

Sixty-seventh
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1104

Introduced by

Representatives Dobervich, Buffalo, Ista, Kading, Roers Jones, Schneider

Senator Mathern

1 A BILL for an Act to amend and reenact section 12.1-32-09.1 of the North Dakota Century
2 Code, relating to sentencing violent offenders; and to provide for retroactive application.

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

4 **SECTION 1. AMENDMENT.** Section 12.1-32-09.1 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **12.1-32-09.1. Sentencing of violent offenders.**

- 7 1. Except as provided under section 12-48.1-02 and pursuant to rules adopted by the
8 department of corrections and rehabilitation, an offender who is convicted of a crime in
9 violation of section 12.1-16-01, 12.1-16-02, subsection 2 of section 12.1-17-02, section
10 12.1-18-01, subdivision a of subsection 1 or subdivision b of subsection 2 of section
11 12.1-20-03, section 12.1-20-03.1 and the offender is at least twenty-two years of age
12 at the time of the offense, section 12.1-22-01, subdivision b of subsection 2 of section
13 12.1-22-02, subsection 3 of section 12.1-41-02, subsection 3 of section 12.1-41-03,
14 subdivision a of subsection 1 of section 12.1-41-04, or an attempt to commit the
15 offenses, and who receives a sentence of imprisonment is not eligible for release from
16 confinement on any basis until ~~eighty-five~~sixty-five percent of the sentence imposed by
17 the court has been served or the sentence is commuted.
- 18 2. In the case of an offender who is sentenced to a term of life imprisonment with
19 opportunity for parole under subsection 1 of section 12.1-32-01, the term "sentence
20 imposed" means the remaining life expectancy of the offender on the date of
21 sentencing. The remaining life expectancy of the offender must be calculated on the
22 date of sentencing, computed by reference to a recognized mortality table as
23 established by rule by the supreme court.

3. Notwithstanding this section, an offender sentenced under subsection 1 of section 12.1-32-01 may not be eligible for parole until the requirements of that subsection have been met.
4. An offender who is convicted of a class C felony in violation of section 12.1-17-02, or an attempt to commit the offense, and who has received a sentence of imprisonment or a sentence of imprisonment upon revocation of probation before August 1, 2015, is eligible to have the offender's sentence considered by the parole board.
5. Notwithstanding subsection 4, this section does not apply to a sentence imposed upon revocation of probation.

SECTION 2. AMENDMENT. Section 12.1-32-09.1 of the North Dakota Century Code is amended and reenacted as follows:

12.1-32-09.1. Sentencing of violent offenders.

1. Except as provided under section 12-48.1-02 and pursuant to rules adopted by the department of corrections and rehabilitation, an offender who is convicted of a crime in violation of section 12.1-16-01, 12.1-16-02, subsection 2 of section 12.1-17-02, section 12.1-18-01, subdivision a of subsection 1 or subdivision b of subsection 2 of section 12.1-20-03, section 12.1-22-01, subdivision b of subsection 2 of section 12.1-22-02, or an attempt to commit the offenses, and who receives a sentence of imprisonment is not eligible for release from confinement on any basis until ~~eighty-five~~sixty-five percent of the sentence imposed by the court has been served or the sentence is commuted.
2. In the case of an offender who is sentenced to a term of life imprisonment with opportunity for parole under subsection 1 of section 12.1-32-01, the term "sentence imposed" means the remaining life expectancy of the offender on the date of sentencing. The remaining life expectancy of the offender must be calculated on the date of sentencing, computed by reference to a recognized mortality table as established by rule by the supreme court.
3. Notwithstanding this section, an offender sentenced under subsection 1 of section 12.1-32-01 may not be eligible for parole until the requirements of that subsection have been met.
4. An offender who is convicted of a class C felony in violation of section 12.1-17-02, or an attempt to commit the offense, and who has received a sentence of imprisonment

1 or a sentence of imprisonment upon revocation of probation before August 1, 2015, is
2 eligible to have the offender's sentence considered by the parole board.

3 5. Notwithstanding subsection 4, this section does not apply to a sentence imposed upon
4 revocation of probation.

5 **SECTION 3. APPLICATION.** Section 1 of this Act applies to judgments of conviction for
6 offenses subject to section 12.1-32-09.1 entered on or after the effective date of this Act.

7 **SECTION 4. RETROACTIVE APPLICATION.** ~~This~~Section 2 of this Act applies retroactively
8 to judgments of conviction for offenses subject to section 12.1-32-09.1 entered after July 31,
9 1995.