

Fifty-eighth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1089

Introduced by

Judiciary Committee

(At the request of the Department of Corrections and Rehabilitation)

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 a probation officer taking a defendant into custody for treatment and
3 rehabilitation in lieu of revocation of probation.

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
6 created and enacted as follows:

7 **Custody and detention for treatment and rehabilitation.**

- 8 1. If a parole and probation officer takes a defendant into custody in accordance with
9 rule 32 of the North Dakota Rules of Criminal Procedure for a violation of probation
10 and has reasonable cause to believe the defendant is a chemically dependent
11 individual who requires drug and alcohol treatment and rehabilitation or is in need
12 of other treatment and rehabilitative programming, the parole and probation officer
13 may place the defendant in an assessment center pending a hearing on the
14 alleged violation for an evaluation to determine whether the defendant is a
15 chemically dependent individual who is in need of drug and alcohol treatment and
16 rehabilitation or is in need of other treatment and rehabilitative programming. The
17 assessment center shall conduct the evaluation within seventy-two hours after the
18 defendant has been placed in the assessment center.
- 19 2. For purposes of this section, an assessment center means a facility operated
20 under the direction of, or under contract with, the department of corrections and
21 rehabilitation, for the evaluation of chemical dependency, detoxification, and drug
22 and alcohol treatment and rehabilitation and other treatment and rehabilitative
23 programming.

- 1 3. Upon completion of the evaluation, the assessment center shall refer the
2 defendant to the sentencing court for a hearing on the alleged probation violation
3 along with a report of its evaluation. If the court finds that the defendant violated a
4 term or condition of probation and is a chemically dependent individual in need of
5 drug and alcohol treatment or is in need of other treatment and rehabilitation, the
6 court may continue the defendant on the existing probation and extend or enlarge
7 the conditions of probation to require the defendant to return to the assessment
8 center to undergo further assessment and treatment and rehabilitation and impose
9 other conditions the court deems reasonably necessary to assure that the
10 defendant complies with the terms and conditions of probation, or the court may
11 revoke the probation and impose any other sentence that was available under
12 section 12.1-32-02 or 12.1-32-09 at the time of the initial sentencing or deferment.
- 13 4. The probation officer shall advise the defendant of the right to request a hearing. If
14 the defendant requests a hearing, the court shall hold a hearing no later than
15 seven days after the probation officer has taken the defendant into custody and
16 placed the defendant in the assessment center. The court may extend the hearing
17 for good cause. The defendant may waive the hearing under this section.
- 18 5. If the court determines by a preponderance of the evidence that the defendant is a
19 chemically dependent person in need of treatment or is a person in need of other
20 treatment and rehabilitative programming, the court may order the defendant to
21 undergo further assessment up to sixty days in the assessment facility and
22 treatment and rehabilitation programming up to one hundred twenty days. The
23 court may impose other conditions it deems reasonably necessary to assure that
24 the defendant complies with the terms and conditions of probation.