

Introduced by

Senator Armstrong

1 A BILL for an Act to create and enact a new section to chapter 39-08 of the North Dakota
2 Century Code, relating to the use of drug court for persons convicted of driving under the
3 influence; and to amend and reenact subsection 5 of section 39-08-01 of the North Dakota
4 Century Code, relating to the drug court program.

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

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

8 5. A person convicted of violating this section, or an equivalent ordinance, must be
9 sentenced in accordance with this subsection. ~~For purposes of this subsection, unless~~
10 ~~the context otherwise requires, "drug court program" means a district court supervised~~
11 ~~treatment program approved by the supreme court which combines judicial~~
12 ~~supervision with alcohol and drug testing and chemical addiction treatment in a~~
13 ~~licensed treatment program. The supreme court may adopt rules, including rules of~~
14 ~~procedure, for drug courts and the drug court program.~~

15 a. (1) For a first offense, the sentence must include both a fine of at least five
16 hundred dollars and an order for addiction evaluation by an appropriate
17 licensed addiction treatment program.

18 (2) In addition, for a first offense when the convicted person has an alcohol
19 concentration of at least sixteen one-hundredths of one percent by weight,
20 the offense is an aggravated first offense and the sentence must include a
21 fine of at least seven hundred fifty dollars and at least two days'
22 imprisonment.

23 b. For a second offense within seven years, the sentence must include at least ten
24 days' imprisonment, of which forty-eight hours must be served consecutively; a

1 fine of one thousand five hundred dollars; an order for addiction evaluation by an
2 appropriate licensed addiction treatment program; and at least twelve months'
3 participation in the twenty-four seven sobriety program under chapter 54-12 as a
4 mandatory condition of probation.

5 c. For a third offense within seven years, the sentence must include at least one
6 hundred twenty days' imprisonment; a fine of at least two thousand dollars; an
7 order for addiction evaluation by an appropriate licensed addiction treatment
8 program; at least one year's supervised probation; and participation in the twenty-
9 four seven sobriety program under chapter 54-12 as a mandatory condition of
10 probation.

11 d. For a fourth or subsequent offense, the sentence must include at least one year
12 and one day's imprisonment; a fine of at least two thousand dollars; an order for
13 addiction evaluation by an appropriate licensed treatment program; at least two
14 years' supervised probation; and participation in the twenty-four seven sobriety
15 program under chapter 54-12 as a mandatory condition of probation.

16 e. The imposition of sentence under this section may not be deferred under
17 subsection 4 of section 12.1-32-02 for an offense subject to this section.

18 f. If the offense is subject to subdivision a or b, a municipal court or district court
19 may not suspend a sentence, but may convert each day of a term of
20 imprisonment to ten hours of community service for an offense subject to
21 paragraph 2 of subdivision a. If the offense is subject to subdivision c, the district
22 court may suspend a sentence, except for sixty days' imprisonment, under
23 subsection 3 of section 12.1-32-02 on the condition that the defendant first
24 undergo and complete an evaluation for alcohol and substance abuse treatment
25 and rehabilitation and upon completion of the twenty-four seven sobriety
26 program. If the offense is subject to subdivision d, the district court may suspend
27 a sentence, except for one year's imprisonment, under subsection 3 of section
28 12.1-32-02 on the condition that the defendant first undergo and complete an
29 evaluation for alcohol and substance abuse treatment and rehabilitation. If the
30 defendant is found to be in need of alcohol and substance abuse treatment and
31 rehabilitation, the district court may order the defendant placed under the

1 supervision and management of the department of corrections and rehabilitation
2 and is subject to the conditions of probation under section 12.1-32-07. The district
3 court may require the defendant to complete alcohol and substance abuse
4 treatment and rehabilitation ~~under the direction of the drug court program~~ as a
5 condition of probation ~~in accordance with rules adopted by the supreme court~~. If
6 the district court finds that a defendant has failed to undergo an evaluation or
7 complete treatment or has violated any condition of probation, the district court
8 shall revoke the defendant's probation and shall sentence the defendant in
9 accordance with this subsection.

10 g. For purposes of this section, conviction of an offense under a law or ordinance of
11 another state which is equivalent to this section must be considered a prior
12 offense if such offense was committed within the time limitations specified in this
13 section.

14 h. If the penalty mandated by this section includes imprisonment or placement upon
15 conviction of a violation of this section or equivalent ordinance, and if an
16 addiction evaluation has indicated that the defendant needs treatment, the court
17 may order the defendant to undergo treatment at an appropriate licensed
18 addiction treatment program under subdivision g of subsection 1 of section
19 12.1-32-02 and the time spent by the defendant in the treatment must be credited
20 as a portion of a sentence of imprisonment or placement under this section. A
21 court may not order the department of corrections and rehabilitation to be
22 responsible for the costs of treatment in a private treatment facility.

23 i. If the court sentences an individual to the legal and physical custody of the
24 department of corrections and rehabilitation, the department may place the
25 individual in an alcohol treatment program designated by the department. Upon
26 the individual's successful completion of the alcohol treatment program, the
27 department shall release the individual from imprisonment to serve the remainder
28 of the sentence of imprisonment on probation, which may include placement in
29 another facility or treatment program. If an individual is placed in another facility
30 or treatment program after release from imprisonment, the remainder of the
31 individual's sentence of imprisonment must be considered time spent in custody.

1 **SECTION 2.** A new section to chapter 39-08 of the North Dakota Century Code is created
2 and enacted as follows:

3 **Partial suspension of sentence for drug court completion.**

4 Notwithstanding section 39-08-01, all but ten days of the minimum mandatory sentence
5 required for a defendant charged with a third or subsequent violation of section 39-08-01 may
6 be suspended on the condition the defendant successfully complete a drug court program
7 approved by the supreme court.