

Sixty-ninth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1301

Introduced by

Representatives Koppelman, D. Johnston, Kasper, Marschall, Rios, M. Ruby

Senators Cory, Magrum, Myrdal, Wobbema

1 A BILL for an Act to amend and reenact subsection 3 of section 12.1-32-07 of the North Dakota
2 Century Code, relating to possession of a firearm while on probation; and to provide for
3 application.

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

5 **SECTION 1. AMENDMENT.** Subsection 3 of section 12.1-32-07 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 3. The court shall provide as an explicit condition of ~~every~~ probation that the defendant
8 may not possess a firearm, destructive device, or other dangerous weapon while the
9 defendant is on probation. ~~Except when the offense is for a misdemeanor offense~~
10 ~~under section 12.1-17-01, 12.1-17-01.1, 12.1-17-01.2, 12.1-17-05, or 12.1-17-07.1, or~~
11 ~~chapter 14-07.1, the court may waive this condition of probation if the defendant has~~
12 ~~pled guilty to, or has been found guilty of, a misdemeanor or infraction offense, the~~
13 ~~misdemeanor or infraction is the defendant's first offense, and the court has made a~~
14 ~~specific finding on the record before imposition of a sentence or a probation that there~~
15 ~~is good cause to waive the condition. The court may not waive this condition of~~
16 ~~probation if the court places the defendant under the supervision and management of~~
17 ~~the department of corrections and rehabilitation. Except when the offense is for a~~
misdemeanor offense under section 12.1-17-01, 12.1-17-01.1, 12.1-17-01.2, 12.1-17-
05, or 12.1-17-07.1, or chapter 14-07.1, the court may not prohibit the
18 defendant from possessing a firearm, destructive device, or other dangerous weapon
19 while on probation for any other misdemeanor offense or infraction. The court shall
20 provide as an explicit condition of probation that the defendant may not willfully
21 defraud a urine test administered as a condition of probation. Unless waived on the
22 record by the court, the court shall also provide as a condition of probation that the
23 defendant undergo various agreed-to community constraints and conditions as

intermediate measures of the department of corrections and rehabilitation to avoid
revocation, which may include:

- a. Community service;
- b. Day reporting;
- c. Curfew;
- d. Home confinement;
- e. House arrest;
- f. Electronic monitoring;
- g. Residential halfway house;
- h. Intensive supervision program;
- i. Up to five nonsuccessive periods of incarceration during any twelve-month period, each of which may not exceed forty-eight consecutive hours;
- j. Participation in the twenty-four seven sobriety program; or
- k. One period of incarceration during a period of probation not to exceed thirty consecutive days in lieu of a petition for revocation of probation.

SECTION 2. APPLICATION. This Act applies to a sentence to probation or any sentence including a period of probation imposed after the effective date of this Act.