

**Sixty-second Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2011**

HOUSE BILL NO. 1338
(Representatives Dahl, DeKrey)

AN ACT to amend and reenact section 12-67-02 of the North Dakota Century Code, relating to electronic home detention for certain offenders.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12-67-02 of the North Dakota Century Code is amended and reenacted as follows:

12-67-02. Application.

1. For those offenders who are sentenced by the court to a term of imprisonment in a county jail or regional correctional facility, the court may commit the offender to the legal and physical custody of the administrator of the jail or correctional facility ~~who~~. Except in cases in which the law requires mandatory incarceration and does not allow for electronic home detention or global positioning system monitoring, the administrator of the jail or correctional facility shall make the decision as to whether the use of electronic home detention or global positioning system monitoring is appropriate for that offender.
2. ~~Except for an offense for which the law requires mandatory incarceration, electronic~~ Electronic home detention or global positioning system monitoring may be used for adult and juvenile offenders as selected by the court, the administrator, the parole board, or the department for adult offenders as an intermediate measure of supervised probation, and for delinquent juvenile offenders in the custody of the division of juvenile services as a condition of community placement. Electronic home detention and global positioning system monitoring may be used for the following:
 - a. Pretrial or preadjudicatory detention.
 - b. Probation.
 - c. Community corrections approved by the court.
 - d. Parole.
 - e. Work release under chapter 12-44.1 or approved by the parole board.
 - f. Institutional release approved by the court or the parole board.
 - g. ~~County jail diversion approved by the court.~~
 - h. Sex offender containment.
3. If not otherwise prohibited by law, the administrator may use electronic home detention or global positioning system monitoring for an offender if required due to medical needs of the offender or to prevent overcrowding in the county jail or regional correctional facility.
4. If the law requires mandatory incarceration and does not allow for electronic home detention or global positioning system monitoring, the court order must expressly prohibit electronic home detention and global positioning system monitoring.

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-second Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1338.

House Vote: Yeas 92 Nays 0 Absent 2

Senate Vote: Yeas 46 Nays 0 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2011.

Approved at _____ M. on _____, 2011.

Governor

Filed in this office this _____ day of _____, 2011,

at _____ o'clock _____ M.

Secretary of State