

HOUSE BILL NO. 1396

Introduced by

Representatives Ruby, Bellew, Brandenburg, Zaiser

Senators Andrist, Erbele

1 A BILL for an Act to amend and reenact subsection 4 of section 39-08-01 of the North Dakota
2 Century Code, relating to fines for driving under the influence.

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

4 **SECTION 1. AMENDMENT.** Subsection 4 of section 39-08-01 of the North Dakota
5 Century Code is amended and reenacted as follows:

- 6 4. A person convicted of violating this section, or an equivalent ordinance, must be
7 sentenced in accordance with this subsection. For purposes of this subsection,
8 unless the context otherwise requires, "drug court program" means a district
9 court-supervised treatment program approved by the supreme court which
10 combines judicial supervision with alcohol and drug testing and chemical addiction
11 treatment in a licensed treatment program. The supreme court may adopt rules,
12 including rules of procedure, for drug courts and the drug court program.
- 13 a. For a first offense, the sentence must include both a fine of at least ~~two~~
14 ~~hundred fifty dollars~~ one-half of the maximum fine allowed by law and an
15 order for addiction evaluation by an appropriate licensed addiction treatment
16 program.
- 17 b. For a second offense within five years, the sentence must include at least five
18 days' imprisonment or placement in a minimum security facility, of which
19 forty-eight hours must be served consecutively, or thirty days' community
20 service; a fine of at least ~~five hundred dollars~~ one-half of the maximum fine
21 allowed by law; and an order for addiction evaluation by an appropriate
22 licensed addiction treatment program.
- 23 c. For a third offense within five years, the sentence must include at least sixty
24 days' imprisonment or placement in a minimum security facility, of which

1 forty-eight hours must be served consecutively; a fine of ~~one thousand dollars~~
2 one-half of the maximum fine allowed by law; and an order for addiction
3 evaluation by an appropriate licensed addiction treatment program.

4 d. For a fourth or subsequent offense within seven years, the sentence must
5 include one hundred eighty days' imprisonment or placement in a minimum
6 security facility, of which forty-eight hours must be served consecutively; a
7 fine of ~~one thousand dollars~~ one-half of the maximum fine allowed by law; and
8 an order for addiction evaluation by an appropriate licensed treatment
9 program.

10 e. The execution or imposition of sentence under this section may not be
11 suspended or deferred under subsection 3 or 4 of section 12.1-32-02 for an
12 offense subject to subdivision a or b. If the offense is subject to subdivision c
13 or d, the district court may suspend a sentence, except for ten days'
14 imprisonment, under subsection 3 or 4 of section 12.1-32-02 on the condition
15 that the defendant first undergo and complete an evaluation for alcohol and
16 substance abuse treatment and rehabilitation. If the defendant is found to be
17 in need of alcohol and substance abuse treatment and rehabilitation, the
18 district court may order the defendant placed under the supervision and
19 management of the department of corrections and rehabilitation and is subject
20 to the conditions of probation under section 12.1-32-07. The district court
21 shall require the defendant to complete alcohol and substance abuse
22 treatment and rehabilitation under the direction of the drug court program as a
23 condition of probation in accordance with rules adopted by the supreme court.
24 If the district court finds that a defendant has failed to undergo an evaluation
25 or complete treatment or has violated any condition of probation, the district
26 court shall revoke the defendant's probation and shall sentence the defendant
27 in accordance with this subsection.

28 f. For purposes of this section, conviction of an offense under a law or
29 ordinance of another state which is equivalent to this section must be
30 considered a prior offense if such offense was committed within the time
31 limitations specified in this subsection.

- 1 g. If the penalty mandated by this section includes imprisonment or placement
2 upon conviction of a violation of this section or equivalent ordinance, and if an
3 addiction evaluation has indicated that the defendant needs treatment, the
4 court may order the defendant to undergo treatment at an appropriate
5 licensed addiction treatment program and the time spent by the defendant in
6 the treatment must be credited as a portion of a sentence of imprisonment or
7 placement under this section.