

HOUSE BILL NO. 1367

Introduced by

Representatives Keiser, Mahoney

1 A BILL for an Act to amend and reenact sections 12.1-32-09.1 and 19-03.1-23.1 of the North
2 Dakota Century Code, relating to sentencing for drug offenses.

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

4 **SECTION 1. AMENDMENT.** Section 12.1-32-09.1 of the North Dakota Century Code
5 is amended and reenacted as follows:

6 **12.1-32-09.1. Sentencing of ~~violent~~ certain offenders.** Any offender who is
7 convicted of a crime in violation of section 12.1-16-01, 12.1-16-02, 12.1-17-02, 12.1-18-01,
8 subdivision a of subsection 1 or subdivision b of subsection 2 of section 12.1-20-03, section
9 12.1-22-01, subdivision b of subsection 2 of section 12.1-22-02, subdivision a or b of
10 subsection 1 of section 19-03.1-23, or an attempt to commit the offenses, and who receives a
11 sentence of imprisonment is not eligible for release from confinement on any basis until
12 eighty-five percent of the sentence imposed by the court has been served or the sentence is
13 commuted. In the case of an offender who is sentenced to a term of life imprisonment with
14 opportunity for parole under subsection 1 of section 12.1-32-01, the term "sentence imposed"
15 means the remaining life expectancy of the offender on the date of sentencing. The remaining
16 life expectancy of the offender must be calculated on the date of sentencing, computed by
17 reference to a recognized mortality table as established by rule by the supreme court.
18 Notwithstanding this section, an offender sentenced under subsection 1 of section 12.1-32-01
19 may not be eligible for parole until the requirements of that subsection have been met.

20 **SECTION 2. AMENDMENT.** Section 19-03.1-23.1 of the North Dakota Century Code
21 is amended and reenacted as follows:

22 **19-03.1-23.1. Increased penalties for aggravating factors in drug offenses.**

23 1. A person who violates section 19-03.1-23 is subject to the penalties provided in
24 subsection 2 if:

- a. The offense involved the manufacture or distribution of a controlled substance in or on, or within one thousand feet [300.48 meters] of, the real property comprising a public or private elementary or secondary school, public vocational school, or a public or private college or university;
- b. The defendant was at least ~~eighteen~~ sixteen years of age at the time of the offense and the offense involved the delivery of a controlled substance to a minor; or
- c. The offense or the total from all previous offenses including the present offense involved:
 - (1) ~~One hundred~~ Fifty grams or more of a mixture or substance containing a detectable amount of heroin;
 - (2) ~~Five hundred~~ Fifty grams or more of a mixture or substance containing a detectable amount of:
 - (a) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
 - (b) Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 - (c) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
 - (d) Any compound, mixture, or preparation that contains any quantity of any of the substance referred to in subparagraphs a through c;
 - (3) Five grams or more of a mixture or substance described in paragraph 2 which contains cocaine base;
 - (4) Ten grams or more of phencyclidine or one hundred grams or more of a mixture or substance containing a detectable amount of phencyclidine;
 - (5) One gram, one hundred dosage units, or one-half liquid ounce or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide; ~~or~~
 - (6) Forty grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or

- 1 ten grams or more of a mixture or substance containing a detectable
2 amount of any analog of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]
3 propanamide;
- 4 (7) Fifty grams or more of a mixture or substance containing a detectable
5 amount of methamphetamine;
- 6 (8) Ten grams, one hundred dosage units, or one-half liquid ounce or more
7 of a mixture of substance containing a detectable amount of
8 3,4-methylenedioxy-N-methylamphetamine, C₁₁ H₁₅ NO₂;
- 9 (9) One hundred dosage units or one-half liquid ounce of a mixture or
10 substance containing a detectable amount of gamma-hydroxybutyrate
11 or gamma-butyrolactone;
- 12 (10) One hundred dosage units or one-half liquid ounce of a mixture or
13 substance containing a detectable amount of flunitrazepam; or
- 14 (11) Five hundred grams or more of marijuana.
- 15 2. The defendant must be sentenced to imprisonment for at least ten years if the
16 delivery was to an individual sixteen to twenty years of age and the offense is
17 designated a class A or B felony in section 19-03.1-23, and to at least twenty years
18 if the delivery was to an individual under sixteen years of age and the offense is
19 designated an A or B felony in section 19-03.1-23, and the offense is:
- 20 a. A class AA felony if the violation of section 19-03.1-23 is designated as a
21 class A felony.
- 22 b. A class A felony if the violation of section 19-03.1-23 is designated as a
23 class B felony.
- 24 c. A class B felony if the violation of section 19-03.1-23 is designated as a
25 class C felony.
- 26 d. A class C felony if the violation of section 19-03.1-23 is designated as a
27 class A misdemeanor.