

HOUSE BILL NO. 1218

Introduced by

Representatives Carlisle, R. Kelsch, Maragos

Senators Lyson, Robinson, Stenehjem

1 A BILL for an Act to amend and reenact subsection 4 of section 39-08-01 of the North Dakota
2 Century Code, relating to driving under the influence of intoxicating liquor or any other drug or
3 substance; to provide an expiration date; and to declare an emergency.

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

5 **SECTION 1. AMENDMENT.** Subsection 4 of section 39-08-01 of the 1999 Supplement
6 to the North Dakota Century Code is amended and reenacted as follows:

- 7 4. A person convicted of violating this section, or an equivalent ordinance, must be
8 sentenced in accordance with this subsection. For purposes of this subsection,
9 unless the context otherwise requires, "drug court program" means a district
10 court-supervised treatment program approved by the supreme court which
11 combines judicial supervision with alcohol and drug testing and chemical addiction
12 treatment in a licensed treatment program. The supreme court may adopt rules,
13 including rules of procedure, for drug courts and the drug court program.
- 14 a. For a first offense, the sentence must include both a fine of at least two
15 hundred fifty dollars and an order for addiction evaluation by an appropriate
16 licensed addiction treatment program.
- 17 b. For a second offense within five years, the sentence must include at least five
18 days' imprisonment or placement in a minimum security facility, of which
19 forty-eight hours must be served consecutively, or thirty days' community
20 service; a fine of at least five hundred dollars; and an order for addiction
21 evaluation by an appropriate licensed addiction treatment program.
- 22 c. For a third offense within five years, the sentence must include at least sixty
23 days' imprisonment or placement in a minimum security facility, of which
24 forty-eight hours must be served consecutively; a fine of one thousand dollars;

1 and an order for addiction evaluation by an appropriate licensed addiction
2 treatment program.

3 d. For a fourth or subsequent offense within seven years, the sentence must
4 include one hundred eighty days' imprisonment or placement in a minimum
5 security facility, of which forty-eight hours must be served consecutively and a
6 fine of one thousand dollars.

7 e. The execution or imposition of sentence under this section may not be
8 suspended or deferred under subsection 3 or 4 of section 12.1-32-02 for an
9 offense subject to subdivision a or b. If the offense is subject to subdivision c
10 or d, the district court may suspend a sentence under subsection 3 or 4 of
11 section 12.1-32-02 on the condition that the defendant first undergo and
12 complete an evaluation for alcohol and substance abuse treatment and
13 rehabilitation. If the defendant is found to be in need of alcohol and
14 substance abuse treatment and rehabilitation, the district court may order the
15 defendant placed under the supervision and management of the department
16 of corrections and rehabilitation and is subject to the conditions of probation
17 under section 12.1-32-07. The district court shall require the defendant to
18 complete alcohol and substance abuse treatment and rehabilitation under the
19 direction of the drug court program as a condition of probation in accordance
20 with rules adopted by the supreme court. If the district court finds that a
21 defendant has failed to undergo an evaluation or complete treatment or has
22 violated any condition of probation, the district court shall revoke the
23 defendant's probation and shall sentence the defendant in accordance with
24 this subsection.

25 f. For purposes of this section, conviction of an offense under a law or
26 ordinance of another state which is equivalent to this section must be
27 considered a prior offense if such offense was committed within the time
28 limitations specified in this subsection.

29 g. If the penalty mandated by this section includes imprisonment or placement
30 upon conviction of a violation of this section or equivalent ordinance, and if an
31 addiction evaluation has indicated that the defendant needs treatment, the

1 court may order the defendant to undergo treatment at an appropriate
2 licensed addiction treatment program and the time spent by the defendant in
3 the treatment must be credited as a portion of a sentence of imprisonment or
4 placement under this section.

5 **SECTION 2. EXPIRATION DATE.** This Act is effective through July 31, 2003, and
6 after that date is ineffective.

7 **SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.