Prepared by the Legislative Council staff for
Senator Paulson
February 6, 2023

PROPOSED AMENDMENTS TO SENATE BILL NO. 2107

Page 1, line 3, after the second comma insert "12.1-32-02.1,"

Page 1, remove line 5

Page 1, line 6, remove "terms for certain offenses;"

Page 2, line 3, replace "must be consecutive" with "may not be served concurrently"

Page 2, line 4, replace "a" with "at least the presumed minimum"

Page 2, line 26, replace "must be consecutive" with "may not be served concurrently"

Page 2, line 27, replace "a" with "at least the presumptive minimum"

Page 3, after line 6, insert:

"**SECTION 4. AMENDMENT.** Section 12.1-32-02.1 of the North Dakota Century Code is amended and reenacted as follows:

12.1-32-02.1. Mandatory prison terms for armed offenders.

1. Notwithstanding any other provision of this title, a term of imprisonment must be imposed upon an offender and served without benefit of parole when:

   a. In the course of committing an offense, the offender inflicts or attempts to inflict bodily injury upon another, threatens or menaces another with imminent bodily injury with a dangerous weapon, explosive, or destructive device~~, or firearm~~; or

   b. The offender possesses or has within immediate reach and control a dangerous weapon, explosive, or destructive device~~, or firearm~~ while in the course of committing any felony offense under subsection 1, 3, or 7 of section 19-03.1-23.

2. This requirement applies only when possession of a dangerous weapon, explosive, or destructive device~~, or firearm~~ has been charged and admitted or found to be true in the manner provided by law, and must be imposed as follows:

   a. If the offense for which the offender is convicted is a class AA, class A, or class B felony, the court shall impose a minimum sentence of four years' imprisonment.

   b. If the offense for which the offender is convicted is a class C felony, the court shall impose a minimum sentence of two years' imprisonment.

3. This section applies even when being armed is an element of the offense for which the offender is convicted.

4. An offender serving a sentence subject to this section may be eligible to participate in a release program under section 12-48.1-02 during the last six months of the offender's sentence."

Page 3, line 15, after the first "of" insert "section"

Page 3, line 15, after "or" insert "section"

Page 4, line 23, remove "must be"

Page 4, line 24, replace "consecutive" with "may not be served concurrently"

Page 4, line 25, replace the first "a" with "at least the presumptive minimum"

Page 5, line 28, after "justice" insert "is prohibited from owning a firearm or having a firearm in possession or under control"

Page 5, line 29, remove "A person who is an unlawful user of or addicted to any controlled substance as"

Page 5, remove line 30

Page 5, line 31, remove "g."

Page 5, line 31, after "States" insert "is prohibited from owning a firearm or having a firearm in possession or under control"

Page 6, line 1, replace "h." with "g."

Page 6, line 2, after "violence" insert "is prohibited from owning a firearm or having a firearm in possession or under control. For the purposes of this section a "misdemeanor crime of domestic violence" means the willful infliction of bodily injury against an individual who:

(1) Is a current or former spouse or intimate partner of the victim, or individual similarly situated to a spouse of the victim;

(2) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner; or

(3) Shares a child in common with the victim"

Page 6, line 3, replace "i." with "h."

Page 6, line 4, after "conditions" insert "is prohibited from owning a firearm or having a firearm in possession or under control"

Page 6, line 5, replace "j." with "i."

Page 6, line 5, replace "who" with "is prohibited from owning a firearm or having a firearm in possession or under control if that person"

Page 6, line 17, remove the overstrike over "~~subdivision~~"

Page 6, line 17, remove "subdivisions"

Page 6, line 17, after the sixth underscored comma insert "or"

Page 6, line 17, remove ", or j"

Page 6, line 18, after "d" insert "of subsection 1"

Page 6, line 20, after "prior" insert "felony"

Page 6, line 22, replace "12.1-19," with "or"

Page 6, line 22, replace "12.1-21" with "section 12.1-21-01"

Page 6, line 22, after the fourth underscored comma insert "chapter"

Page 6, line 22, remove "12.1-23, 12.1-24, 12.1-25, or"

Page 6, line 23, replace the second underscored comma with "or"

Page 6, line 24, remove ", or a tribal court"

Page 7, line 14, after "5." insert "For purposes of subsection 1, unless the pardon, expungement, or restoration of civil rights expressly provides that a person may not ship, transport, possess, or receive firearms, a person is not considered to have been convicted of a crime under subdivision a, b, or g of subsection 1 if:

a. The conviction has been expunged or set aside; or

b. The conviction is for an offense for which the person has been pardoned or has had civil rights restored if the law of the applicable jurisdiction provides for the loss of civil rights for the offense.

6."

Page 8, line 1, replace "and, consecutive" with ". A conviction under this section carries a presumptive minimum term of imprisonment which may not run concurrently"

Page 8, line 2, after the second "crime" insert ". The presumptive minimum term of imprisonment is"

Page 8, line 3, replace "Must be sentenced to a term of imprisonment of not" with "Not"

Page 8, line 4, replace "Must be sentenced to a term of imprisonment of not" with "Not"

Page 8, line 6, replace "Must be sentenced to a term of imprisonment of not" with "Not"

Page 8, line 10, remove "or is equipped with a silencer,"

Page 8, line 10, replace "person must be sentenced to a" with "presumptive minimum"

Page 8, line 11, replace the second "of" with "is"

Page 8, line 13, remove "must be"

Page 8, line 14, replace "sentenced to a" with "the presumptive minimum"

Page 8, line 14, replace the second "of" with "is"

Page 8, remove line 20

Page 8, line 23, after the underscored period insert "For purposes of this subsection, confinement does not include placement in a halfway house, treatment facility, or other community placement; and

c. If the sentencing court does not impose at least the presumptive minimum term of imprisonment for an offense under this section, the

court shall justify the reasoning for a departure from the presumptive minimum sentence within the judgment."

Page 8, line 24, replace "subsection, the term "drug" with "section:

a. "Brandish" means, with respect to a firearm, to display all or part of the firearm, or otherwise make the presence of the firearm known to another individual, in order to intimidate that individual, regardless of whether the firearm is directly visible to that individual.

b. "Drug"

Page 8, line 26, replace "6. For the purpose of this subsection, the term "felony" with "c. "Felony"

Page 8, line 29, after the fifth underscored comma insert "or"

Page 8, line 29, remove ", 12.1-22-03,"

Page 8, line 30, remove "12.1-22-04, 12.1-23-02, or 12.1-23-06"

Page 8, remove line 31

Renumber accordingly