

FIRST ENGROSSMENT
with Conference Committee Amendments
ENGROSSED HOUSE BILL NO. 1363

Introduced by

Representatives Delmore, Carlisle, Mahoney

Senators Lyson, C. Nelson

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

6 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

- 9 2. ~~Simple assault is a class B misdemeanor except~~ The offense is:
- 10 a. A class C felony when the victim is a peace officer or correctional institution
11 employee acting in an official capacity, which the actor knows to be a fact, a
12 person engaged in a judicial proceeding, or a member of a municipal or
13 volunteer fire department or emergency medical services personnel unit or
14 emergency department worker in the performance of the member's duties, ~~in~~
15 ~~which case the offense is a class C felony.~~
- 16 b. A class B misdemeanor for the first offense when the victim is an actor's
17 family or household member as defined in subsection 4 of section 14-07.1-01
18 and a class A misdemeanor for a second or subsequent offense when the
19 victim is an actor's family or household member as defined in subsection 4 of
20 section 14-07.1-01 and the actor has a prior conviction for simple assault
21 involving the commission of domestic violence as defined in subsection 2 of
22 section 14-07.1-01. For purposes of this subdivision, a prior conviction
23 includes a conviction of simple assault in which a finding of domestic violence

1 was made under a law or ordinance of another state which is equivalent to
2 this subdivision.

3 c. A class B misdemeanor except as provided in subdivision a or b.

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

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

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

- 12 1. When the court imposes probation upon conviction for a felony, the court shall
13 place the defendant under the supervision and management of the department of
14 corrections and rehabilitation. In class A misdemeanor cases, except for a
15 violation of subdivision b of subsection 2 of section 12.1-17-01, the court may
16 place the defendant under the supervision and management of the department of
17 corrections and rehabilitation or other responsible party. In all other cases, the
18 court may place the defendant under the supervision and management of a
19 community corrections program other than the department of corrections and
20 rehabilitation. If an appropriate community corrections program is not reasonably
21 available, the court may place the defendant under the supervision and
22 management of the department of corrections and rehabilitation. The department
23 of corrections and rehabilitation may arrange for the supervision and management
24 of the defendant by a community corrections program selected by the department
25 of corrections and rehabilitation. A community corrections program means a
26 program for the supervision of a defendant, including monitoring and enforcement
27 of terms and conditions of probation set by the court or pursuant to a conditional
28 release from the physical custody of a correctional facility or the department of
29 corrections and rehabilitation.