

Introduced by

Representatives Koppelman, D. Johnston, Kasper, Marschall, Rios, M. Ruby

Senators Cory, Magrum, Myrdal, Wobbema

1 A BILL for an Act to amend and reenact subsection 3 of section 12.1-32-07 of the North Dakota
2 Century Code, relating to possession of a firearm while on probation; and to provide for
3 application.

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

5 **SECTION 1. AMENDMENT.** Subsection 3 of section 12.1-32-07 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 3. The court shall provide as an explicit condition of every probation that the defendant
8 may not possess a firearm, destructive device, or other dangerous weapon while the
9 defendant is on probation. Except when the offense is for a misdemeanor offense
10 under section 12.1-17-01, 12.1-17-01.1, 12.1-17-01.2, 12.1-17-05, or 12.1-17-07.1, or
11 chapter 14-07.1, the court may waive this condition of probation if the defendant has
12 pled guilty to, or has been found guilty of, a misdemeanor or infraction offense, the
13 misdemeanor or infraction is the defendant's first offense, and the court has made a
14 specific finding on the record before imposition of a sentence or a probation that there
15 is good cause to waive the condition. The court may not waive this condition of
16 probation if the court places the defendant under the supervision and management of
17 the department of corrections and rehabilitation. Except when the offense is for a
misdemeanor offense under section 12.1-17-01, 12.1-17-01.1, 12.1-17-01.2, 12.1-17-
05, or 12.1-17-07.1, or chapter 14-07.1, the court may not prohibit the
18 defendant from possessing a firearm, destructive device, or other dangerous weapon
19 while on probation for any other misdemeanor offense unless the court determines that
the offense involved violence against an individual. ~~or~~ The court may not prohibit the
20 defendant from possessing a firearm, destructive device, or other dangerous weapon
21 while on probation for any infraction. The court shall
22 provide as an explicit condition of probation that the defendant may not willfully

23 defraud a urine test administered as a condition of probation. Unless waived on the
24 record by the court, the court shall also provide as a condition of probation that the
25 defendant undergo various agreed-to community constraints and conditions as

- 1 intermediate measures of the department of corrections and rehabilitation to avoid
2 revocation, which may include:
- 3 a. Community service;
 - 4 b. Day reporting;
 - 5 c. Curfew;
 - 6 d. Home confinement;
 - 7 e. House arrest;
 - 8 f. Electronic monitoring;
 - 9 g. Residential halfway house;
 - 10 h. Intensive supervision program;
 - 11 i. Up to five nonsuccessive periods of incarceration during any twelve-month
12 period, each of which may not exceed forty-eight consecutive hours;
 - 13 j. Participation in the twenty-four seven sobriety program; or
 - 14 k. One period of incarceration during a period of probation not to exceed thirty
15 consecutive days in lieu of a petition for revocation of probation.

16 **SECTION 2. APPLICATION.** This Act applies to a sentence to probation or any sentence
17 including a period of probation imposed after the effective date of this Act.