27.0226.01000

Seventieth
Legislative Assembly
of North Dakota

BILL NO.

Introduced by

Representative Koppelman

A BILL for an Act to create and enact a new section to chapter 12-48.1 of the North Dakota Century Code, relating to release programs under the department of corrections and rehabilitation; and to amend and reenact sections 12-47-18.1 and 12-48.1-02, subsection 2 of section 28-32-01, and section 29-27-07 of the North Dakota Century Code, relating to eligibility requirements for release programs and the placement of offenders and transfer of inmates committed to the department of corrections and rehabilitation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12-47-18.1 of the North Dakota Century Code is amended and reenacted as follows:

12-47-18.1. Transfer of persons between correctional facilities - Rules.

The director of the department of corrections and rehabilitation may transfer an offender to any facility under the department's control or contract to transfer an offender to another correctional facility for purposes of safety, security, discipline, medical care, or when the director determines it may be in the best interests of the public, the offender, or the department. The director shall adopt rules to administer the transfer of offenders under this section.

SECTION 2. A new section to chapter 12-48.1 of the North Dakota Century Code is created and enacted as follows:

Rules.

The director of the department of corrections and rehabilitation shall adopt rules to administer this chapter, including rules of conduct and treatment for all offenders on release programs. Rules adopted by the parole board and the director of the department relating to release programs and short leaves must conform, to the extent allowable by law, with executive order no. 11755 issued by the president of the United States.

SECTION 3. AMENDMENT. Section 12-48.1-02 of the North Dakota Century Code is amended and reenacted as follows:

12-48.1-02. Conditions of eligibility for release programs.

1. An offender, except an offender sentenced to a penalty of life imprisonment without the opportunity for parole as the result of conviction of a class AA felony under section 12.1-20-03 or of murder under section 12.1-16-01, may be eligible for programs outside facilities under the control of the department of corrections and rehabilitation when the department ~~determines~~and the parole board determine the offender is not a high security risk, not likely to commit a crime of violence, and is likely to be rehabilitated by such program. An offender may apply to the director of the department for permission to participate in such programs.
2. The director of the department, with the approval of the parole board, may authorize participation in outside programs for an offender who has ten years or less remaining on a sentence and has been committed to the legal and physical custody of the department. The parole board, with the approval of the director of the department, may authorize participation in outside programs for offenders who have more than ten years remaining on a sentence and have been committed to the legal and physical custody of the department.
3. The offender shall submit a signed application which must include a statement that the offender agrees to abide by all terms and conditions of the particular plan adopted for the offender, and must include such other information as the parole board or the director of the department may require.
4. The parole board may approve, disapprove, or defer action on an application approved by the director of the department. The director of the department or the parole board may revoke approval of the application at any time after granting the application. ~~The department shall prescribe rules of conduct and treatment for all offenders on release programs.~~
5. The director of the department may grant short leaves, not to exceed seventy-two hours, to offenders who have been committed to the legal and physical custody of the department for ten years or less. The parole board, upon the approval of the director of the department, may grant short leaves, not to exceed seventy-two hours, to

offenders committed to the legal and physical custody of the department for more than ten years.

~~6. All rules adopted by the parole board and the director of the department relating to release programs and short leaves must conform, to the extent allowable by law, with executive order no. 11755 issued by the President of the United States.~~

SECTION 4. AMENDMENT. Subsection 2 of section 28-32-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Administrative agency" or "agency" means each board, bureau, commission, department, or other administrative unit of the executive branch of state government, including one or more officers, employees, or other persons directly or indirectly purporting to act on behalf or under authority of the agency. An administrative unit located within or subordinate to an administrative agency must be treated as part of that agency to the extent it purports to exercise authority subject to this chapter. The term administrative agency does not include:
   a. The office of management and budget except with respect to rules relating to conduct on the capitol grounds and in buildings located on the capitol grounds under section 54-21-18, rules relating to the classified service as authorized under section 54-44.3-07, and rules relating to state purchasing practices as required under section 54-44.4-04.
   b. The adjutant general with respect to the department of emergency services.
   c. The council on the arts.
   d. The state auditor.
   e. The department of commerce with respect to the division of economic development and finance.
   f. The dairy promotion commission.
   g. The education factfinding commission.
   h. The kindergarten through grade twelve education coordination council.
   i. The board of equalization.
   j. The board of higher education.
   k. The Indian affairs commission.

l. The industrial commission with respect to the activities of the Bank of North Dakota, North Dakota housing finance agency, public finance authority, North Dakota mill and elevator association, North Dakota farm finance agency, the North Dakota transmission authority, and the North Dakota pipeline authority.

m. The department of corrections and rehabilitation except with respect to the placement of offenders committed to the department, the transfer of inmates from one correctional facility to another, the release of inmates to release programs, and the activities of the division of adult services under chapter 54-23.4.

n. The pardon advisory board.

o. The parks and recreation department.

p. The parole board.

q. The state fair association.

r. The attorney general with respect to activities of the state toxicologist and the state crime laboratory.

s. The administrative committee on veterans' affairs except with respect to rules relating to the supervision and government of the veterans' home and the implementation of programs or services provided by the veterans' home.

t. The industrial commission with respect to the lignite research fund except as required under section 57-61-01.5.

u. The attorney general with respect to guidelines adopted under section 12.1-32-15 for the risk assessment of sexual offenders, the risk level review process, and public disclosure of information under section 12.1-32-15.

v. The commission on legal counsel for indigents.

w. The attorney general with respect to twenty-four seven sobriety program guidelines and program fees.

x. The industrial commission with respect to approving or setting water rates under chapter 61-40.

y. The board of university and school lands with respect to the adjudicative proceeding requirements and procedures under sections 28-32-21 through 28-32-51.

SECTION 5. AMENDMENT. Section 29-27-07 of the North Dakota Century Code is amended and reenacted as follows:

29-27-07. Commitment of offenders to department of corrections and rehabilitation - Place of confinement - Rules.

1. If a judge of the district court imposes a term of imprisonment to a state correctional facility upon conviction of a felony or a class A misdemeanor, the judge may not designate a state correctional facility in which the offender is to be confined but shall commit the offender to the legal and physical custody of the department of corrections and rehabilitation.
2. After assuming custody of the convicted person, the department of corrections and rehabilitation may transfer the inmate from one correctional facility to another for the purposes of safety, security, discipline, medical care, or if the department determines it is in the best interest of the public, the inmate, or the department.
3. The director of the department of corrections and rehabilitation shall adopt rules regarding the placement of offenders and the transfer of inmates from one correctional facility to another.