section 12-54.1-01 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **12-54.1-01. ~~Performance-based sentence~~Sentence reduction.**

4       Except as provided under section 12.1-32-09.1, ~~offenders~~an offender committed to the legal  
5 and physical custody of the department of corrections and rehabilitation ~~are~~is eligible to earn  
6 sentence reductions based upon performance criteria established through department and  
7 penitentiary rules. Performance criteria includes participation in court-ordered or  
8 staff-recommended treatment and education programs and good work performance. The  
9 department may credit an offender committed to the legal and physical custody of the  
10 department who is eligible for sentence reduction five days good time per month for each month  
11 of the sentence imposed. The department may ~~not~~ credit an offender with ~~any~~ sentence  
12 reduction for time spent in custody ~~prior to~~before ~~sentencesentencing~~ and commitment, ~~for time-~~  
13 ~~under supervised probation, or for any sentence where the incarceration time is six months or~~  
14 ~~less to the legal and physical custody of the department. The department may not credit an~~  
15 ~~offender with any sentence reduction for time spent on probation under the supervision and~~  
16 ~~management of the department.~~

17       **SECTION 3. AMENDMENT.** Section 12-59-08 of the North Dakota Century Code is  
18 amended and reenacted as follows:

19       **12-59-08. ~~Emergency~~Medical paroles.**

20       ~~The~~an inmate, including an inmate whose sentence is subject to section 12.1-32-02.1 and  
21 an inmate sentenced under subsection 1 of section 12.1-32-01, has a serious or terminal  
22 medical condition, the parole board may consider whether an~~grant the~~ inmate may receive an  
23 emergency~~a~~ medical parole at a meeting scheduled by the chairman. The board may request  
24 ~~the inmate to personally appear before the board before the board makes a decision whether to~~  
25 ~~grant the inmate an emergency parole. The board may grant or deny an emergency parole, or~~  
26 ~~grant a conditional emergency parole, or continue its consideration to another meeting. Two~~  
27 ~~members of the parole board may grant emergency parole, subject to terms and conditions of~~  
28 ~~emergency parole that may be established by the two members of the parole board, or by the~~  
29 ~~department of corrections and rehabilitation with the approval of the parole board. An inmate~~  
30 ~~who receives an emergency~~a medical parole remains under the jurisdiction of the parole board  
31 until the expiration of the maximum term or terms of imprisonment for which the inmate was

1 sentenced, less any sentence reduction the inmate has received. **SECTION 4. AMENDMENT.**

2 Section 12.1-17-13 of the North Dakota Century Code is amended and reenacted as follows:

3 **12.1-17-13. Mandated treatment of domestic violence offenders.**

4 The sentence for an offense under section 12.1-17-01, 12.1-17-01.1, 12.1-17-02,  
5 12.1-17-03, 12.1-17-04, or 12.1-17-05 against an actor's family or household member, as  
6 defined in subsection 4 of section 14-07.1-01, must include an order to complete a domestic  
7 violence offender evaluation and treatment program as determined by the court. ~~A court may not~~  
8 ~~order the offender to attend anger management classes or individual counseling unless a~~  
9 ~~domestic violence offender treatment program is not reasonably available to the defendant and~~  
10 ~~the court makes findings for the record explaining why an order to complete a domestic violence~~  
11 ~~offender treatment program would be inappropriate.~~

12 **SECTION 5. AMENDMENT.** Section 12.1-23-05 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14 **12.1-23-05. Grading of theft offenses.**

- 15 1. Notwithstanding subsection 3, theft under this chapter is a class A felony if the  
16 property or services stolen exceed fifty thousand dollars in value.
- 17 2. Notwithstanding the provisions of subsection 3, theft under this chapter is a class B  
18 felony if the property or services stolen exceed ten thousand dollars in value but do  
19 not exceed fifty thousand dollars or are acquired or retained by a threat to commit a  
20 felony.
- 21 3. Theft under this chapter is a class C felony if:
- 22 a. The property or services stolen exceed ~~one~~two thousand five hundred dollars in  
23 value;
- 24 b. The property or services stolen are acquired or retained by threat and (1) are  
25 acquired or retained by a public servant by a threat to take or withhold official  
26 action, or (2) exceed one hundred dollars in value;
- 27 c. The property or services stolen exceed one hundred dollars in value and are  
28 acquired or retained by a public servant in the course of official duties;
- 29 d. The property stolen is a firearm, ammunition, or an explosive or destructive  
30 device, ~~or an automobile, aircraft, or other motor propelled vehicle;~~

- 1 e. The property consists of any government file, record, document, or other  
2 government paper stolen from any government office or from any public servant;
- 3 f. The defendant is in the business of buying or selling stolen property and the  
4 defendant receives, retains, or disposes of the property in the course of that  
5 business;
- 6 g. The property stolen consists of any implement, paper, or other thing uniquely  
7 associated with the preparation of any money, stamp, bond, or other document,  
8 instrument, or obligation of this state;
- 9 h. The property stolen consists of livestock taken from the premises of the owner;
- 10 i. The property stolen consists of a key or other implement uniquely suited to  
11 provide access to property the theft of which would be a felony and it was stolen  
12 to gain such access;
- 13 j. The property stolen is a card, plate, or other credit device existing for the purpose  
14 of obtaining money, property, labor, or services on credit, or is a debit card,  
15 electronic fund transfer card, code, or other means of access to an account for  
16 the purposes of initiating electronic fund transfers; or
- 17 k. The property stolen is a prescription drug as defined in section 43-15.3-01.
- 18 4. All other theft under this chapter is a class A misdemeanor, unless the requirements of  
19 subsection 5 are met.
- 20 5. Theft under this chapter of property or services of a value not exceeding five hundred  
21 dollars is a class B misdemeanor if:
- 22 a. The theft was not committed by threat;
- 23 b. The theft was not committed by deception by one who stood in a confidential or  
24 fiduciary relationship to the victim of the theft; and
- 25 c. The defendant was not a public servant or an officer or employee of a financial  
26 institution who committed the theft in the course of official duties.
- 27 The special classification provided in this subsection applies if the offense is classified  
28 under this subsection in the charge or if, at sentencing, the required factors are  
29 established by a preponderance of the evidence.
- 30 6. Notwithstanding subsection 3 of section 12.1-06-01, an attempt to commit a theft  
31 under this chapter is punishable equally with the completed offense when the actor

1 has completed all of the conduct which the actor believes necessary on the actor's  
2 part to complete the theft except receipt of the property.

3 7. For purposes of grading, the amount involved in a theft under this chapter is the  
4 highest value by any reasonable standard, regardless of the actor's knowledge of such  
5 value, of the property or services which were stolen by the actor, or which the actor  
6 believed that the actor was stealing, or which the actor could reasonably have  
7 anticipated to have been the property or services involved. Thefts committed pursuant  
8 to one scheme or course of conduct, whether from the same person or several  
9 persons, may be charged as one offense and the amounts proved to have been stolen  
10 may be aggregated in determining the grade of the offense.

11 **SECTION 6. AMENDMENT.** Subsection 2 of section 12.1-32-02 of the North Dakota  
12 Century Code is amended and reenacted as follows:

13 2. Credit against any sentence to a term of imprisonment must be given by the court to a  
14 defendant for all time spent in custody as a result of the criminal charge for which the  
15 sentence was imposed or as a result of the conduct on which such charge was based.  
16 "Time spent in custody" includes time spent in custody in a jail or mental institution for  
17 the offense charged, whether that time is spent prior to trial, during trial, pending  
18 sentence, or pending appeal. The total amount of credit the defendant is entitled to for  
19 time spent in custody and any credit for sentence reduction under section 12-44.1-32  
20 or 12-54.1-01 the defendant is entitled to must be stated in the criminal judgment.

21 **SECTION 7. AMENDMENT.** Section 19-03.1-22.3 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23 **19-03.1-22.3. Ingesting a controlled substance - Venue for violation - Penalty.**

24 A person who intentionally ingests, inhales, or otherwise takes into the body a controlled  
25 substance, unless the substance was obtained directly from a practitioner or pursuant to a valid  
26 prescription or order of a practitioner while acting in the course of the practitioner's professional  
27 practice, is guilty of a class AB misdemeanor for a first offense and a class A misdemeanor for a  
28 second or subsequent offense. The venue for a violation of this section exists in either the  
29 jurisdiction in which the controlled substance was ingested, inhaled, or otherwise taken into the  
30 body or the jurisdiction in which the controlled substance was detected in the body of the  
31 accused.

1       **SECTION 8. AMENDMENT.** Subsection 1 of section 19-03.1-22.5 of the North Dakota  
2 Century Code is amended and reenacted as follows:

3       1. The use of controlled substance analog includes the ingestion, inhalation, absorption,  
4 or any other method of taking the controlled substance analog into the body. An  
5 individual who intentionally uses a controlled substance analog is guilty of a class ~~G-~~  
6 felony B misdemeanor for a first offense and a class A misdemeanor for a second or  
7 subsequent offense, unless the individual obtains the analog directly from a  
8 practitioner or pursuant to a valid prescription or order of a practitioner.

9       **SECTION 9. AMENDMENT.** Subsections 5 and 7 of section 19-03.1-23 of the North Dakota  
10 Century Code are amended and reenacted as follows:

11       5. A violation of this chapter or a law of another state or the federal government which is  
12 equivalent to an offense with respect to the manufacture, delivery, or intent to deliver a  
13 controlled substance under this chapter committed while the offender was an adult  
14 and which resulted in a plea or finding of guilt must be considered a prior offense  
15 under subsections 1, 3, and 4. The prior offense must be alleged in the complaint,  
16 information, or indictment. The plea or finding of guilt for the prior offense must have  
17 occurred before the date of the commission of the offense or offenses charged in the  
18 complaint, information, or indictment.

19       7. a. It is unlawful for any person to willfully, as defined in section 12.1-02-02, possess  
20 a controlled substance or a controlled substance analog unless the substance  
21 was obtained directly from, or pursuant to, a valid prescription or order of a  
22 practitioner while acting in the course of the practitioner's professional practice, or  
23 except as otherwise authorized by this chapter, but any person who violates  
24 section 12-46-24 or 12-47-21 may not be prosecuted under this subsection.  
25 Except as otherwise provided in this subsection, any person who violates this  
26 subsection is guilty of a class ~~G-felony~~ A misdemeanor. If, at the time of the  
27 offense the person is in or on, or within ~~one thousand~~ five hundred feet  
28 [300.48152.4 meters] of the real property comprising a public or private  
29 elementary or secondary school or a public career and technical education  
30 school, the person is guilty of a class B felony, unless the offense involves one  
31 ounce [28.35 grams] or less of marijuana. Any person who violates this

1 subsection regarding possession of one ounce [28.35 grams] or less of marijuana  
2 is guilty of a class B misdemeanor.

3 b. If an individual is sentenced to the legal and physical custody of the department  
4 of corrections and rehabilitation under this subsection, the department may place  
5 the individual in a drug and alcohol treatment program designated by the  
6 department. Upon the successful completion of the drug and alcohol treatment  
7 program, the department shall release the individual from imprisonment to begin  
8 any court-ordered period of probation.

9 c. If the individual is not subject to any court-ordered probation, the court shall order  
10 the individual to serve the remainder of the sentence of imprisonment on  
11 supervised probation subject to the terms and conditions imposed by the court.

12 d. Probation under this subsection may include placement in another facility,  
13 treatment program, or drug court. If an individual is placed in another facility or  
14 treatment program upon release from imprisonment, the remainder of the  
15 sentence must be considered as time spent in custody.

16 e. An individual incarcerated under this subsection as a result of a second probation  
17 revocation is not eligible for release from imprisonment upon the successful  
18 completion of treatment.

19 **SECTION 10. AMENDMENT.** Subdivision a of subsection 1 of section 19-03.1-23.1 of the  
20 North Dakota Century Code is amended and reenacted as follows:

21 a. The offense involved the manufacture, delivery, or possession, with intent to  
22 manufacture or deliver a controlled substance in or on, or within ~~one thousand five~~  
23 hundred feet [~~300.48~~152.4 meters] of, the real property comprising a child care or  
24 preschool facility, public or private elementary or secondary school, public career  
25 and technical education school, or a public or private college or university;

26 **SECTION 11. AMENDMENT.** Section 19-03.4-03 of the North Dakota Century Code is  
27 amended and reenacted as follows:

28 **19-03.4-03. Unlawful possession of drug paraphernalia - Penalty.**

29 1. A person may not use or possess with intent to use drug paraphernalia to plant,  
30 propagate, cultivate, grow, harvest, manufacture, compound, convert, produce,  
31 process, prepare, test, analyze, pack, repack, store, contain, or conceal a controlled

1 substance in violation of chapter 19-03.1. Any person violating this subsection is guilty  
2 of a class C felony if the drug paraphernalia is used, or possessed with intent to be  
3 used, to manufacture, compound, convert, produce, process, prepare, test, or analyze  
4 a controlled substance, other than marijuana, classified in schedule I, II, or III of  
5 chapter 19-03.1.

6 2. A person may not use or possess with the intent to use drug paraphernalia to inject,  
7 ingest, inhale, or otherwise induce into the human body a controlled substance, other  
8 than marijuana, classified in schedule I, II, or III of chapter 19-03.1. A person violating  
9 this subsection is guilty of a class ~~AB~~ misdemeanor. If a person previously has been  
10 convicted of an offense under this title, other than an offense related to marijuana, or  
11 an equivalent offense from another court in the United States, a violation of this  
12 subsection is a class ~~C felony~~ A misdemeanor.

13 3. A person may not use or possess with intent to use drug paraphernalia to plant,  
14 propagate, cultivate, grow, harvest, manufacture, compound, convert, produce,  
15 process, prepare, test, analyze, pack, repack, store, contain, or conceal marijuana in  
16 violation of chapter 19-03.1. A person violating this subsection is guilty of a class A  
17 misdemeanor.

18 4. A person may not use or possess with the intent to use drug paraphernalia to ingest,  
19 inhale, or otherwise introduce into the human body marijuana in violation of  
20 chapter 19-03.1. A person violating this subsection is guilty of a class B misdemeanor.

21 **SECTION 12. AMENDMENT.** Subdivision f of subsection 5 of section 39-08-01 of the North  
22 Dakota Century Code is amended and reenacted as follows:

23 f. If the offense is subject to subdivision a or b, a municipal court or district court  
24 may not suspend a sentence, but may convert each day of a term of  
25 imprisonment to ten hours of community service for an offense subject to  
26 paragraph 2 of subdivision a. If the offense is subject to subdivision c, the district  
27 court may suspend a sentence, except for sixty days' imprisonment, under  
28 subsection 3 of section 12.1-32-02 on the condition that the defendant first  
29 undergo and complete an evaluation for alcohol and substance abuse treatment  
30 and rehabilitation. If the offense is subject to subdivision d, the district court may  
31 suspend a sentence, except for one year's imprisonment, under subsection 3 of



1 section 12.1-32-02 on the condition that the defendant first undergo and  
2 complete an evaluation for alcohol and substance abuse treatment and  
3 rehabilitation. If the defendant is found to be in need of alcohol and substance  
4 abuse treatment and rehabilitation, the district court may order the defendant  
5 placed under the supervision and management of the department of corrections  
6 and rehabilitation and is subject to the conditions of probation under section  
7 12.1-32-07. The district court may require the defendant to complete alcohol and  
8 substance abuse treatment and rehabilitation under the direction of the drug  
9 court program as a condition of probation in accordance with rules adopted by  
10 the supreme court. The district court may terminate probation under this section  
11 when the defendant completes the drug treatment program. If the district court  
12 finds that a defendant has failed to undergo an evaluation or complete treatment  
13 or has violated any condition of probation, the district court shall revoke the  
14 defendant's probation and shall sentence the defendant in accordance with this  
15 subsection.

16 **SECTION 13. AMENDMENT.** Section 43-45-06 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18 **43-45-06. Addiction counseling practice - Exemptions.**

- 19 1. ~~Nothing in this~~This chapter may be construed to~~does not~~ prevent any ~~person~~individual  
20 from doing work within the standards and ethics of that ~~person's~~individual's profession  
21 and calling, ~~provided that~~if the personindividual does not represent to the public, by  
22 title or by use of the initials L.A.C., that the ~~person~~individual is engaging in addiction  
23 counseling. A licensed clinical psychologist, a doctoral candidate in psychology, a  
24 licensed independent clinical social worker, or a licensed professional clinical  
25 counselor may provide addiction counseling services, as determined qualified by each  
26 respective licensing board.
- 27 2. ~~Nothing in this~~This chapter may be construed to~~does not~~ prevent addiction counseling  
28 trainees or interns in board-approved programs from engaging in addiction counseling  
29 related to training.

30 **SECTION 14. AMENDMENT.** Subsection 17 of section 50-06-05.1 of the North Dakota  
31 Century Code is amended and reenacted as follows:

1       17. To act as the official agency of the state in the administration of the supplemental  
2       nutrition assistance program and to direct and supervise county administration of that  
3       program. Provided, however, that the department with the consent of the budget  
4       section of the legislative management may terminate the program if the rate of federal  
5       financial participation in administrative costs provided under Public Law 93-347 is  
6       decreased or limited, or if the state or counties become financially responsible for all or  
7       a portion of the coupon bonus payments under the Food Stamp Act. ~~Unless at least~~  
8       ~~seven years has elapsed since the most recent felony conviction that has as an~~  
9       ~~element the possession, use, or distribution of a controlled substance, the~~The  
10      department ~~shall~~may not deny assistance under the supplemental nutrition assistance  
11      program to any individual who has been convicted of a felony offense that has as an  
12      element the possession, use, or distribution of a controlled substance as defined in  
13      section 102(6) of the Controlled Substances Act [21 U.S.C. 802(6)].

14      **SECTION 15. AMENDMENT.** Section 50-09-29 of the North Dakota Century Code is  
15      amended and reenacted as follows:

16      **50-09-29. Requirements for administration of temporary assistance for needy**  
17      **families.**

- 18      1. Except as provided in subsections 2, 3, and 4, the department of human services, in  
19      its administration of the temporary assistance for needy families program, shall:
- 20      a. Provide assistance to otherwise eligible women in the third trimester of a  
21      pregnancy;
  - 22      b. Except as provided in subdivision c, afford eligible households benefits for no  
23      more than sixty months;
  - 24      c. Exempt eligible households from the requirements of subdivision b due to mental  
25      or physical disability of a parent or child, mental or physical incapacity of a  
26      parent, or other hardship including a parent subject to domestic violence as  
27      defined in section 14-07.1-01;
  - 28      d. Unless an exemption, exclusion, or disregard is required by law, count income  
29      and assets whenever actually available;

- 1 e. Except as provided in subdivision j, and as required to allow the state to receive  
2 funds from the federal government under title IV-A, provide no benefits to  
3 noncitizen immigrants who arrive in the United States after August 21, 1996;
- 4 f. Limit eligibility to households with total available assets, not otherwise exempted  
5 or excluded, of a value established by the department;
- 6 g. Exclude one motor vehicle of any value in determining eligibility;
- 7 h. Require work activities for all household members not specifically exempted by  
8 the department of human services for reasons such as mental or physical  
9 disability of a parent or child or mental or physical incapacity of a parent;
- 10 i. Establish goals and take action to prevent and reduce the incidence of  
11 out-of-wedlock pregnancies and establish numerical goals for reducing the  
12 illegitimacy rate for the state for periods through calendar year 2005;
- 13 j. To the extent required to allow the state to receive funds from the federal  
14 government under title IV-A, provide benefits to otherwise eligible noncitizens  
15 who are lawfully present in the United States;
- 16 k. Establish and enforce standards against program fraud and abuse;
- 17 l. Provide employment placement programs;
- 18 m. Exempt from assets and income the savings and proportionate matching funds in  
19 individual development accounts;
- 20 n. Determine the unemployment rate of adults living in a county that includes Indian  
21 reservation lands and a significant population of Indian individuals by using  
22 unemployment data provided by job service North Dakota;
- 23 o. When appropriate, require household members to complete high school;
- 24 p. To the extent required to allow the state to receive funds from the federal  
25 government under title IV-A, exempt single parents from required work activities;
- 26 q. Provide for sanctions, including termination of assistance to the household, if a  
27 household member fails to cooperate with work requirements;
- 28 r. Provide for sanctions, including termination of assistance to the household, if a  
29 household member fails, without good cause, to cooperate with child support  
30 activities;

- 1           s. Deny assistance with respect to a minor child absent from the household for  
2           more than one calendar month, except as specifically provided by the state  
3           agency for absences;
- 4           t. Require each household to participate in developing an individual employment  
5           plan and provide for sanctions, including termination of assistance to the  
6           household, if adult or minor household members age sixteen or older fail to  
7           cooperate with the terms of the individual employment plan;
- 8           u. Provide pre-pregnancy family planning services that are to be incorporated into  
9           the temporary assistance for needy families program assessment;
- 10          v. Except in cases of pregnancy resulting from rape or incest, not increase the  
11          assistance amount to recognize the increase in household size when a child is  
12          born to a household member who was a recipient of assistance under this  
13          chapter during the probable month of the child's conception;
- 14          w. Disregard earned income as an incentive allowance for no more than twelve  
15          months; and
- 16          x. Consider, and if determined appropriate, authorize demonstration projects in  
17          defined areas which may provide benefits and services that are not identical to  
18          benefits and services provided elsewhere; and
- 19          ~~y. Unless at least seven years has elapsed since the most recent felony conviction~~  
20          ~~that has as an element the possession, use, or distribution of a controlled~~  
21          ~~substance, deny assistance to any individual who has been convicted of a felony~~  
22          ~~offense that has as an element the possession, use, or distribution of a controlled~~  
23          ~~substance as defined in section 102(6) of the Controlled Substances Act~~  
24          ~~[21 U.S.C. 802(6)].~~
- 25          2. If the secretary of the United States department of health and human services  
26          determines that funds otherwise available for the temporary assistance for needy  
27          families program in this state must be reduced or eliminated should the department of  
28          human services administer the program in accordance with any provision of  
29          subsection 1, the department of human services shall administer the program in a  
30          manner that avoids the reduction or loss.

- 1           3. If the department of human services determines, subject to the approval of the  
2           legislative management, that there is insufficient worker opportunity, due to increases  
3           in the unemployment rate, to participate in work activities, the department may  
4           administer the temporary assistance for needy families program in a manner different  
5           than provided in subsection 1.
- 6           4. If the department of human services determines, subject to the approval of the  
7           legislative management, that administration of the temporary assistance for needy  
8           families program, in the manner provided by subsection 1, causes otherwise eligible  
9           individuals to become a charge upon the counties under chapter 50-01, the  
10          department may administer the program in a manner that avoids that result.
- 11          5. The department of human services may not deny assistance to any individual who has  
12          been convicted of a felony offense that has as an element the possession, use, or  
13          distribution of a controlled substance as defined in section 102(6) of the Controlled  
14          Substance Act [21 U.S.C. 802(6)].

15           **SECTION 16. PRETRIAL SERVICES DIVISION PILOT PROJECT - REPORT TO**  
16   **LEGISLATIVE ASSEMBLY.** The department of corrections and rehabilitation may establish a  
17   pretrial services program as a pilot project in one or more judicial districts during the biennium  
18   beginning July 1, 2017, and ending June 30, 2019. The pretrial services pilot project must  
19   involve coordination among the department, the judicial branch, and state and local law  
20   enforcement agencies for the provision of pretrial services by the department for the district  
21   courts to individuals charged with felony offenses. Pretrial services include risk assessments,  
22   background and criminal history background investigations, recommendations for conditions of  
23   pretrial release, monitoring and supervision of individuals on pretrial release for compliance with  
24   pretrial conditions to assure the individual's appearance at all court proceedings, and reporting  
25   violations of pretrial release conditions to the district court. The department and the judicial  
26   branch shall provide a report of the process and outcome measures of the pretrial services  
27   program and recommendations, together with any legislation required to implement the  
28   recommendations, to the sixty-sixth legislative assembly.