

## HOUSE BILL NO. 1188

Introduced by

Representatives Grosz, Iverson

1 A BILL for an Act to amend and reenact sections 12.1-32-01, 12.1-32-03.1, 12.1-32-09.1, and  
2 39-24.1-07 of the North Dakota Century Code, relating to the classification of offenses; and to  
3 provide a penalty.

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

5 **SECTION 1. AMENDMENT.** Section 12.1-32-01 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **12.1-32-01. Classification of offenses - Penalties.**

8 1. Offenses are divided into seven classes, which are denominated and subject to  
9 maximum penalties, as follows:

10 ~~4-~~ a. Class AA felony, for which a maximum penalty of life imprisonment without  
11 parole may be imposed. The court must designate whether the life  
12 imprisonment sentence imposed is with or without an opportunity for parole.  
13 Notwithstanding the provisions of section 12-59-05, a person found guilty of a  
14 class AA felony and who receives a sentence of life imprisonment with parole,  
15 shall not be eligible to have that person's sentence considered by the parole  
16 board for thirty years, less sentence reduction earned for good conduct, after  
17 that person's admission to the penitentiary.

18 ~~2-~~ b. Class A felony, for which a maximum penalty of ~~twenty~~ thirty years'  
19 imprisonment, a fine of ten thousand dollars, or both, may be imposed.

20 ~~3-~~ c. Class B felony, for which a maximum penalty of ~~ten~~ twenty years'  
21 imprisonment, a fine of ten thousand dollars, or both, may be imposed.

22 ~~4-~~ d. Class C felony, for which a maximum penalty of ~~five~~ ten years' imprisonment,  
23 a fine of five thousand dollars, or both, may be imposed.

- 1           5- e. Class A misdemeanor, for which a maximum penalty of one year's  
2                   imprisonment, a fine of two thousand dollars, or both, may be imposed.
- 3           6- f. Class B misdemeanor, for which a maximum penalty of thirty days'  
4                   imprisonment, a fine of one thousand dollars, or both, may be imposed.
- 5           7- g. Infraction, for which a maximum fine of five hundred dollars may be imposed.  
6                   Any person convicted of an infraction who has, within one year prior to  
7                   commission of the infraction of which the person was convicted, been  
8                   previously convicted of an offense classified as an infraction may be  
9                   sentenced as though convicted of a class B misdemeanor. If the prosecution  
10                  contends that the infraction is punishable as a class B misdemeanor, the  
11                  complaint shall specify that the offense is a misdemeanor.
- 12           2. This section ~~shall~~ does not ~~be construed to~~ forbid sentencing under section  
13                  12.1-32-09, relating to extended sentences.

14           **SECTION 2. AMENDMENT.** Section 12.1-32-03.1 of the North Dakota Century Code  
15 is amended and reenacted as follows:

16           **12.1-32-03.1. Procedure for trial of infraction - Incidents.**

- 17           1. Except as provided in this subsection, all procedural provisions relating to the trial  
18                  of criminal cases as provided in the statutes or rules relating to criminal procedure  
19                  shall apply to the trial of a person charged with an infraction. A person charged  
20                  with an infraction is not entitled to be furnished counsel at public expense nor to  
21                  have a trial by jury unless he may be subject to a sentence of imprisonment under  
22                  subdivision g of subsection 7 1 of section 12.1-32-01.
- 23           2. Except as provided in this title, all provisions of law and rules of criminal procedure  
24                  relating to misdemeanors shall apply to infractions, including, but not limited to, the  
25                  powers of law enforcement officers, the jurisdiction of courts, the periods for  
26                  commencing action and bringing a case to trial, and the burden of proof.
- 27           3. Following conviction of an infraction, the offender may be sentenced in accordance  
28                  with subsection 1 of section 12.1-32-02, except that a term of imprisonment may  
29                  not be imposed except in accordance with subsection 3 of section 12.1-32-05, or  
30                  subdivision g of subsection 7 1 of section 12.1-32-01.

4. If a statute provides that conduct is an infraction without specifically including a requirement of culpability, no culpability is required.

**SECTION 3. AMENDMENT.** Section 12.1-32-09.1 of the North Dakota Century Code is amended and reenacted as follows:

**12.1-32-09.1. Sentencing of violent offenders.** Any offender who is convicted of a crime in violation of section 12.1-16-01, 12.1-16-02, 12.1-17-02, 12.1-18-01, subdivision a of subsection 1 or subdivision b of subsection 2 of section 12.1-20-03, section 12.1-22-01, subdivision b of subsection 2 of section 12.1-22-02, or an attempt to commit the offenses, and who receives a sentence of imprisonment is not eligible for release from confinement on any basis until eighty-five percent of the sentence imposed by the court has been served or the sentence is commuted. In the case of an offender who is sentenced to a term of life imprisonment with opportunity for parole under subdivision a of subsection 1 of section 12.1-32-01, the term "sentence imposed" means the remaining life expectancy of the offender on the date of sentencing. The remaining life expectancy of the offender must be calculated on the date of sentencing, computed by reference to a recognized mortality table as established by rule by the supreme court. Notwithstanding this section, an offender sentenced under subdivision a of subsection 1 of section 12.1-32-01 may not be eligible for parole until the requirements of that subsection have been met.

**SECTION 4. AMENDMENT.** Section 39-24.1-07 of the North Dakota Century Code is amended and reenacted as follows:

**39-24.1-07. Criminal penalties for operating snowmobile while having alcohol or drug concentrations.** Upon conviction of a violation of subdivision c of subsection 5 of section 39-24-09, the court shall impose the following minimum penalties:

1. Notwithstanding ~~subsection 7~~ of section 12.1-32-01, if the person's record indicates that, within the five years preceding the date of the offense, the person has not violated subdivision c of subsection 5 of section 39-24-09 or the person has not been prohibited from operating a snowmobile under this chapter, the offense is an infraction. The court shall impose a minimum fine of two hundred fifty dollars and, as a condition of that person's probation, shall prohibit that person from operating a snowmobile on all public land or private land with public access for sixty days within the snowmobile season that runs from December first through April first.

- 1           2.   Notwithstanding ~~subsection 7 of~~ section 12.1-32-01, if the person's record indicates  
2           that, within the five years preceding the date of the offense, the person has one  
3           violation of subdivision c of subsection 5 of section 39-24-09 or the person has  
4           once been prohibited from operating a snowmobile under this chapter, the offense  
5           is an infraction. The court shall impose a minimum fine of three hundred fifty  
6           dollars and, as a condition of that person's probation, shall prohibit that person  
7           from operating a snowmobile on all public land or private land with public access  
8           for one year from the date of the sentence.
- 9           3.   If the person's record indicates that, within the five years preceding the date of the  
10          offense, the person has two violations of subdivision c of subsection 5 of section  
11          39-24-09 or the person has twice been prohibited from operating a snowmobile  
12          under this chapter, the offense is a class B misdemeanor. The court shall impose  
13          a minimum fine of four hundred fifty dollars and, as a condition of that person's  
14          probation, shall prohibit that person from operating a snowmobile on all public land  
15          or private land with public access for two years from the date of the sentence.