

**SENATE BILL NO. 2114
with Conference Committee Amendments**

Sixty-first
Legislative Assembly
of North Dakota

SENATE BILL NO. 2114

Introduced by

Judiciary Committee

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

1 A BILL for an Act to create and enact subsection 8 to section 12-44.1-21 of the North Dakota
2 Century Code, relating to wireless electronic devices on or within correctional facilities; to
3 amend and reenact section 12-44.1-06 and subsection 7 of section 12-44.1-21 of the North
4 Dakota Century Code, relating to grades of correctional facilities and the definition of
5 contraband; to provide a penalty; and to declare an emergency.

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

7 **SECTION 1. AMENDMENT.** Section 12-44.1-06 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **12-44.1-06. Grades of correctional facilities.**

- 10 1. The department of corrections and rehabilitation shall, following inspection
- 11 pursuant to section 12-44.1-24, grade correctional facilities as to length of
- 12 allowable inmate confinement based upon construction, size, and usage, as
- 13 follows:
 - 14 a. "Grade one" means a correctional facility for confining inmates not more than
 - 15 one year.
 - 16 b. "Grade two" means a correctional facility for confining inmates not more than
 - 17 ninety days.
 - 18 c. "Grade three" means a correctional facility for confining inmates not more
 - 19 than ninety-six hours.
- 20 2. The length of confinement of a prisoner may be temporarily increased on a
- 21 case-by-case basis in grade one and grade two correctional facilities upon the
- 22 request of the administrator and the approval of the department of corrections and
- 23 rehabilitation.

- 1 ~~3. The department of corrections and rehabilitation, upon the request of the~~
2 ~~governing body of the correctional facility, may authorize a correctional facility to~~
3 ~~regularly confine inmates for more than one year if the correctional facility meets~~
4 ~~criteria established by the department, including:~~
5 ~~a. A classification system approved by the department.~~
6 ~~b. Education programs, including vocational education and a general~~
7 ~~equivalency diploma program.~~
8 ~~c. Treatment programs, including licensed alcohol or drug addiction counseling.~~
9 ~~d. Inmate work programs, including prison industries work programs.~~
10 ~~e. An infirmary and onsite medical and pharmacy services.~~
11 ~~f. Indoor and outdoor recreation.~~

12 **SECTION 2.** Subsection 8 to section 12-44.1-21 of the North Dakota Century Code is
13 created and enacted as follows:

- 14 8. a. It is unlawful for an inmate in a correctional facility to willfully manufacture,
15 possess, or use a wireless electronic communication device in a correctional
16 facility except for law enforcement purposes.
17 b. It is unlawful for any person to willfully deliver, or possess with intent to
18 deliver, a wireless electronic communication device to an inmate in a
19 correctional facility or to any person for redelivery to an inmate in a
20 correctional facility, or to allow an inmate to possess or use a wireless
21 electronic communication device in a correctional facility except for law
22 enforcement purposes.
23 c. A violation of this subsection is a class C felony.

24 **SECTION 3. AMENDMENT.** Subsection 7 of section 12-44.1-21 of the North Dakota
25 Century Code is amended and reenacted as follows:

- 26 7. As used in this section, "controlled substance" is as defined in subsection 6 of
27 section 19-03.1-01 and includes counterfeit substances as defined in subsection 7
28 of section 19-03.1-01. As used in this section, "willfully" is as defined in section
29 12.1-02-02. As used in this section, "alcohol" and "alcoholic beverage" are as
30 defined in section 5-01-01. As used in this section, "tobacco" means any form of
31 tobacco, including cigarettes, cigars, snuff, or tobacco in any form in which it may

1 be used for smoking or chewing. As used in this section, a wireless electronic
2 communication device includes a cellular telephone, personal digital assistant,
3 pager, mobile broadband card, internet router, digital camera, two-way radio,
4 modem, or any other electronic device capable of wireless transmission, reception,
5 interception, or storage of oral communications, text, e-mail, video or photograph
6 images, data signals, or radio communications, and also includes a component of
7 a wireless electronic device, regardless whether the component itself is able to
8 transmit, store, or receive oral communications, text, e-mail, video or photograph
9 images, data signals, or radio communications. A wireless electronic
10 communications device does not include a medically prescribed device or any
11 other device approved by the department.

12 **SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.