



# North Dakota House of Representatives

STATE CAPITOL  
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## **Representative Alisa Mitskog**

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**COMMITTEES:**  
Appropriations

House Judiciary Committee

HB 14591

February 8, 2023

Chairman Klemin and Committee Members:

I am Rep. Alisa Mitskog representing D25-Wahpeton.

HB 1459 would increase the penalty for selling drugs in parks.

This issue came to my attention from an elected official in my community-Wahpeton. Wahpeton has a large park system including Chahinkapa Park, Kidder Dam Recreation area as well as the airport park. In speaking with local law enforcement as well as reaching out to other law enforcement in the state I learned that the issue of drugs in parks and safety are relevant issues because of the presence of children. Considering the deadly drugs that are now in our communities, in particular, fentanyl, we need to keep our children's safe. In August, the U.S. Drug Enforcement Administration alerted the public to the existence of bright-colored fentanyl pills that resemble candy (rainbow fentanyl and gummy bears). The DEA warned that the pills were a deliberate scheme by drug cartels to sell addictive fentanyl to children and young people.

The National Recreation and Park Association has been monitoring the impact of the opioid crisis on parks and recreation. Issues like substance misuse taking place on park land, needles and syringes covering playgrounds, navigating how to respond to overdoses, and managing relationships with first responders, law enforcement and public health departments are just some of the many ways this crisis is impacting the parks and recreation community.

Several states have included parks in their drug free zones. I have distributed a handout for your reference. I am proposing that North Dakota consider adopting this language in Section 19-03.1-23.1 of the North Dakota Century Code. I am also proposing an amendment that would exclude marijuana from the list of drugs as many communities have decriminalized the substance.

In closing, the premise behind this bill is to deter drug crimes in our parks where children are often present.

I would ask the committee for your consideration.

## Law Enforcement Comments:

**Corey Lee** [clee@starkcountynd.gov](mailto:clee@starkcountynd.gov)

strongly support bills that penalize drug dealers and hamstring their operations.

### **Sheriff Dey Muckle, Golden Valley County Sheriff's Department**

I have no problems with HB 1459. Unless legally obtained, the more strict, the better. I have a decent amount of residents who are recovering addicts, and I want our county to be a place where they can focus on their sobriety, and not constantly be tempted with the availability, or by the presence of drugs.

### **Sheriff Chad Kaiser, Stutsman County Sheriff's Department**

I believe this is a good bill and do support this bill. I have seen first hand what goes on sometimes in our parks. I happen to live near a County Park my kids would ride bikes to the park we got to a point where we would not allow our kids to go to the park alone and only go during certain times of the day. The only devil's advocate I could see someone saying is if Law Enforcement happened to be doing a buy bust operation and it ended up in a park. That is easily solved by not penalizing them for being in a park if it should happen.

### **North Dakota Peace Officer's Association:**

"There is a majority of support for HB1459 from NDPOA, with the caveat that in the broader picture of this bill passing there would need to be an increase in funding to support it." -Adam Dvorak (701) 215-3652 North Dakota Peace Officers Association

### **Bismarck Police Department:**

"The Department is fully in support of this bill." **Lt. Glenn Ternes** 1/31/2023

### **Williams County Sheriff Verlan Kvande:**

The Williams Country Sheriff's Department is "usually on board" with these bills as they "would be able to further support in any charges." The department "agrees with the concept of this bill."

### **Park Boards/Districts:**

**Dave Bietz, Deputy Director of Operations, Fargo Park District** We would support this legislation; we currently already partner with our local school district to have park land directly adjacent to many schools in the city so those parks would be covered currently and we see value in the same coverage in all our parks. We have also reached out to our local state association, North Dakota Recreation and Parks Association (NDRPA) and encouraged a supportive position from the association. We believe someone from that association will also reach out and provide feedback about this proposed legislation.

### **Shannon Schutt, Executive Director of North Dakota Parks and Recreation Association:**

NDPRA supports HB1459, though there was questioning of the terminology and clarification of the term "public park". Would suggest, and prefer, "park property".



**Appendix. Drug-Free School Zone Laws by State**

State	Statute	Zone Size	Covered Locations	Covered Offenses	Penalties	Limitations
Alabama	Code of Ala. § 13A-12-250	15,460 ft.	Schools (includes colleges), public housing projects	Sale	5-year mand min, no parole	N/A
Alaska	AK Stat. § 11.71.040-41	500 ft.	Schools, school buses, youth and recreation centers	Possession w/ recklessness (either 3rd or 4th degree felony)	Class C or Class B felony	Private residence + personal
Arizona	A.R.S. § 13-3411	300 ft. (private property); 1,000 ft. (public property)	Schools	Sale, possession, manufacture	Increases presumptive min and max by 1 year	N/A
Arkansas	A.C.A. § 5-64-411	1,000 ft.	Public parks, schools (includes colleges and universities), school bus stops, skating rinks, YMCAs, community centers, public housing complexes, substance abuse treatment facilities, day care centers, churches	Possession, delivery, manufacture, sale	10-year additional sentence (concurrent or consecutive), no parole	N/A
California	Ann. Cal. Health & Safety Code § 11353.6	1,000 ft.	Schools	Possession w/ intent, delivery, sale, manufacture	3-5 years discretionary	Defendant > 18 years old; school hours only; only applies to places children expected to be
Colorado	C.R.S.A § 18-1.3-407	1,000 ft.	Schools, school buses	Possession w/ intent, delivery, sale, manufacture	8-year mandatory min	N/A
Connecticut	C.G.S.A. § 21a-278a	1,500 ft.	Schools, public housing complexes, day care centers	Possession w/ intent, delivery, sale, manufacture	3-year mand min additional (consec)	N/A
Delaware	16 Del.C. § 4701	300 ft.	Schools, parks, churches, rec. areas	Possession w/ intent, delivery, sale, manufacture	Aggravating Factor (Min. Class D Felony)	N/A
District of Columbia	DC ST § 48-904.07a	1,000 ft.	Schools (including universities), day care centers, public swimming pools, playgrounds, arcades, youth centers, public housing complexes	Distribution, possession w/ intent to distribute	Up to 2x fine Up to 2x maximum sentence	N/A
Florida	F.S.A. § 893.13	1,000 ft.	Schools (including universities), day care centers, churches, public housing complexes, parks	Possession w/ intent, delivery, sale, manufacture	3-year man min	Effective only 6am-midnight (schools only)
Georgia	Ga. Code Ann. § 16-13-32.4	1,000 ft.	Schools, parks, playgrounds, recreation centers, public housing complexes	Possession w/ intent, delivery, sale, manufacture	Up to 20 years + \$20,000 fine (consecutive)	Private residence + personal + no child < 17 present
Hawaii	HRS § 712-1249.6	750 ft.	Schools, school buses, parks, public housing complexes	Possession w/ intent, delivery, sale	Class C or Class D felony	N/A

State	Statute	Zone Size	Covered Locations	Covered Offenses	Penalties	Limitations
Nebraska	Neb.Rev.St. § 28.416	1,000 ft.	Schools, playgrounds, colleges (1,000 ft.); youth centers, video arcades, public pools (100 ft.)	Possession w/ intent, delivery, sale, manufacture	+1 Felony Level	Defendant > 18 years old
Nevada	N.R.S. 453.3345	1,000 ft.	Schools, campuses, school bus stops playgrounds, parks, pools, video centers, arcades	Manufacture, delivery, sale	Aggravating Factor	Within 1 hour of school hours (school bus stop only)
New Hampshire	N.H. Rev. Stat. §193-B:1	1,000 ft.	Schools, school buses	Possession w/ intent, delivery, sale, manufacture	1 year mand min + 2x maximum penalty for underlying offense	N/A
New Jersey	N.J.S.A. 2C:35-7	1,000 ft.	Schools, school buses	Possession w/ intent, delivery, sale	3 year mand min, no parole	Judge may adjust parole ineligibility based on mitigating factors; private residence + no child < 18 present + not for profit
New Mexico	N. M. S. A. 1978, § 30-31-2(Y)	1,000 ft.	Schools	Possession, delivery, manufacture, sale	First-class Felony	Possession limited to defendants > 18 years old
New York	McKinney's Penal Law § 220.44	1,000 ft.	Schools, day care centers	Trafficking	Class B Felony	Limited to areas "accessible" to public; some drugs require knowledge of zone
North Carolina	N.C.G.S.A. § 90-95	1,000 ft.	Schools, child care centers, parks	Possession w/ intent, delivery, sale, manufacture	Class E Felony	< 5 g marijuana excepted
North Dakota	NDCC, 19-03.1-23(3)(a)	1,000 ft.	Schools	Possession w/ intent, delivery, sale, manufacture	8-year sentence; If defendant > 21, 8-year mand min	Marijuana excepted
Ohio	R.C. § 2925.01(P)	1,000 ft.	Schools	Sale	Min. 4th Degree Felony	N/A
Oklahoma	63 Okl. St. Ann. § 2-401(F)	2,000 ft.	Schools (including universities), parks, public housing complexes, child care centers	Possession w/ intent, delivery, sale	2x max sentence	N/A
Oregon	O.R.S. § 475.904	1,000 ft.	Schools	Delivery, manufacture	Class A Felony	N/A
Pennsylvania	18 Pa.C.S.A. § 6317	1,000 ft.	Schools, parks, playgrounds; school buses (250 ft)	Possession w/ intent, delivery, sale	2-year mand min	N/A
Rhode Island	Gen.Laws 1956, § 21-28-4.07.1	900 ft.	Schools, parks, playgrounds	Distribution, manufacture	2x max sentence 2x max fine	N/A

23.0949.01001  
Title.

Prepared by the Legislative Council staff for  
Representative Mitskog

February 6, 2023

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1459

Page 1, line 19, after "substance" insert ", other than marijuana or tetrahydrocannabinol,"

Page 3, line 2, overstrike "or"

Renumber accordingly