

Introduced by

1 A BILL for an Act to amend and reenact sections 19-03.1-45, 19-03.4-03, and 19-03.4-04 of the
2 North Dakota Century Code, relating to probation and treatment and drug paraphernalia
3 penalties; to repeal section 19-03.1-22.3 of the North Dakota Century Code, relating to
4 ingestion of a controlled substance; and to provide a penalty.

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

6 **SECTION 1. AMENDMENT.** Section 19-03.1-45 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **19-03.1-45. Drug abuse assessment and treatment - Presentence investigation -**
9 **Certified drug abuse treatment programs.**

- 10 1. If a person has pled guilty or has been found guilty of a felony violation of subsection 7
11 of section 19-03.1-23, if that person has not previously pled guilty or been found guilty
12 of any offense involving the use, possession, manufacture, or delivery of a controlled
13 substance or of any other felony offense of this or another state or the federal
14 government, ~~and if the court imposes probation,~~ the court shall impose a period of
15 probation ~~of not less than eighteen months in conjunction~~ up to the length authorized
16 under section 12.1-32-06.1 with a suspended execution of a sentence of
17 imprisonment, a sentence to probation, or an order deferring imposition of sentence.
- 18 2. Upon a plea or finding of guilt of a person subject to ~~the provisions of~~ subsection 1, the
19 court shall order a presentence investigation to be conducted by the department. The
20 presentence investigation ~~shall~~ must include a drug and alcohol evaluation conducted
21 by a licensed addiction counselor.
- 22 3. If the licensed addiction counselor recommends treatment, the court shall require the
23 person to participate in an addiction program licensed by the department of human
24 services as a condition of the probation. The court shall commit the person to

1 treatment through a licensed addiction program until determined suitable for discharge
2 by the court. The term of treatment shall ~~may~~ not exceed eighteen months and may
3 include an aftercare plan. During the commitment and while subject to probation, the
4 ~~person shall be supervised by the department~~ shall supervise the person.

5 4. If the person fails to participate in, or has a pattern of intentional conduct that
6 demonstrates the person's refusal to comply with or participate in the treatment
7 program, as established by judicial finding, the person ~~shall be~~is subject to revocation
8 of the probation. Notwithstanding subsection 2 of section 12.1-32-02, the amount of
9 time participating in the treatment program under this section is not "time spent in
10 custody" and will not be a credit against any sentence to term of imprisonment.

11 5. In this section:

- 12 a. "Department" means the department of corrections and rehabilitation; and
13 b. "Licensed addiction counselor" is a person licensed pursuant to section
14 43-45-05.1.

15 **SECTION 2. AMENDMENT.** Section 19-03.4-03 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **19-03.4-03. Unlawful possession of drug paraphernalia - Penalty.**

18 A person may not use or possess with intent to use drug paraphernalia to plant, propagate,
19 cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test,
20 analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into
21 the human body a controlled substance in violation of chapter 19-03.1. Any person violating this
22 section is guilty of a class ~~C felony~~ A misdemeanor if the drug paraphernalia is used, or
23 possessed with intent to be used, to manufacture, compound, convert, produce, process,
24 prepare, test, inject, ingest, inhale, or analyze a controlled substance, other than marijuana,
25 classified in schedule I, II, or III of chapter 19-03.1. Otherwise, a violation of this section is a
26 class ~~A~~ B misdemeanor.

27 **SECTION 3. AMENDMENT.** Section 19-03.4-04 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **19-03.4-04. Unlawful manufacture or delivery of drug paraphernalia - Penalty.**

30 A person may not deliver, possess with intent to deliver, or manufacture with intent to
31 deliver, drug paraphernalia, if that person knows or should reasonably know that the drug

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1 paraphernalia will be used to plant, propagate, cultivate, grow, harvest, manufacture,
2 compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain,
3 conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled
4 substance in violation of chapter 19-03.1. Any person violating this section is guilty of a class ~~C~~
5 ~~felony~~A misdemeanor if the drug paraphernalia will be used to manufacture, compound,
6 convert, produce, process, prepare, test, inject, ingest, inhale, or analyze a controlled
7 substance, other than marijuana, classified in schedule I, II, or III of chapter 19-03.1. Otherwise,
8 a violation of this section is a class ~~A~~B misdemeanor.

9 **SECTION 4. REPEAL.** Section 19-03.1-22.3 of the North Dakota Century Code is repealed.