

**FIRST ENGROSSMENT  
with Senate Amendments**Fifty-sixth  
Legislative Assembly  
of North Dakota**ENGROSSED 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.** Each correctional facility shall adopt a classification  
8 system for inmates to provide for the security, safety, and order of the correctional facility and  
9 for the safety and security of the community. If the correctional facility has adopted a  
10 classification system approved by the department of corrections and rehabilitation, the  
11 correctional facility is not required to comply with subsections 3, 4, and 5 of this section. In  
12 grade one and grade two correctional facilities and, where practicable, in grade three  
13 correctional facilities, the following groups of inmates must be housed separately from each  
14 other:

- 15 1. Female inmates from male inmates.
- 16 2. Juveniles from adults.
- 17 3. Persons detained for hearing or trial from inmates under sentence of  
18 imprisonment, unless authorized to be housed together by the administrator for  
19 security, order, or rehabilitation.
- 20 4. Persons detained for hearing or trial or under sentence of imprisonment from  
21 persons otherwise detained by order of the court, unless authorized to be housed  
22 together by the administrator for security, order, or rehabilitation.

1           5. Inmates who may have special needs as determined by the correctional facility or  
2           whose behavior may present a serious threat to the safety or security of the  
3           correctional facility, the staff, the inmate, or other inmates.

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

6           **12-44.1-18.2. Work release program - Room and board costs to be paid by**  
7 **inmate.** Any inmate who participates in a work release program shall pay the correctional  
8 facility for the room and board costs incurred by the inmate while confined in the correctional  
9 facility, residential halfway house, or similar alternative facility. The administrator shall  
10 determine the amount of meal and lodging costs to be paid by the inmate. The amount to be  
11 paid by the inmate while confined in a correctional facility may not exceed ~~ten~~ fifteen dollars per  
12 day or the funds earned by the inmate, whichever is less. The amount to be paid by the inmate  
13 while placed in a residential halfway house or similar alternative facility may not exceed the  
14 actual cost per day or the funds earned by the inmate, whichever is less.

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

17           4. A person convicted of violating this section, or an equivalent ordinance, must be  
18 sentenced in accordance with this subsection.

19           a. For a first offense, the sentence must include both a fine of at least two  
20 hundred fifty dollars and an order for addiction evaluation by an appropriate  
21 licensed addiction treatment program.

22           b. For a second offense within five years, the sentence must include at least four  
23 days' imprisonment or placement in a minimum security facility, of which  
24 forty-eight hours must be served consecutively, or ten days' community  
25 service; a fine of at least five hundred dollars; and an order for addiction  
26 evaluation by an appropriate licensed addiction treatment program.

27           c. For a third offense within five years, the sentence must include at least sixty  
28 days' imprisonment or placement in a minimum security facility, of which  
29 forty-eight hours must be served consecutively; a fine of one thousand  
30 dollars; and an order for addiction evaluation by an appropriate licensed  
31 addiction treatment program.

- 1           d. For a fourth or subsequent offense within seven years, the sentence must  
2           include one hundred eighty days' imprisonment or placement in a minimum  
3           security facility, of which forty-eight hours must be served consecutively and a  
4           fine of one thousand dollars.
- 5           e. The execution or imposition of sentence under this section may not be  
6           suspended or deferred under subsection 3 or 4 of section 12.1-32-02 except  
7           that a fine or a sentence of imprisonment or placement in a minimum security  
8           facility may be suspended in any of the following instances:
- 9           (1) Upon conviction of being in actual physical control of a motor vehicle in  
10          violation of this section or equivalent ordinance.
- 11          (2) If the defendant is under age eighteen when convicted except that if the  
12          defendant has, within the preceding five years, previously been  
13          convicted of violating section 39-08-01 or equivalent ordinance, the  
14          sentence must include at least forty-eight consecutive hours  
15          imprisonment or placement in a minimum security facility or at least ten  
16          days of community service. The execution of the sentence may not be  
17          suspended nor the imposition of sentence deferred under subsection 3  
18          or 4 of section 12.1-32-02.
- 19          f. For purposes of this section, conviction of an offense under a law or  
20          ordinance of another state which is equivalent to this section must be  
21          considered a prior offense if such offense was committed within the time  
22          limitations specified in this subsection.
- 23          g. If the penalty mandated by this section includes imprisonment or placement  
24          upon conviction of a violation of this section or equivalent ordinance, and if an  
25          addiction evaluation has indicated that the defendant needs treatment, the  
26          court may order the defendant to undergo treatment at an appropriate  
27          licensed addiction treatment program and the time spent by the defendant in  
28          the treatment must be credited as a portion of a sentence of imprisonment or  
29          placement under this section.