

HOUSE BILL NO. 1089

Introduced by

Judiciary Committee

(At the request of the Department of Corrections and Rehabilitation)

1 A BILL for an Act to create and enact a new section to chapter 12.1-32 of the North Dakota
2 Century Code, relating to a probation officer taking a defendant into custody for treatment and
3 rehabilitation; and to amend and reenact subsection 3 of section 12.1-32-07 of the North
4 Dakota Century Code, relating to supervision of probationers and conditions of supervision.

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

6 **SECTION 1.** A new section to chapter 12.1-32 of the North Dakota Century Code is
7 created and enacted as follows:

8 **Custody and detention for treatment and rehabilitation.**

- 9 1. A probation officer may take a defendant into custody and detain the defendant if
10 the officer has reasonable cause to believe the defendant is a chemically
11 dependent person and requires drug and alcohol treatment and rehabilitation or is
12 a person in need of other treatment and rehabilitative programming. The probation
13 officer shall transport the defendant to an assessment center within a reasonable
14 time after taking the defendant into custody. The assessment facility shall perform
15 an evaluation within seventy-two hours after the probation officer has placed the
16 defendant in the assessment facility to determine whether the defendant is a
17 chemically dependent person who is in need of drug and alcohol treatment and
18 rehabilitation or is a person in need of other treatment and rehabilitative
19 programming. The probation officer shall notify the sentencing court in writing
20 when a defendant is taken into custody, detained, and taken to an assessment
21 center under this section.
- 22 2. For purposes of this section, an assessment center means a facility for the
23 evaluation of chemical dependency, detoxification, and drug and alcohol treatment
24 and rehabilitation and other treatment and rehabilitative programming.

- 1 3. It if is determined after the evaluation that the defendant is not in need of
2 treatment, the probation officer may refer the defendant to the sentencing court for
3 further proceedings under subsection 7 of section 12.1-32-07 or continue the
4 supervision and management of the defendant in accordance with the conditions of
5 the court's sentence. If the assessment facility determines that the defendant is a
6 chemically dependent person in need of drug and alcohol treatment and
7 rehabilitation or is a person in need of other treatment or rehabilitative
8 programming, the assessment facility shall detain the defendant for further
9 assessment and treatment.
- 10 4. The probation officer shall advise the defendant of the right to request a hearing. If
11 the defendant requests a hearing, the court shall hold a hearing no later than
12 seven days after the probation officer has taken the defendant into custody and
13 placed the defendant in the assessment center. The court may extend the hearing
14 for good cause. The defendant may waive the hearing under this section.
- 15 5. If the court determines by a preponderance of the evidence that the defendant is a
16 chemically dependent person in need of treatment or is a person in need of other
17 treatment and rehabilitative programming, the court may order the defendant to
18 undergo further assessment up to sixty days in the assessment facility and
19 treatment and rehabilitation programming up to one hundred twenty days. The
20 court may impose other conditions it deems reasonably necessary to assure that
21 the defendant complies with the terms and conditions of probation.

22 **SECTION 2. AMENDMENT.** Subsection 3 of section 12.1-32-07 of the North Dakota
23 Century Code is amended and reenacted as follows:

- 24 3. The court shall provide as an explicit condition of every probation that the
25 defendant may not possess a firearm, destructive device, or other dangerous
26 weapon while the defendant is on probation.

27 Unless waived on the record by the court, the court shall also provide as a
28 condition of probation that the defendant undergo various agreed-to community
29 constraints and conditions as intermediate measures of the department of
30 corrections and rehabilitation to avoid revocation, which may include:

- 31 a. Community service;

Fifty-eighth
Legislative Assembly

- 1 b. Day reporting;
- 2 c. Curfew;
- 3 d. Home confinement;
- 4 e. House arrest;
- 5 f. Electronic monitoring;
- 6 g. Residential halfway house; ~~or~~
- 7 h. Intensive supervision program; or
- 8 i. The court, upon notice to the probationer and after opportunity for hearing,
- 9 may modify the conditions of probation and order the defendant to serve up to
- 10 sixty days of imprisonment in a county jail or regional corrections center.