

**HOUSE BILL NO. 1211**

Introduced by

Representatives Kading, Blum, Meier, Vetter

Senator Davison

1 A BILL for an Act to amend and reenact sections 12-54.1-01, 12-54.1-03, 12-59-08,  
2 subsections 2 and 6 of section 12.1-32-06.1, subsection 1 of section 12.1-32-07, subsection 1  
3 of section 15.1-09-33.4, and subsection 3 of section 62.1-01-01 of the North Dakota Century  
4 Code, relating to performance-based and meritorious sentence reduction credit, medical parole,  
5 length and supervision of probation, student misconduct, and definition of a firearm; and to  
6 repeal section 12.1-32-09.1 of the North Dakota Century Code, relating to sentencing violent  
7 offenders; and to provide for retroactive application.

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

9 **SECTION 1. AMENDMENT.** Section 12-54.1-01 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 **12-54.1-01. Sentence reduction.**

12 ~~Except as provided under section 12.1-32-09.1, an~~An offender committed to the legal and  
13 physical custody of the department of corrections and rehabilitation is eligible to earn sentence  
14 reductions based upon performance criteria established through department and penitentiary  
15 rules. Performance criteria includes participation in court-ordered or staff-recommended  
16 treatment and education programs and good work performance. The department may credit an  
17 offender committed to the legal and physical custody of the department who is eligible for  
18 sentence reduction five days good time per month for each month of the sentence imposed.  
19 The department may credit an offender with sentence reduction for time spent in custody before  
20 sentencing and commitment to the legal and physical custody of the department. The  
21 department may not credit an offender with any sentence reduction for time spent on probation  
22 under the supervision and management of the department.

23 **SECTION 2. AMENDMENT.** Section 12-54.1-03 of the North Dakota Century Code is  
24 amended and reenacted as follows:

1       **12-54.1-03. Meritorious conduct sentence reduction.**

2       ~~Except as provided under section 12.1-32-09.1, offenders~~An offender committed to the  
3 legal and physical custody of the department of corrections and rehabilitation may receive a  
4 lump sum or a monthly rate of meritorious conduct sentence reduction for outstanding  
5 performance or heroic acts or as a special control and security measure, as provided by  
6 penitentiary and department rules and upon written recommendation of a department  
7 multidisciplinary team. Meritorious sentence reductions are in addition to sentence reductions  
8 under section 12-54.1-01 and may be made only after a written recommendation is made by the  
9 warden and approved by the director of the department. Any sentence reduction for special  
10 control or security measures may not exceed two days good time per month per offender.

11       **SECTION 3. AMENDMENT.** Section 12-59-08 of the North Dakota Century Code is  
12 amended and reenacted as follows:

13       **12-59-08. Medical paroles.**

14       If an inmate, including an inmate ~~whose sentence is subject to sections~~sentenced under  
15 section 12.1-32-02.1 and 12.1-32-09.1, and an inmate sentenced under subsection 1 of section  
16 12.1-32-01, has a serious or terminal medical condition, the parole board may grant the inmate  
17 a medical parole. An inmate who receives a medical parole remains under the jurisdiction of the  
18 parole board until the expiration of the maximum term or terms of imprisonment for which the  
19 inmate was sentenced, less any sentence reduction the inmate has received.

20       **SECTION 4. AMENDMENT.** Subsections 2 and 6 of section 12.1-32-06.1 of the North  
21 Dakota Century Code is amended and reenacted as follows:

22       2. Except as provided in this section, the length of supervised probation imposed in  
23 conjunction with a sentence of probation or a suspended execution or deferred  
24 imposition of sentence may not extend for more than five years for a felony offense  
25 ~~subject to section 12.1-32-09.1~~in violation of section 12.1-16-01 or 12.1-16-02,  
26 subsection 2 of section 12.1-17-02, section 12.1-18-01, subdivision a of subsection 1  
27 or subdivision b of subsection 2 of section 12.1-20-03, section 12.1-22-01,  
28 subdivision b of subsection 2 of section 12.1-22-02, or an attempt to commit those  
29 offenses, a felony offense subject to section 12.1-32-02.1, ~~which involves the use of a~~  
30 ~~firearm or dangerous weapon~~, a second or subsequent violation of section  
31 12.1-17-07.1, a second or subsequent violation of any domestic violence protection

1 order, a violation of chapter 12.1-41, or a violation of section 14-09-22; three years for  
2 any other felony offense; two years for a class A misdemeanor; and three hundred  
3 sixty days for a class B misdemeanor offense from the later of the date of:

- 4 a. The order imposing probation;
- 5 b. The defendant's release from incarceration; or
- 6 c. Termination of the defendant's parole.

7 6. In felony and misdemeanor cases, in consequence of violation of probation conditions,  
8 the court may impose additional probation if the defendant has not served the  
9 maximum sentence of imprisonment available to the court at the time of initial  
10 sentencing or deferment or the total time on probation authorized under this section.

11 a. For class B and greater felony offenses, an offense ~~subject to section~~  
12 ~~12.1-32-09.1~~ in violation of section 12.1-16-01 or 12.1-16-02, subsection 2 of  
13 section 12.1-17-02, section 12.1-18-01, subdivision a of subsection 1 or  
14 subdivision b of subsection 2 of section 12.1-20-03, section 12.1-22-01,  
15 subdivision b of subsection 2 of section 12.1-22-02, or an attempt to commit  
16 those offenses, a felony offense subject to section 12.1-32-02.1, ~~which involves~~  
17 ~~the use of a firearm or dangerous weapon~~, a second or subsequent violation of  
18 section 12.1-17-07.1, a second or subsequent violation of any domestic violence  
19 protection order, a violation of chapter 12.1-41, or a violation of section 14-09-22,  
20 the total time on probation may not exceed ten years.

21 b. For all other felony offenses, the total time on probation may not exceed five  
22 years.

23 c. For misdemeanor cases, the total time on probation may not exceed three years.

24 d. The court shall allow the defendant credit for a sentence of probation from the  
25 date the defendant began probation until the date a petition to revoke probation  
26 was filed with the court. If the defendant is on supervised probation, the  
27 defendant is not entitled to credit for a sentence of probation for any period the  
28 defendant has absconded from supervision. The total amount of credit a  
29 defendant is entitled to for time spent on probation must be stated in the criminal  
30 judgment or order of revocation of probation.

1       **SECTION 5. AMENDMENT.** Subsection 1 of section 12.1-32-07 of the North Dakota  
2 Century Code is amended and reenacted as follows:

3       1. When the court imposes probation upon conviction for a felony offense ~~subject to-~~  
4       ~~section 12.1-32-09.1 or in violation of section 12.1-16-01 or 12.1-16-02, subsection 2 of~~  
5       ~~section 12.1-17-02, section 12.1-18-01, subdivision a of subsection 1 or subdivision b~~  
6       ~~of subsection 2 of section 12.1-20-03, section 12.1-22-01, subdivision b of~~  
7       ~~subsection 2 of section 12.1-22-02, or an attempt to commit those offenses, a felony~~  
8       ~~offense subject to section~~ 12.1-32-02.1, a second or subsequent violation of section  
9       12.1-17-07.1, a second or subsequent violation of any domestic violence protection  
10       order, a violation of chapter 12.1-41, a violation of section 14-09-22, or a felony  
11       offense under chapter 39-08, the court shall place the defendant under the supervision  
12       and management of the department of corrections and rehabilitation. When the court  
13       imposes probation upon conviction or order of disposition in all other felony cases, the  
14       court may place the defendant under the supervision and management of the  
15       department of corrections and rehabilitation. In class A misdemeanor cases, the court  
16       may place the defendant under the supervision and management of the department of  
17       corrections and rehabilitation or other responsible party. In all other cases, the court  
18       may place the defendant under the supervision and management of a community  
19       corrections program other than the department of corrections and rehabilitation. A  
20       community corrections program means a program for the supervision of a defendant,  
21       including monitoring and enforcement of terms and conditions of probation set by the  
22       court.

23       **SECTION 6. AMENDMENT.** Subsection 1 of section 15.1-09-33.4 of the North Dakota  
24 Century Code is amended and reenacted as follows:

25       1. The board of a school district shall prohibit a student from participating in any  
26       extracurricular activity if:  
27       a. The student has pled guilty to or been convicted of a criminal offense and  
28       sentenced under section 12.1-32-02.1 or pled guilty or been convicted of ~~an a~~  
29       ~~felony offense specified in subsection 1 of section 12.1-32-09.1 in violation of~~  
30       ~~section 12.1-16-01 or 12.1-16-02, subsection 2 of section 12.1-17-02, section~~  
31       ~~12.1-18-01, subdivision a of subsection 1 or subdivision b of subsection 2 of~~

1 section 12.1-20-03, section 12.1-22-01, subdivision b of subsection 2 of section  
2 12.1-22-02, or an attempt to commit those offenses;

3 b. The student has:

4 (1) An order prohibiting contact issued against the student at the request of  
5 another student or employee of the school under section 12.1-31.2-02;

6 (2) A disorderly conduct restraining order issued against the student at the  
7 request of another student or employee of the school under section  
8 12.1-31.2-01, except a temporary restraining order under subsection 4 of  
9 section 12.1-31.2-01; or

10 (3) A protection order issued against the student at the request of another  
11 student or employee of the school, except a temporary protection order  
12 under section 14-07.1-03;

13 c. The principal of the school receives information pertaining to an offense or order  
14 included under this section as provided in subsection 2 of section 27-20-51; or

15 d. The victim of the offense or the subject of the order notifies the principal of the  
16 offense or order.

17 **SECTION 7. AMENDMENT.** Subsection 3 of section 62.1-01-01 of the North Dakota  
18 Century Code is amended and reenacted as follows:

19 3. "Firearm" or "weapon" means any device which will expel, or is readily capable of  
20 expelling, a projectile by the action of an explosive and includes any such device,  
21 loaded or unloaded, commonly referred to as a pistol, revolver, rifle, gun, machine  
22 gun, shotgun, bazooka, or cannon. For a felon who is not sentenced ~~under section~~  
23 ~~42.1-32-09.1~~ for a violation of section 12.1-16-01 or 12.1-16-02, subsection 2 of section  
24 12.1-17-02, section 12.1-18-01, subdivision a of subsection 1 or subdivision b of  
25 subsection 2 of section 12.1-20-03, section 12.1-22-01, subdivision b of subsection 2  
26 of section 12.1-22-02, or an attempt to commit those offenses, the term does not  
27 include a firearm or weapon that is a rifle that has a barrel sixteen inches [40.64  
28 centimeters] or longer or a shotgun that has a barrel eighteen inches [45.72  
29 centimeters] or longer and which is one of the following:

30 a. A firearm, including any firearm with a matchlock, flintlock, percussion cap, or  
31 similar type of ignition system, manufactured before 1899.

1           b. A replica of any firearm described in subdivision a, if the replica is not designed  
2           or redesigned for using rimfire or conventional centerfire fixed ammunition or  
3           uses rimfire or conventional centerfire fixed ammunition that is no longer  
4           manufactured in the United States and which is not readily available in the  
5           ordinary channels of commercial trade.

6           c. A muzzleloading rifle or muzzleloading shotgun that is designed to use black  
7           powder, or a black powder substitute, and cannot use fixed ammunition.

8           **SECTION 8. REPEAL.** Section 12.1-32-09.1 of the North Dakota Century Code is repealed.

9           **SECTION 9. RETROACTIVE APPLICATION.** Section 7 of this Act applies retroactively to  
10          judgments of conviction for offenses subject to section 12.1-32-09.1 entered after July 31, 1995.