

Introduced by

Representative Klemin

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 exceptions from mandatory minimum sentences.

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

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

6 **Mandatory sentences - Exceptions - Report of savings.**

7 1. Notwithstanding any other provision of law, when sentencing an individual convicted of
8 a violation for which there is a mandatory minimum sentence, the court may depart
9 from the applicable mandatory minimum sentence if the court, in giving due regard to
10 the nature of the crime, history and character of the defendant, and the defendant's
11 chances of successful rehabilitation, finds substantial and compelling reasons on the
12 record that imposition of the mandatory minimum sentence would result in manifest
13 injustice to the defendant and that the mandatory minimum sentence is not necessary
14 for the protection of the public.

15 2. Subsection 1 does not apply if:

16 a. The defendant used, attempted to use, or threatened to use serious physical
17 force against another individual or caused serious physical injury of another
18 individual;

19 b. The defendant intentionally used a firearm in a manner that caused physical
20 injury during the commission of the offense;

21 c. The defendant committed an offense that involved any sexual contact against a
22 minor, other than an offense involving sexual conduct in which the victim was at
23 least fifteen years old and the offender was not more than three years older than
24 the victim and the sexual conduct was consensual; or

- 1 d. The defendant has been convicted for a substantially similar offense during the
2 five-year period before the commission of the offense.
- 3 3. Upon departing from a mandatory minimum sentence, a judge shall report to the state
4 court administrator who shall make available in electronic form and on the world wide
5 web an annual report by July 1 of each year on the departures from mandatory
6 minimum sentences.
- 7 4. In preparing budget data under section 54-44.1-06, the director of the budget shall
8 estimate the general fund savings realized as a result of subsection 1 during the
9 present biennium and shall report the estimated savings to the department of
10 corrections and rehabilitation. In preparing the next biennial budget proposal for the
11 department of corrections and rehabilitation, the director of the department may
12 consider those savings in funding for programs to reduce recidivism.