

SENATE BILL NO. 2029

Introduced by

Legislative Management

(Commission on Alternatives to Incarceration)

1 A BILL for an Act to amend and reenact section 19-03.1-45 of the North Dakota Century Code,
2 relating to probation and treatment for drug abuse; and to provide a penalty.

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

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

6 **19-03.1-45. Drug abuse assessment and treatment - Presentence investigation -**
7 **Certified drug abuse treatment programs.**

8 1. If a person has pled guilty or has been found guilty of a felony violation of subsection 7
9 of section 19-03.1-23, if that person has not previously pled guilty or been found guilty
10 of any offense involving the use, possession, manufacture, or delivery of a controlled
11 substance or of any other felony offense of this or another state or the federal
12 government, ~~and if the court imposes probation,~~ the court shall impose a period of
13 probation ~~of not less than eighteen months in conjunction~~ up to the length authorized
14 under section 12.1-32-06.1 with a suspended execution of a sentence of
15 imprisonment, a sentence to probation, or an order deferring imposition of sentence.

16 2. Upon a plea or finding of guilt of a person subject to ~~the provisions of~~ subsection 1, the
17 court shall order a presentence investigation to be conducted by the department. The
18 presentence investigation ~~shall~~ must include a drug and alcohol evaluation conducted
19 by a licensed addiction counselor.

20 3. If the licensed addiction counselor recommends treatment, the court shall require the
21 person to participate in an addiction program licensed by the department of human
22 services as a condition of the probation. The court shall commit the person to
23 treatment through a licensed addiction program until determined suitable for discharge
24 by the court. The term of treatment ~~shall~~ may not exceed eighteen months and may

- 1 include an aftercare plan. During the commitment and while subject to probation, the
2 ~~person shall be supervised by the department~~ shall supervise the person.
- 3 4. If the person fails to participate in, or has a pattern of intentional conduct that
4 demonstrates the person's refusal to comply with or participate in the treatment
5 program, as established by judicial finding, the person ~~shall be~~ is subject to revocation
6 of the probation. Notwithstanding subsection 2 of section 12.1-32-02, the amount of
7 time participating in the treatment program under this section is not "time spent in
8 custody" and will not be a credit against any sentence to term of imprisonment.
- 9 5. In this section:
- 10 a. "Department" means the department of corrections and rehabilitation; and
11 b. "Licensed addiction counselor" is a person licensed pursuant to section
12 43-45-05.1.