

**Sixty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 7, 2025**

HOUSE BILL NO. 1030
(Legislative Management)
(Judiciary Committee)

AN ACT to amend and reenact subdivision i of subsection 1 of section 12.1-32-02, sections 15.1-19-13 and 19-03.1-23, subsection 6 of section 19-03.4-03, subsection 17 of section 27-20.2-01, subsection 26 of section 27-20.4-01, subdivision c of subsection 4 of section 27-20.4-17, subsection 4 of section 27-20.4-26, subsection 5 of section 29-26-22, section 39-06-36.1, subsection 9 of section 39-06.1-11, subdivision f of subsection 5 of section 39-08-01, and sections 39-08-01.5 and 54-12-27.1 of the North Dakota Century Code relating to changing drug court to treatment court.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subdivision i of subsection 1 of section 12.1-32-02 of the North Dakota Century Code is amended and reenacted as follows:

- i. Drug Treatment court program. A drug treatment court is a district court supervised treatment program approved by the supreme court which combines judicial supervision with alcohol and drug testing and substance use disorder treatment in a licensed treatment program. The supreme court may adopt rules, including rules of procedure, for drug treatment court programs.

SECTION 2. AMENDMENT. Section 15.1-19-13 of the North Dakota Century Code is amended and reenacted as follows:

15.1-19-13. Alcohol or controlled substance - Use or possession by student - Notification of principal - Exception.

If a teacher knows or has reason to believe that a student is using, is in possession of, or is delivering alcohol or a controlled substance while the student is on school property, involved in a school-related activity, or in attendance at a school-sponsored event, the teacher shall notify the student's principal. The notification requirement in this section does not apply to a teacher or administrator who participates in a juvenile drug treatment court program and receives confidential information regarding a student as a result of participation in the program. This section does not prevent a teacher or any other school employee from reporting to a law enforcement agency any violation of law occurring on school property, at a school-related activity, or at a school-sponsored event.

SECTION 3. AMENDMENT. Section 19-03.1-23 of the North Dakota Century Code is amended and reenacted as follows:

19-03.1-23. Prohibited acts - Penalties.

1. Except as authorized by this chapter, it is unlawful for a person to willfully, as defined in section 12.1-02-02, manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance, or to deliver, distribute, or dispense a controlled substance by means of the internet, but a person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection. A person who violates this subsection with respect to:
 - a. A controlled substance classified in schedule I or II which is a narcotic drug, or methamphetamine, is guilty of a class B felony.
 - b. Any other controlled substance classified in schedule I, II, or III, or a controlled substance analog, except marijuana or tetrahydrocannabinol is guilty of a class B felony.

- c. Marijuana, tetrahydrocannabinol, or a substance classified in schedule IV, is guilty of a class C felony.
 - d. A substance classified in schedule V, is guilty of a class A misdemeanor.
 2. A prior misdemeanor conviction under subsection 7 or a prior conviction under subsection 3 or 4 of section 19-03.4-03 may not be considered a prior offense under subsection 1.
 3. Except as authorized by this chapter, it is unlawful for any person to willfully, as defined in section 12.1-02-02, create, deliver, distribute, or dispense a counterfeit substance by means of the internet or any other means, or possess with intent to deliver, a counterfeit substance by means of the internet or any other means, but any person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection. Any person who violates this subsection with respect to:
 - a. A counterfeit substance classified in schedule I, II, or III, is guilty of a class B felony.
 - b. A counterfeit substance classified in schedule IV, is guilty of a class C felony.
 - c. A counterfeit substance classified in schedule V, is guilty of a class A misdemeanor.
 4. A person at least eighteen years of age who solicits, induces, intimidates, employs, hires, or uses a person under eighteen years of age to aid or assist in the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance for the purpose of receiving consideration or payment for the manufacture or delivery of any controlled substance is guilty of a class B felony. It is not a defense to a violation of this subsection that the defendant did not know the age of a person protected under this subsection.
 5. Except for a prior conviction equivalent to a misdemeanor violation of subsection 7 or a prior conviction under subsection 3 or 4 of section 19-03.4-03, a violation of this title or a law of another state or the federal government which is equivalent to an offense with respect to the manufacture, delivery, or intent to deliver a controlled substance under this title committed while the offender was an adult and which resulted in a plea or finding of guilt must be considered a prior offense under subsection 1. The prior offense must be alleged in the complaint, information, or indictment. The plea or finding of guilt for the prior offense must have occurred before the date of the commission of the offense or offenses charged in the complaint, information, or indictment.
 6. It is unlawful for a person to willfully, as defined in section 12.1-02-02:
 - a. Serve as an agent, intermediary, or other entity that causes the internet to be used to bring together a buyer and seller to engage in the delivery, distribution, or dispensing of a controlled substance in a manner not authorized by this chapter; or
 - b. Offer to fill or refill a prescription for a controlled substance based solely on a consumer's completion of an online medical questionnaire.A person who violates this subsection is guilty of a class C felony.
 7.
 - a. It is unlawful for any person to willfully, as defined in section 12.1-02-02, possess a controlled substance or a controlled substance analog unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, or except as otherwise authorized by this chapter, but any person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection.
 - b. Except as otherwise provided in this subsection, any person who violates this subsection is guilty of a class A misdemeanor for the first offense under this subsection and a class C felony for a second or subsequent offense under this subsection.

- c. If, at the time of the offense the person is in or on the real property comprising a public or private elementary or secondary school or a public career and technical education school, the person is guilty of a class B felony, unless the offense involves marijuana or tetrahydrocannabinol.
 - d. A person who violates this subsection by possessing:
 - (1) Marijuana:
 - (a) In an amount of less than one-half ounce [14.175 grams] is guilty of an infraction.
 - (b) At least one-half ounce [14.175 grams] but not more than 500 grams of marijuana is guilty of a class B misdemeanor.
 - (c) More than 500 grams of marijuana is guilty of a class A misdemeanor.
 - (2) Tetrahydrocannabinol:
 - (a) In an amount less than two grams is guilty of an infraction.
 - (b) At least two grams but not more than six grams of tetrahydrocannabinol is guilty of a class B misdemeanor.
 - (c) More than six grams of tetrahydrocannabinol is guilty of a class A misdemeanor.
 - e. If an individual is sentenced to the legal and physical custody of the department of corrections and rehabilitation under this subsection, the department may place the individual in a drug and alcohol treatment program designated by the department. Upon the successful completion of the drug and alcohol treatment program, the department shall release the individual from imprisonment to begin any court-ordered period of probation.
 - f. If the individual is not subject to any court-ordered probation, the court shall order the individual to serve the remainder of the sentence of imprisonment on supervised probation subject to the terms and conditions imposed by the court.
 - g. Probation under this subsection may include placement in another facility, treatment program, ~~drug treatment~~ court, mental health court, or veterans treatment docket. If an individual is placed in another facility or treatment program upon release from imprisonment, the remainder of the sentence must be considered as time spent in custody.
 - h. An individual incarcerated under this subsection as a result of a second probation revocation is not eligible for release from imprisonment upon the successful completion of treatment.
 - i. A person who violates this subsection regarding possession of five or fewer capsules, pills, or tablets of a schedule II, III, IV, or V controlled substance or controlled substance analog is guilty of a class A misdemeanor.
8. Except as provided by section 19-03.1-45, a court may order a person who violates this chapter or chapter 19-03.4 to undergo a drug addiction evaluation by a licensed addiction counselor. The evaluation must indicate the prospects for rehabilitation and whether addiction treatment is required. If ordered, the evaluation must be submitted to the court before imposing punishment for a felony violation or a misdemeanor violation.

9. If a person pleads guilty or is found guilty of a first offense regarding possession of one ounce [28.35 grams] or less of marijuana or two grams or less of tetrahydrocannabinol and a judgment of guilt is entered, a court, upon motion, shall seal the court record of that conviction if the person is not subsequently convicted within two years of a further violation of this chapter. Once sealed, the court record may not be opened even by order of the court.
10. Upon successful completion of a drugtreatment court program, mental health court program, or veterans treatment docket, a person who has been convicted of a felony under this section and sentenced to drugtreatment court, mental health court, or veterans treatment docket is deemed to have been convicted of a misdemeanor.
11. If a person convicted of a misdemeanor under this section is sentenced to drugtreatment court, mental health court, or veterans treatment docket and successfully completes a drugtreatment court program, mental health court, or veterans treatment docket, the court shall dismiss the case and seal the file in accordance with section 12.1-32-07.2.
12. If an individual under the age of twenty-one pleads guilty or is found guilty of a first offense regarding possession of one-half ounce [14.175 grams] or less of marijuana, the court also may sentence the individual to an evidence-based alcohol and drug education program operated under rules adopted by the department of health and human services under section 50-06-44. For a second or subsequent offense regarding possession of one-half ounce [14.175 grams] or less of marijuana, the court also shall sentence the individual to an evidence-based alcohol and drug education program operated under rules adopted by the department of health and human services under section 50-06-44.

SECTION 4. AMENDMENT. Subsection 6 of section 19-03.4-03 of the North Dakota Century Code is amended and reenacted as follows:

6. Probation under this section may include placement in another facility, treatment program, or drugtreatment court. If the person is placed in another facility or treatment program upon release from imprisonment, the remainder of the sentence must be considered as time spent in custody.

SECTION 5. AMENDMENT. Subsection 17 of section 27-20.2-01 of the North Dakota Century Code is amended and reenacted as follows:

17. "Juvenile drugtreatment court" means a program established by the supreme court which is a post-petition or post-adjudication program aimed at intervening in substance use disorders through intense supervision and participation in recovery services.

SECTION 6. AMENDMENT. Subsection 26 of section 27-20.4-01 of the North Dakota Century Code is amended and reenacted as follows:

26. "Juvenile drugtreatment court" means a program established by the supreme court which is a post-petition or post-adjudication program aimed at intervening in substance use disorders through intense supervision and participation in recovery services.

SECTION 7. AMENDMENT. Subdivision c of subsection 4 of section 27-20.4-17 of the North Dakota Century Code is amended and reenacted as follows:

- c. Order the child's participation in a juvenile drugtreatment court program.

SECTION 8. AMENDMENT. Subsection 4 of section 27-20.4-26 of the North Dakota Century Code is amended and reenacted as follows:

4. If the juvenile court requires the child to participate in a juvenile drugtreatment court program, the juvenile court may waive the participation in the twenty-four seven sobriety program requirements of this section.

SECTION 9. AMENDMENT. Subsection 5 of section 29-26-22 of the North Dakota Century Code is amended and reenacted as follows:

5. Upon successful completion of an approved adult drugtreatment court program, a court may waive all unpaid fines, fees, and costs imposed in the criminal judgment sentencing the defendant to the drugtreatment court program, except for restitution. For purposes of this subsection, "approved drugtreatment court program" means a district court-supervised treatment program approved by the supreme court.

SECTION 10. AMENDMENT. Section 39-06-36.1 of the North Dakota Century Code is amended and reenacted as follows:

39-06-36.1. Restoration of revoked or suspended licenses - Successful completion of drugtreatment court.

Upon an individual's successful completion of an approved adult drugtreatment court program, if ordered by the district court, the director shall reinstate the driving privileges of the individual for any noncommercial license suspension or revocation imposed under law. A reinstatement fee is not required for reinstatement of driving privileges under this section.

SECTION 11. AMENDMENT. Subsection 9 of section 39-06.1-11 of the North Dakota Century Code is amended and reenacted as follows:

9. If an offender is participating in an approved drugtreatment court program, the court may order issuance of a temporary restricted license. Upon application by the offender, the director shall issue a temporary restricted license to the participant subject to conditions specified by the court.
 - a. The application must be accompanied by proof of financial responsibility, the court's order, and the designated reinstatement fee.
 - b. For purposes of this subsection, "approved drugtreatment court program" means a district court-supervised treatment program approved by the supreme court.

SECTION 12. AMENDMENT. Subdivision f of subsection 5 of section 39-08-01 of the North Dakota Century Code is amended and reenacted as follows:

- f. If the offense is subject to subdivision a or b, a municipal court or district court may not suspend a sentence, but may convert each day of a term of imprisonment to ten hours of community service for an offense subject to paragraph 2 of subdivision a. If the offense is subject to subdivision c, the district court may suspend a sentence, except for sixty days' imprisonment, under subsection 3 of section 12.1-32-02 on the condition that the defendant first undergo and complete an evaluation for alcohol and substance abuse treatment and rehabilitation. If the offense is subject to subdivision d, the district court may suspend a sentence, except for one year's imprisonment, under subsection 3 of section 12.1-32-02 on the condition that the defendant first undergo and complete an evaluation for alcohol and substance abuse treatment and rehabilitation. If the defendant is found to be in need of alcohol and substance abuse treatment and rehabilitation, the district court may order the defendant placed under the supervision and management of the department of corrections and rehabilitation and is subject to the conditions of probation under section 12.1-32-07. The district court may require the defendant to complete alcohol and substance abuse treatment and rehabilitation under the direction of the drugtreatment court program as a condition of probation in accordance with rules adopted by the supreme court. The district court may terminate probation under this section when the defendant completes the drug treatment program. If the district court finds that a defendant has failed to undergo an evaluation or complete treatment or has violated any condition of probation, the district court shall revoke the defendant's probation and shall sentence the defendant in accordance with this subsection.

SECTION 13. AMENDMENT. Section 39-08-01.5 of the North Dakota Century Code is amended and reenacted as follows:

39-08-01.5. Partial suspension of sentence for drugtreatment court program, mental health court program, or veterans treatment docket completion.

1. Notwithstanding section 39-08-01:
 - a. All but ten days of the minimum mandatory sentence required for a defendant charged with a third or subsequent violation of section 39-08-01 may be suspended on the condition the defendant successfully completes a drugtreatment court program, mental health court program, or veterans treatment docket approved by the supreme court.
 - b. If the drugtreatment court determines a defendant participating in a drugtreatment court program has substantially complied with the requirements of the drugtreatment court program, the drugtreatment court may suspend the defendant's electronic alcohol monitoring and sobriety breath testing requirement under the twenty-four seven sobriety program for the six months preceding completion of the drugtreatment court program.
2. Upon successful completion of a drugtreatment court program, mental health court program, or veterans treatment docket, a defendant convicted of a felony under section 39-08-01 and sentenced to drugtreatment court, mental health court, or veterans treatment docket is deemed to have been convicted of a misdemeanor.
3. If a defendant convicted of a misdemeanor under section 39-08-01 is sentenced to drugtreatment court, mental health court, or veterans treatment docket and successfully completes a drugtreatment court program, mental health court, or veterans treatment docket, the court shall dismiss the case and seal the file in accordance with section 12.1-32-07.2.

SECTION 14. AMENDMENT. Section 54-12-27.1 of the North Dakota Century Code is amended and reenacted as follows:

54-12-27.1. Twenty-four seven sobriety program - Partial suspension for drugtreatment court program participants.

1. For purposes of this section, "approved drugtreatment court program" means a district court-supervised treatment program approved by the supreme court.
2. A district court may suspend any ordered period of participation in the twenty-four seven sobriety program, including mandatory participation required by law, for an offender participating in an approved drugtreatment court program while under supervised probation with the department of corrections and rehabilitation.
3. A district court suspending participation in the twenty-four seven sobriety program shall issue a certificate of waiver of twenty-four seven sobriety program participation.
4. For purposes of issuance of a temporary restricted operator's license under section 39-06.1-11, the director of the department of transportation shall treat a court certificate of waiver of twenty-four seven sobriety program participation as if the offender was participating in the twenty-four seven sobriety program.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-ninth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1030.

House Vote: Yeas 89 Nays 1 Absent 4

Senate Vote: Yeas 46 Nays 1 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2025.

Approved at _____ M. on _____, 2025.

Governor

Filed in this office this _____ day of _____, 2025,

at _____ o'clock _____ M.

Secretary of State