

**HOUSE BILL NO. 1304**

Introduced by

Representatives L. Thoreson, B. Thoreson, Nottestad, Ekstrom

Senator Lee

1 A BILL for an Act to amend and reenact sections 12-44.1-09, 12-44.1-18.2, and subsection 4 of  
2 section 39-08-01 of the North Dakota Century Code, relating to inmate placement and  
3 programs.

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

5 **SECTION 1. AMENDMENT.** Section 12-44.1-09 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **12-44.1-09. Housing of inmates.** In grade one and grade two correctional facilities  
8 and, where practicable, in grade three correctional facilities, the following groups of inmates  
9 must be housed separately from each other:

- 10 1. Female inmates from male inmates.
- 11 2. Juveniles from adults.
- 12 3. ~~Persons detained for hearing or trial from inmates under sentence of~~  
13 ~~imprisonment, unless authorized to be housed together by the administrator for~~  
14 ~~security, order, or rehabilitation.~~
- 15 4. ~~Persons detained for hearing or trial or under sentence of imprisonment from~~  
16 ~~persons otherwise detained by order of the court, unless authorized to be housed~~  
17 ~~together by the administrator for security, order, or rehabilitation.~~
- 18 5. Inmates who may have special needs as determined by the correctional facility or  
19 whose behavior may present a serious threat to the safety or security of the  
20 correctional facility, the staff, the inmate, or other inmates.

21 **SECTION 2. AMENDMENT.** Section 12-44.1-18.2 of the North Dakota Century Code  
22 is amended and reenacted as follows:

23 **12-44.1-18.2. Work release program - Room and board costs to be paid by inmate.**

24 Any inmate who participates in a work release program shall pay the correctional facility for the

1 room and board costs incurred by the inmate while confined in the correctional facility. The  
2 administrator shall determine the amount of meal and lodging costs to be paid by the inmate.  
3 The amount may not exceed ~~ten dollars~~ the actual cost per day or the funds earned by the  
4 inmate, whichever is less.

5 **SECTION 3. AMENDMENT.** Subsection 4 of section 39-08-01 of the North Dakota  
6 Century Code is amended and reenacted as follows:

- 7 4. A person convicted of violating this section, or an equivalent ordinance, must be  
8 sentenced in accordance with this subsection.
- 9 a. For a first offense, the sentence must include both a fine of at least two  
10 hundred fifty dollars and an order for addiction evaluation by an appropriate  
11 licensed addiction treatment program.
- 12 b. For a second offense within five years, the sentence must include at least four  
13 days' imprisonment or placement in a minimum security facility, of which  
14 forty-eight hours must be served consecutively, or ten days' community  
15 service; a fine of at least five hundred dollars; and an order for addiction  
16 evaluation by an appropriate licensed addiction treatment program.
- 17 c. For a third offense within five years, the sentence must include at least sixty  
18 days' imprisonment or placement in a minimum security facility, of which  
19 forty-eight hours must be served consecutively; a fine of one thousand dollars;  
20 and an order for addiction evaluation by an appropriate licensed addiction  
21 treatment program.
- 22 d. For a fourth or subsequent offense within seven years, the sentence must  
23 include one hundred eighty days' imprisonment or placement in a minimum  
24 security facility, of which forty-eight hours must be served consecutively and a  
25 fine of one thousand dollars.
- 26 e. The execution or imposition of sentence under this section may not be  
27 suspended or deferred under subsection 3 or 4 of section 12.1-32-02 except  
28 that a fine or a sentence of imprisonment or placement in a minimum security  
29 facility may be suspended in any of the following instances:
- 30 (1) Upon conviction of being in actual physical control of a motor vehicle in  
31 violation of this section or equivalent ordinance.

- 1                   (2)    If the defendant is under age eighteen when convicted except that if the  
2                                    defendant has, within the preceding five years, previously been  
3                                    convicted of violating section 39-08-01 or equivalent ordinance, the  
4                                    sentence must include at least forty-eight consecutive hours  
5                                    imprisonment or placement in a minimum security facility or at least ten  
6                                    days of community service. The execution of the sentence may not be  
7                                    suspended nor the imposition of sentence deferred under subsection 3  
8                                    or 4 of section 12.1-32-02.
- 9                   f.    For purposes of this section, conviction of an offense under a law or  
10                                   ordinance of another state which is equivalent to this section must be  
11                                   considered a prior offense if such offense was committed within the time  
12                                   limitations specified in this subsection.
- 13                   g.    If the penalty mandated by this section includes imprisonment or placement  
14                                   upon conviction of a violation of this section or equivalent ordinance, and if an  
15                                   addiction evaluation has indicated that the defendant needs treatment, the  
16                                   court may order the defendant to undergo treatment at an appropriate  
17                                   licensed addiction treatment program and the time spent by the defendant in  
18                                   the treatment must be credited as a portion of a sentence of imprisonment or  
19                                   placement under this section.