

**HOUSE BILL NO. 1218**

Introduced by

Representatives Carlisle, R. Kelsch, Maragos

Senators Lyson, Robinson, Stenehjem

1 A BILL for an Act to amend and reenact subsection 4 of section 39-08-01 of the North Dakota  
2 Century Code, relating to driving under the influence of intoxicating liquor or any other drug or  
3 substance; to provide an expiration date; and to declare an emergency.

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

5 **SECTION 1. AMENDMENT.** Subsection 4 of section 39-08-01 of the 1999 Supplement  
6 to the North Dakota Century Code is amended and reenacted as follows:

- 7 4. A person convicted of violating this section, or an equivalent ordinance, must be  
8 sentenced in accordance with this subsection. For purposes of this subsection,  
9 unless the context otherwise requires, "drug court program" means a district  
10 court-supervised treatment program approved by the supreme court which  
11 combines judicial supervision with alcohol and drug testing and chemical addiction  
12 treatment in a licensed treatment program. The supreme court may adopt rules,  
13 including rules of procedure, for drug courts and the drug court program.
- 14 a. For a first offense, the sentence must include both a fine of at least two  
15 hundred fifty dollars and an order for addiction evaluation by an appropriate  
16 licensed addiction treatment program.
- 17 b. For a second offense within five years, the sentence must include at least five  
18 days' imprisonment or placement in a minimum security facility, of which  
19 forty-eight hours must be served consecutively, or thirty days' community  
20 service; a fine of at least five hundred dollars; and an order for addiction  
21 evaluation by an appropriate licensed addiction treatment program.
- 22 c. For a third offense within five years, the sentence must include at least sixty  
23 days' imprisonment or placement in a minimum security facility, of which  
24 forty-eight hours must be served consecutively; a fine of one thousand dollars;

1 and an order for addiction evaluation by an appropriate licensed addiction  
2 treatment program.

3 d. For a fourth or subsequent offense within seven years, the sentence must  
4 include one hundred eighty days' imprisonment or placement in a minimum  
5 security facility, of which forty-eight hours must be served consecutively and a  
6 fine of one thousand dollars.

7 e. The execution or imposition of sentence under this section may not be  
8 suspended or deferred under subsection 3 or 4 of section 12.1-32-02 for an  
9 offense subject to subdivision a or b. If the offense is subject to subdivision c  
10 or d, the district court may suspend a sentence under subsection 3 or 4 of  
11 section 12.1-32-02 on the condition that the defendant first undergo and  
12 complete an evaluation for alcohol and substance abuse treatment and  
13 rehabilitation. If the defendant is found to be in need of alcohol and  
14 substance abuse treatment and rehabilitation, the district court may order the  
15 defendant placed under the supervision and management of the department  
16 of corrections and rehabilitation and is subject to the conditions of probation  
17 under section 12.1-32-07. The district court shall require the defendant to  
18 complete alcohol and substance abuse treatment and rehabilitation under the  
19 direction of the drug court program as a condition of probation in accordance  
20 with rules adopted by the supreme court. If the district court finds that a  
21 defendant has failed to undergo an evaluation or complete treatment or has  
22 violated any condition of probation, the district court shall revoke the  
23 defendant's probation and shall sentence the defendant in accordance with  
24 this subsection.

25 f. For purposes of this section, conviction of an offense under a law or  
26 ordinance of another state which is equivalent to this section must be  
27 considered a prior offense if such offense was committed within the time  
28 limitations specified in this subsection.

29 g. If the penalty mandated by this section includes imprisonment or placement  
30 upon conviction of a violation of this section or equivalent ordinance, and if an  
31 addiction evaluation has indicated that the defendant needs treatment, the

1                    court may order the defendant to undergo treatment at an appropriate  
2                    licensed addiction treatment program and the time spent by the defendant in  
3                    the treatment must be credited as a portion of a sentence of imprisonment or  
4                    placement under this section.

5                    **SECTION 2. EXPIRATION DATE.** This Act is effective through July 31, 2003, and  
6 after that date is ineffective.

7                    **SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.