

Sixty-first
Legislative Assembly
of North Dakota

SENATE BILL NO. 2114

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 subsection to section 12-44.1-21 of the North
2 Dakota Century Code, relating to wireless electronic devices on or within correctional facilities;
3 to amend and reenact section 12-44.1-06 and subsection 7 of section 12-44.1-21 of the North
4 Dakota Century Code, relating to grades of correctional facilities and the definition of
5 contraband; to provide a penalty; and to declare an emergency.

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

7 **SECTION 1. AMENDMENT.** Section 12-44.1-06 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **12-44.1-06. Grades of correctional facilities.**

- 10 1. The department of corrections and rehabilitation shall, following inspection
11 pursuant to section 12-44.1-24, grade correctional facilities as to length of
12 allowable inmate confinement based upon construction, size, and usage, as
13 follows:
- 14 a. "Grade one" means a correctional facility for confining inmates not more than
15 one year.
- 16 b. "Grade two" means a correctional facility for confining inmates not more than
17 ninety days.
- 18 c. "Grade three" means a correctional facility for confining inmates not more
19 than ninety-six hours.
- 20 2. The length of confinement of a prisoner may be temporarily increased on a
21 case-by-case basis in grade one and grade two correctional facilities upon the
22 request of the administrator and the approval of the department of corrections and
23 rehabilitation.

3. ~~The department of corrections and rehabilitation, upon the request of the governing body of the correctional facility, may authorize a correctional facility to regularly confine inmates for more than one year if the correctional facility meets criteria established by the department, including:~~

- ~~a. A classification system approved by the department.~~
- ~~b. Education programs, including vocational education and a general equivalency diploma program.~~
- ~~c. Treatment programs, including licensed alcohol or drug addiction counseling.~~
- ~~d. Inmate work programs, including prison industries work programs.~~
- ~~e. An infirmary and onsite medical and pharmacy services.~~
- ~~f. Indoor and outdoor recreation.~~

SECTION 2. A new subsection to section 12-44.1-21 of the North Dakota Century Code is created and enacted as follows:

- a. It is unlawful for an inmate in a correctional facility to willfully manufacture, possess, or use a wireless electronic communication device in a correctional facility.
- b. It is unlawful for any person to willfully deliver, or possess with intent to deliver, a wireless electronic communication device to an inmate in a correctional facility or to any person for redelivery to an inmate in a correctional facility, or to allow an inmate to possess or use a wireless electronic communication device in a correctional facility.
- c. A violation of this subsection is a class C felony.

SECTION 3. AMENDMENT. Subsection 7 of section 12-44.1-21 of the North Dakota Century Code is amended and reenacted as follows:

- 7. As used in this section, "controlled substance" is as defined in subsection 6 of section 19-03.1-01 and includes counterfeit substances as defined in subsection 7 of section 19-03.1-01. As used in this section, "willfully" is as defined in section 12.1-02-02. As used in this section, "alcohol" and "alcoholic beverage" are as defined in section 5-01-01. As used in this section, "tobacco" means any form of tobacco, including cigarettes, cigars, snuff, or tobacco in any form in which it may be used for smoking or chewing. As used in this section, a wireless electronic

1 communication device includes a cellular telephone, personal digital assistant,
2 pager, mobile broadband card, internet router, digital camera, two-way radio,
3 modem, or any other electronic device capable of wireless transmission, reception,
4 interception, or storage of oral communications, text, e-mail, video or photograph
5 images, data signals, or radio communications, and also includes a battery or
6 component of a wireless electronic device, regardless whether the component itself
7 is able to transmit, store, or receive oral communications, text, e-mail, video or
8 photograph images, data signals, or radio communications.

9 **SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.