

Sixty-sixth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1211

Introduced by

Representatives Kading, Blum, Meier, Vetter

Senator Davison

1 A BILL for an Act to amend and reenact sections 12-54.1-01, 12-54.1-03, 12-59-08,
2 subsections 2 and 6 of section 12.1-32-06.1, subsection 1 of section 12.1-32-07, subsection 1
3 of section 15.1-09-33.4, and subsection 3 of section 62.1-01-01 of the North Dakota Century
4 Code, relating to performance-based and meritorious sentence reduction credit, medical parole,
5 length and supervision of probation, student misconduct, and definition of a firearm; and to
6 repeal section 12.1-32-09.1 of the North Dakota Century Code, relating to sentencing violent
7 offenders; and to provide for retroactive application.

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

9 **SECTION 1. AMENDMENT.** Section 12-54.1-01 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **12-54.1-01. Sentence reduction.**

12 ~~Except as provided under section 12.1-32-09.1, an~~An offender committed to the legal and
13 physical custody of the department of corrections and rehabilitation is eligible to earn sentence
14 reductions based upon performance criteria established through department and penitentiary
15 rules. Performance criteria includes participation in court-ordered or staff-recommended
16 treatment and education programs and good work performance. The department may credit an
17 offender committed to the legal and physical custody of the department who is eligible for
18 sentence reduction five days good time per month for each month of the sentence imposed.
19 The department may credit an offender with sentence reduction for time spent in custody before
20 sentencing and commitment to the legal and physical custody of the department. The
21 department may not credit an offender with any sentence reduction for time spent on probation
22 under the supervision and management of the department.

23 **SECTION 2. AMENDMENT.** Section 12-54.1-03 of the North Dakota Century Code is
24 amended and reenacted as follows:

1 **12-54.1-03. Meritorious conduct sentence reduction.**

2 ~~Except as provided under section 12.1-32-09.1, offenders~~An offender committed to the
3 legal and physical custody of the department of corrections and rehabilitation may receive a
4 lump sum or a monthly rate of meritorious conduct sentence reduction for outstanding
5 performance or heroic acts or as a special control and security measure, as provided by
6 penitentiary and department rules and upon written recommendation of a department
7 multidisciplinary team. Meritorious sentence reductions are in addition to sentence reductions
8 under section 12-54.1-01 and may be made only after a written recommendation is made by the
9 warden and approved by the director of the department. Any sentence reduction for special
10 control or security measures may not exceed two days good time per month per offender.

11 **SECTION 3. AMENDMENT.** Section 12-59-08 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **12-59-08. Medical paroles.**

14 If an inmate, including an inmate ~~whose sentence is subject to sections~~sentenced under
15 section 12.1-32-02.1 and 12.1-32-09.1, and an inmate sentenced under subsection 1 of section
16 12.1-32-01, has a serious or terminal medical condition, the parole board may grant the inmate
17 a medical parole. An inmate who receives a medical parole remains under the jurisdiction of the
18 parole board until the expiration of the maximum term or terms of imprisonment for which the
19 inmate was sentenced, less any sentence reduction the inmate has received.

20 **SECTION 4. AMENDMENT.** Subsections 2 and 6 of section 12.1-32-06.1 of the North
21 Dakota Century Code is amended and reenacted as follows:

22 2. Except as provided in this section, the length of supervised probation imposed in
23 conjunction with a sentence of probation or a suspended execution or deferred
24 imposition of sentence may not extend for more than five years for a felony offense
25 ~~subject to section 12.1-32-09.1~~in violation of section 12.1-16-01 or 12.1-16-02,
26 subsection 2 of section 12.1-17-02, section 12.1-18-01, subdivision a of subsection 1
27 or subdivision b of subsection 2 of section 12.1-20-03, section 12.1-22-01,
28 subdivision b of subsection 2 of section 12.1-22-02, or an attempt to commit those
29 offenses, a felony offense subject to section 12.1-32-02.1, ~~which involves the use of a~~
30 ~~firearm or dangerous weapon~~, a second or subsequent violation of section
31 12.1-17-07.1, a second or subsequent violation of any domestic violence protection

order, a violation of chapter 12.1-41, or a violation of section 14-09-22; three years for any other felony offense; two years for a class A misdemeanor; and three hundred sixty days for a class B misdemeanor offense from the later of the date of:

- a. The order imposing probation;
- b. The defendant's release from incarceration; or
- c. Termination of the defendant's parole.

6. In felony and misdemeanor cases, in consequence of violation of probation conditions, the court may impose additional probation if the defendant has not served the maximum sentence of imprisonment available to the court at the time of initial sentencing or deferment or the total time on probation authorized under this section.

a. For class B and greater felony offenses, an offense ~~subject to section 12.1-32-09.1 in violation of section 12.1-16-01 or 12.1-16-02, subsection 2 of section 12.1-17-02, section 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 those offenses~~, a felony offense subject to section 12.1-32-02.1, ~~which involves the use of a firearm or dangerous weapon~~, a second or subsequent violation of section 12.1-17-07.1, a second or subsequent violation of any domestic violence protection order, a violation of chapter 12.1-41, or a violation of section 14-09-22, the total time on probation may not exceed ten years.

b. For all other felony offenses, the total time on probation may not exceed five years.

c. For misdemeanor cases, the total time on probation may not exceed three years.

d. The court shall allow the defendant credit for a sentence of probation from the date the defendant began probation until the date a petition to revoke probation was filed with the court. If the defendant is on supervised probation, the defendant is not entitled to credit for a sentence of probation for any period the defendant has absconded from supervision. The total amount of credit a defendant is entitled to for time spent on probation must be stated in the criminal judgment or order of revocation of probation.

SECTION 5. AMENDMENT. Subsection 1 of section 12.1-32-07 of the North Dakota Century Code is amended and reenacted as follows:

1. When the court imposes probation upon conviction for a felony offense ~~subject to section 12.1-32-09.1 or in violation of section 12.1-16-01 or 12.1-16-02, subsection 2 of section 12.1-17-02, section 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 those offenses, a felony offense subject to section 12.1-32-02.1, a second or subsequent violation of section 12.1-17-07.1, a second or subsequent violation of any domestic violence protection order, a violation of chapter 12.1-41, a violation of section 14-09-22, or a felony offense under chapter 39-08, the court shall place the defendant under the supervision and management of the department of corrections and rehabilitation. When the court imposes probation upon conviction or order of disposition in all other felony cases, the court may place the defendant under the supervision and management of the department of corrections and rehabilitation. In class A misdemeanor cases, the court may place the defendant under the supervision and management of the department of corrections and rehabilitation or other responsible party. In all other cases, the court may place the defendant under the supervision and management of a community corrections program other than the department of corrections and rehabilitation. A community corrections program means a program for the supervision of a defendant, including monitoring and enforcement of terms and conditions of probation set by the court.~~

SECTION 6. AMENDMENT. Subsection 1 of section 15.1-09-33.4 of the North Dakota Century Code is amended and reenacted as follows:

1. The board of a school district shall prohibit a student from participating in any extracurricular activity if:
 - a. The student has pled guilty to or been convicted of a criminal offense and sentenced under section 12.1-32-02.1 or pled guilty or been convicted of ~~an~~ a felony offense specified in subsection 1 of section 12.1-32-09.1 in violation of section 12.1-16-01 or 12.1-16-02, subsection 2 of section 12.1-17-02, section 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 those offenses;

b. The student has:

(1) An order prohibiting contact issued against the student at the request of another student or employee of the school under section 12.1-31.2-02;

(2) A disorderly conduct restraining order issued against the student at the request of another student or employee of the school under section 12.1-31.2-01, except a temporary restraining order under subsection 4 of section 12.1-31.2-01; or

(3) A protection order issued against the student at the request of another student or employee of the school, except a temporary protection order under section 14-07.1-03;

c. The principal of the school receives information pertaining to an offense or order included under this section as provided in subsection 2 of section 27-20-51; or

d. The victim of the offense or the subject of the order notifies the principal of the offense or order.

SECTION 7. AMENDMENT. Subsection 3 of section 62.1-01-01 of the North Dakota Century Code is amended and reenacted as follows:

3. "Firearm" or "weapon" means any device which will expel, or is readily capable of expelling, a projectile by the action of an explosive and includes any such device, loaded or unloaded, commonly referred to as a pistol, revolver, rifle, gun, machine gun, shotgun, bazooka, or cannon. For a felon who is not sentenced under ~~section 12.1-32-09.1~~ for a violation of section 12.1-16-01 or 12.1-16-02, subsection 2 of section 12.1-17-02, section 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 those offenses, the term does not include a firearm or weapon that is a rifle that has a barrel sixteen inches [40.64 centimeters] or longer or a shotgun that has a barrel eighteen inches [45.72 centimeters] or longer and which is one of the following:
- a. A firearm, including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured before 1899.

- 1 b. A replica of any firearm described in subdivision a, if the replica is not designed
2 or redesigned for using rimfire or conventional centerfire fixed ammunition or
3 uses rimfire or conventional centerfire fixed ammunition that is no longer
4 manufactured in the United States and which is not readily available in the
5 ordinary channels of commercial trade.
6 c. A muzzleloading rifle or muzzleloading shotgun that is designed to use black
7 powder, or a black powder substitute, and cannot use fixed ammunition.

8 **SECTION 8. REPEAL.** Section 12.1-32-09.1 of the North Dakota Century Code is repealed.

9 **SECTION 9. RETROACTIVE APPLICATION.** Section 7 of this Act applies retroactively to
10 judgments of conviction for offenses subject to section 12.1-32-09.1 entered after July 31, 1995.