FIRST ENGROSSMENT

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 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 the classification system required in this
- 12 <u>section.</u> In grade one and grade two correctional facilities and, where practicable, in grade
- 13 three correctional facilities, the following groups of inmates must be housed separately from
- 14 each other:
- 15 1. Female inmates from male inmates.
- 16 2. Juveniles from adults.
- 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.
- 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.

1	5.	Inm	ates who may have special needs as determined by the correctional facility or
2		who	ose behavior may present a serious threat to the safety or security of the
3		corr	rectional facility, the staff, the inmate, or other inmates.
4	SEC	CTIO	N 2. AMENDMENT. Section 12-44.1-18.2 of the North Dakota Century Code
5	is amended	d and	reenacted as follows:
6	12-	44.1-	18.2. Work release program - Room and board costs to be paid by
7	inmate. A	ny inr	nate who participates in a work release program shall pay the correctional
8	facility for the	he ro	om and board costs incurred by the inmate while confined in the correctional
9	facility. The	e adn	ninistrator shall determine the amount of meal and lodging costs to be paid by
10	the inmate.	The	amount may not exceed ten dollars the actual cost per day or the funds
11	earned by the inmate, whichever is less.		
12	SEC	CTIO	N 3. AMENDMENT. Subsection 4 of section 39-08-01 of the North Dakota
13	Century Code is amended and reenacted as follows:		
14	4.	A p	erson convicted of violating this section, or an equivalent ordinance, must be
15		sen	tenced in accordance with this subsection.
16		a.	For a first offense, the sentence must include both a fine of at least two
17			hundred fifty dollars and an order for addiction evaluation by an appropriate
18			licensed addiction treatment program.
19		b.	For a second offense within five years, the sentence must include at least four
20			days' imprisonment or placement in a minimum security facility, of which
21			forty-eight hours must be served consecutively, or ten days' community
22			service; a fine of at least five hundred dollars; and an order for addiction
23			evaluation by an appropriate licensed addiction treatment program.
24		C.	For a third offense within five years, the sentence must include at least sixty
25			days' imprisonment or placement in a minimum security facility, of which
26			forty-eight hours must be served consecutively; a fine of one thousand
27			dollars; and an order for addiction evaluation by an appropriate licensed
28			addiction treatment program.
29		d.	For a fourth or subsequent offense within seven years, the sentence must
30			include one hundred eighty days' imprisonment or placement in a minimum

27

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

placement under this section.