

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
SECOND ENGROSSMENT**

REENGROSSED SENATE BILL NO. 2128

Introduced by

Judiciary Committee

(At the request of the Attorney General)

1 | A BILL for an Act to create and enact a new section to chapter 12-67 of the North Dakota
2 | Century Code, relating to tampering or destroying an approved electronic monitoring device; to
3 | amend and reenact sections 12-44.1-01, 12-47-18.1, 12-48.1-01, 12-48.1-02, 12-54.1-01,
4 | 12-54.1-03, 12.1-08-02, 12.1-08-06, 12.1-08-07, 12.1-08-08, 12.1-08-09, 12.1-17-01,
5 | 12.1-32-02.1, 12.1-32-09.1, and 39-10-71 of the North Dakota Century Code, relating to
6 | transparent sentencing of criminal offenders, transfer of persons between correctional facilities,
7 | work release eligibility and conditions for criminal offenders, sentences for assaulting and
8 | fleeing from law enforcement officers, sentences for escape, and sentences for preventing
9 | arrest; to provide a legislative management report; to provide a penalty; to provide an
10 | appropriation; and to provide for application.

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

12 | **SECTION 1. AMENDMENT.** Section 12-44.1-01 of the North Dakota Century Code is
13 | amended and reenacted as follows:

14 | **12-44.1-01. Definitions.**

15 | As used in this chapter:

- 16 | 1. "Administrator" means the sheriff, chief of police, administrator, superintendent,
17 | director, or other individual serving as the chief executive officer of a correctional
18 | facility.
- 19 | 2. "Adult lockup" means a secure temporary-hold nonresidential facility that does not
20 | hold individuals overnight and includes a facility with cuffing rails or cuffing benches.

- 1 3. "Correctional facility" means a city or county jail or detention center, regional
2 corrections center, or juvenile detention center for the detention or confinement of
3 persons in accordance with law. The use of the term does not imply and may not be
4 used to require the provision of services including treatment, counseling, career and
5 technical education, or other educational services, except as may otherwise be
6 required or provided for under this chapter. The term does not include transitional
7 facilities.
- 8 4. "Correctional facility staff" means correctional personnel with titles such as jailer,
9 deputy, counselor, correctional officer, or any other title, whose duties include the
10 ongoing supervision of inmates in a correctional facility.
- 11 5. "Court holding facility" means a secure facility, other than an adult correctional facility
12 or adult lockup, used to temporarily detain individuals before or after a detention
13 hearing or other court proceedings, and is not used to detain individuals overnight.
- 14 6. "Individual justice planning" means a process to identify, accommodate, and develop
15 appropriate consequences for behaviors caused by or related to an individual's mental
16 or cognitive impairment.
- 17 7. "Inmate" means any individual, whether sentenced or unsentenced, who is detained or
18 confined in a correctional facility. The term does not include an individual who is under
19 the supervision of the correctional facility and is supervised under home detention,
20 electronic monitoring, or a similar program that does not involve physical detention or
21 confinement in the facility.
- 22 8. "Jail" means a correctional facility, including a county or city jail or a regional
23 corrections center.
- 24 9. "Juvenile detention center" means a publicly maintained correctional facility for the
25 detention of juveniles. The term does not include the North Dakota youth correctional
26 center.
- 27 10. "Regional corrections center" means a correctional facility established and maintained
28 by more than one county or city, or a combination of counties and cities, for the
29 confinement of inmates.
- 30 11. "Trained correctional facility staff" means correctional personnel who have completed
31 a course of training approved by the peace officer standards and training board.

1 12. "Transitional facility" means a halfway house, assessment center, re-entry facility,
2 transitional living facility, or similar facility, operating under contract, in partnership
3 with, or under the direction of the department of corrections and rehabilitation or a
4 correctional facility, which offers education, counseling, or other programs, with
5 unsecured or minimum security housing, for offenders.

6 **SECTION 2. AMENDMENT.** Section 12-47-18.1 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **12-47-18.1. Transfer of persons between correctional facilities.**

9 TheSubject to statutory limitations, the director of the department of corrections and
10 rehabilitation may transfer an offender to any facility under the department's control or contract
11 to transfer an offender to another correctional facility for purposes of safety, security, discipline,
12 or medical care, ~~or when the director determines it may be in the best interests of the public, the~~
13 ~~offender, or the department.~~

14 **SECTION 3. AMENDMENT.** Section 12-48.1-01 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **12-48.1-01. ~~Director may provide certain~~Work release and education or rehabilitation**
17 **services for offenders - Report.**

18 1. The director of the department of corrections and rehabilitation may participate in
19 programs in which ~~offenders~~an offender committed to the legal and physical custody
20 of the department may be gainfully employed or participate in an educational or other
21 rehabilitation program ~~either in or outside facilities~~in the facility under the control of the
22 department ~~in which the offender resides.~~ ~~The~~For eligible offenders, the director may
23 obtain or contract with separate facilities with minimum security for housing offenders
24 granted release privileges. In areas where facilities are not within reasonable proximity
25 of the place of employment or training of an eligible offender so released, the director
26 may arrange for the housing of the offender in local confinement facilities.

27 2. For purposes of this chapter, an "eligible offender" means an offender who:
28 ~~a. In, in~~ accordance with section 12.1-32-09.1, has served eighty-five percent of the
29 offender's sentence of imprisonment or had the offender's sentences commuted;
30 or

1 ~~b. Is serving a sentence only for one or more violations of section 12.1-06.1-08,~~
2 ~~12.1-11-01, 12.1-11-07, 12.1-15-02, or 12.1-15-03; subdivision c of subsection 1~~
3 ~~of section 12.1-21-02; section 12.1-21-03.1; subdivision b of subsection 1 of~~
4 ~~section 12.1-21-05; section 12.1-21-06.1, 12.1-22-05, 12.1-23-02, 12.1-23-04,~~
5 ~~12.1-23-07, 12.1-23-08, or 12.1-24-01; subsection 7 of section 19-03.1-23; or~~
6 ~~section 19-03.4-03 or 39-08-01.~~

7 3. The department of corrections and rehabilitation shall provide to the attorney general
8 and the legislative council each quarter a report, including the names, locations, and
9 sentences of each individual who meets the criteria in ~~subdivision b of~~ subsection 2.

10 **SECTION 4. AMENDMENT.** Section 12-48.1-02 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **12-48.1-02. Conditions of eligibility ~~for participation in~~ release programs.**

- 13 1. An eligible offender, except an offender sentenced to a penalty of life imprisonment
14 without the opportunity for parole as the result of conviction of a class AA felony under
15 section 12.1-20-03 or of murder under section 12.1-16-01, ~~may be eligible for~~
16 ~~programs~~participate in a program outside ~~facilities~~a facility under the control of the
17 department of corrections and rehabilitation when the department determines, with a
18 high degree of reliability, the eligible offender is not a high security risk, not likely to
19 commit a crime of violence, not likely to escape, and is likely to be rehabilitated by
20 such program. An eligible offender may apply to the director of the department for
21 permission to participate in such programs.
- 22 2. The director of the department may authorize participation in outside programs for an
23 eligible offender who has ten years or less remaining on a sentence and has been
24 committed to the legal and physical custody of the department. The parole board, with
25 the approval of the director of the department, may authorize participation in outside
26 programs for eligible offenders who have more than ten years remaining on a
27 sentence and have been committed to the legal and physical custody of the
28 department.
- 29 3. The offender shall submit a signed application which must include a statement that the
30 eligible offender agrees to abide by all terms and conditions of the particular plan

1 adopted for the eligible offender, and must include such other information as the
2 parole board or the director of the department may require.

3 4. The parole board may approve, disapprove, or defer action on an application
4 approved by the director of the department. The director of the department or the
5 parole board may revoke approval of the application at any time after granting the
6 application. The department shall prescribe rules of conduct and treatment for all
7 eligible offenders on release programs and shall prescribe objective and subjective
8 criteria for which revocation of approval to participate in release programs is
9 mandatory. A rule violation indicating the eligible offender likely will commit a crime of
10 violence or is likely to attempt to escape must result in revocation of approval to
11 participate in release programs. The department shall document all violations of the
12 rules of conduct and treatment.

13 5. The director of the department may grant short leaves, not to exceed seventy-two
14 hours, to eligible offenders who have been committed to the legal and physical
15 custody of the department for ten years or less. The parole board, upon the approval
16 of the director of the department, may grant short leaves, not to exceed seventy-two
17 hours, to offenders committed to the legal and physical custody of the department for
18 more than ten years. Short leaves granted under this subsection may not be granted
19 consecutively to the same individual.

20 6. All rules adopted by the parole board and the director of the department relating to
21 release programs and short leaves must conform, to the extent allowable by law, with
22 executive order no. 11755 issued by the President of the United States.

23 **SECTION 5. AMENDMENT.** Section 12-54.1-01 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **12-54.1-01. Sentence reduction for good time.**

26 ~~Except as provided under~~Subject to the requirements of section 12.1-32-09.1, an offender
27 committed to the legal and physical custody of the department of corrections and rehabilitation
28 is eligible to earn sentence reductions based upon satisfactory fulfillment of performance criteria
29 established through department and penitentiary rules. Performance criteria ~~includes~~must
30 include participation in court-ordered or staff-recommended treatment and education programs
31 and good work performance. The department may credit an offender committed to the legal and

1 physical custody of the department who is eligible for sentence reduction up to five days good
2 time per month for each month of the sentence ~~imposed served, up to a maximum of fifteen~~
3 ~~percent of the offender's sentence. Sentence reductions may not be awarded before they are~~
4 ~~earned~~. The department may credit an offender with sentence reduction for time spent in
5 custody before sentencing and commitment to the legal and physical custody of the
6 department. The department may not credit an offender with any sentence reduction for time
7 spent on probation under the supervision and management of the department.

8 **SECTION 6. AMENDMENT.** Section 12-54.1-03 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **12-54.1-03. Meritorious conduct sentence reduction.**

11 ~~Except as provided under section 12-1-32-09.1, offenders~~Offenders committed to the legal
12 and physical custody of the department of corrections and rehabilitation may receive a lump
13 sum or a monthly rate of meritorious conduct sentence reduction for outstanding performance
14 or heroic acts ~~or as a special control and security measure~~, as provided by penitentiary and
15 department rules and upon written recommendation of a department multidisciplinary team.
16 Meritorious sentence reductions are in addition to sentence reductions under section
17 12-54.1-01 and may be made only after a written recommendation is made by the warden and
18 approved by the director of the department. Any sentence reduction ~~for special control or~~
19 ~~security measures~~under this section may not exceed ~~two days~~one day good time per month per
20 offender.

21 **SECTION 7.** A new section to chapter 12-67 of the North Dakota Century Code is created
22 and enacted as follows:

23 **Tampering or destroying an approved electronic monitoring device - Penalty.**

24 1. An individual may not tamper with, destroy, or remove an approved electronic
25 monitoring device.

26 2. An individual who violates this section is guilty of a class C felony. For a conviction
27 under this section, the court shall impose a minimum sentence of one year
28 imprisonment in a correctional facility to be served consecutively to any other term of
29 commitment, including incarceration due to revocation of probation or parole.

1 3. Notwithstanding subsection 2, for a conviction under this section, the court shall
2 impose a term of imprisonment to be served concurrently with a conviction for a
3 violation under section 12.1-08-06 arising from same incident.

4 4. No part of a sentence imposed under this section may be served at a transitional
5 facility

6 **SECTION 8. AMENDMENT.** Section 12.1-08-02 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **12.1-08-02. Preventing arrest or discharge of other duties.**

9 4. A person is guilty of a class A misdemeanor if, with intent to prevent a public servant
10 from effecting an arrest of himself or another for a misdemeanor or infraction, or from
11 discharging any other official duty, he creates a substantial risk of bodily injury to the public
12 servant or to anyone except himself, or employs means justifying or requiring substantial force
13 to overcome resistance to effecting the arrest or the discharge of the duty. A person is guilty of a
14 class C felony if, with intent to prevent a public servant from effecting an arrest of himself or
15 another for a class A, B, or C felony, he creates a substantial risk of bodily injury to the public
16 servant or to anyone except himself, or employs means justifying or requiring substantial force
17 to overcome resistance to effecting such an arrest.

18 ~~2.1.~~ It is a defense to a prosecution under this section that the public servant was not
19 acting lawfully, but it is no defense that the defendant mistakenly believed that the
20 public servant was not acting lawfully. A public servant executing a warrant or other
21 process in good faith and under color of law shall be deemed to be acting lawfully.

22 2. A sentence for a conviction under this section carries a penalty of at least fourteen
23 days' imprisonment and, if there is an underlying conviction, the imprisonment must be
24 consecutive to any sentence of imprisonment for ~~the~~an underlying conviction.

25 **SECTION 9. AMENDMENT.** Section 12.1-08-06 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **12.1-08-06. Escape.**

28 1. A person is guilty of escape if, without lawful authority, the person removes or attempts
29 to remove himself from official detention or fails to return to official detention following
30 temporary leave granted for a specified purpose or limited period. A person who is
31 subject to official detention under this section is guilty of escape, if while outside the

1 state of North Dakota and without lawful authority, the person removes or attempts to
2 remove himself from official detention, or fails to return to official detention following
3 temporary leave granted for a specified purpose or limited period, when at the time the
4 person is in the legal custody of a warden of the penitentiary, department of
5 corrections and rehabilitation, or other competent authority by virtue of a lawful
6 commitment to official detention.

7 2. Escape is a class B felony if the actor uses a firearm, destructive device, or other
8 dangerous weapon in effecting or attempting to effect the actor's removal from official
9 detention. Escape is a class C felony if:

10 a. The actor uses any other force or threat of force against another in effecting or
11 attempting to effect the actor's removal from official detention; or

12 b. The person escaping was in official detention by virtue of the person's arrest for,
13 or on charge of, a felony, or pursuant to the person's conviction of any offense.

14 Otherwise escape is a class A misdemeanor.

15 3. The court shall impose a minimum sentence of one year imprisonment in a
16 correctional facility for an individual convicted of a felony under subdivision b of
17 subsection 2 to be served consecutively to any other term of imprisonment, including
18 incarceration due to revocation of probation or parole. No part of a sentence imposed
19 under this subsection may be served at a transitional facility.

20 4. Notwithstanding subsection 3, for a conviction under this section, the court shall
21 impose a term of imprisonment to be served concurrently with a conviction for a
22 violation of section 7 of this Act arising from the same incident.

23 5. In this section:

24 a. "Conviction of an offense" does not include an adjudication of juvenile
25 delinquency.

26 b. "Official detention" means arrest, custody following surrender in lieu of arrest,
27 detention in any facility for custody of persons under charge or conviction of an
28 offense or alleged or found to be delinquent, detention under a law authorizing
29 civil commitment in lieu of criminal proceedings or authorizing such detention
30 while criminal proceedings are held in abeyance, detention for extradition, home
31 detention as authorized by chapter 12-67, or custody for purposes incident to the

1 foregoing, including transportation, medical diagnosis or treatment, court
2 appearances, work, and recreation, or being absent without permission from any
3 release granted while under custody of a sentence such as work or education
4 release, community confinement, or other temporary leaves from a correctional
5 or placement facility. "Official detention" does not include supervision on
6 probation or parole or constraint incidental to release.

7 4.6. Irregularity in bringing about or maintaining detention, or lack of jurisdiction of the
8 committing or detaining authority, shall not be a defense to a prosecution under this
9 section if the escape is from the penitentiary or other facility used for official detention
10 or from detention pursuant to commitment by an official proceeding. In the case of
11 other detentions, irregularity or lack of jurisdiction shall be an affirmative defense if:
12 a. The escape involved no substantial risk of harm to the person or property of
13 anyone other than the detainee; or
14 b. The detaining authority did not act in good faith under color of law.

15 5.7. The jurisdiction of a violation of this section when the person is in the legal custody of
16 a warden of the penitentiary, the department of corrections and rehabilitation, or other
17 lawful authority is in the county where the violation occurred if the violation occurred
18 within this state, and is in Burleigh County or in the county in which the order
19 committing the person to official detention was entered if the violation occurred outside
20 this state.

21 **SECTION 10. AMENDMENT.** Section 12.1-08-07 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **12.1-08-07. Public servants permitting escape.**

24 A public servant concerned in official detention pursuant to process issued by a court,
25 judge, or magistrate is guilty of a class A misdemeanor if he recklessly permits an escape and is
26 guilty of a class B misdemeanor if he negligently permits an escape. "Official detention" has the
27 meaning prescribed in subsection 35 of section 12.1-08-06.

28 **SECTION 11. AMENDMENT.** Section 12.1-08-08 of the North Dakota Century Code is
29 amended and reenacted as follows:

1 **12.1-08-08. Inciting or leading riot in detention facilities.**

2 1. A person is guilty of a class C felony if, with intent to cause, continue, or enlarge a riot,
3 he solicits a group of five or more persons to engage in a riot in a facility used for
4 official detention or engages in conduct intended to serve as the beginning of or signal
5 for such riot, or participates in planning such riot, or, in the course of such riot, issues
6 commands or instructions in furtherance thereof.

7 2. In this section:

8 a. "Official detention" has the meaning prescribed in subsection 35 of section
9 12.1-08-06.

10 b. "Riot" means a disturbance involving an assemblage of five or more persons
11 which by tumultuous and violent conduct creates grave danger of damage or
12 injury to property or persons or substantially obstructs the operation of the facility
13 or other government function.

14 **SECTION 12. AMENDMENT.** Section 12.1-08-09 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **12.1-08-09. Introducing or possessing contraband useful for escape.**

17 1. A person is guilty of a class C felony if he unlawfully provides an inmate of an official
18 detention facility with any tool, weapon, or other object which may be useful for
19 escape. Such person is guilty of a class B felony if the object is a firearm, destructive
20 device, or other dangerous weapon.

21 2. An inmate of an official detention facility is guilty of a class C felony if he unlawfully
22 procures, makes, or otherwise provides himself with, or has in his possession, any
23 tool, weapon, or other object which may be useful for escape. Such person is guilty of
24 a class B felony if the object is a firearm, destructive device, or other dangerous
25 weapon.

26 3. In this section:

27 a. "Official detention" has the meaning prescribed in subsection 35 of section
28 12.1-08-06.

29 b. "Unlawfully" means surreptitiously or contrary to a statute or regulation, rule, or
30 order issued pursuant thereto.

1 **SECTION 13. AMENDMENT.** Section 12.1-17-01 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **12.1-17-01. Simple assault.**

4 1. A person is guilty of an offense if that person:

5 a. Willfully causes bodily injury to another human being; or

6 b. Negligently causes bodily injury to another human being by means of a firearm,
7 destructive device, or other weapon, the use of which against a human being is
8 likely to cause death or serious bodily injury.

9 2. The offense is:

10 a. A class C felony when the victim is a peace officer or correctional institution
11 employee acting in an official capacity, which the actor knows to be a fact; an
12 employee of the state hospital acting in the course and scope of employment,
13 which the actor knows to be a fact, and the actor is an individual committed to or
14 detained at the state hospital pursuant to chapter 25-03.3; a person engaged in a
15 judicial proceeding; or a member of a municipal or volunteer fire department or
16 emergency medical services personnel unit or emergency department worker in
17 the performance of the member's duties.

18 b. A class B misdemeanor except as provided in subdivision a.

19 3. A sentence for a conviction under subdivision a of subsection 2 carries a penalty of at
20 least thirty days' imprisonment and, if there is an underlying conviction, the
21 imprisonment must be consecutive to any sentence of imprisonment for the an
22 underlying conviction.

23 **SECTION 14. AMENDMENT.** Section 12.1-32-02.1 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **12.1-32-02.1. Mandatory prison terms for armed offenders.**

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

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

- 1 b. An offender prohibited from possessing a firearm under section 62.1-02-01
- 2 possesses a firearm while in the course of committing any felony offense under
- 3 subsection 1, ~~or 3, or 7~~ of section 19-03.1-23.
- 4 2. This requirement applies only when possession of a dangerous weapon, explosive,
- 5 destructive device, or firearm has been charged and admitted or found to be true in
- 6 the manner provided by law, and must be imposed as follows:
- 7 a. If the offense for which the offender is convicted is a class AA, class A, or class B
- 8 felony, the court shall impose a minimum sentence of four years' imprisonment.
- 9 b. If the offense for which the offender is convicted is a class C felony, the court
- 10 shall impose a minimum sentence of two years' imprisonment.
- 11 3. This section applies even when being armed is an element of the offense for which the
- 12 offender is convicted.
- 13 4. This section applies even if the offender is prosecuted for a violation of section
- 14 62.1-02-01 for the same conduct.
- 15 5. An offender serving a sentence subject to this section [may be eligible to participate in](#)
- 16 [a release program under section 12-48.1-02 during the last six months of the](#)
- 17 [offender's sentence](#)~~is not an eligible offender under subdivision b of subsection 2 of~~
- 18 [section 12-48.1-01](#).

19 **SECTION 15. AMENDMENT.** Section 12.1-32-09.1 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **12.1-32-09.1. ~~Sentencing of violent offenders~~ Truth in sentencing.**

- 22 1. Except as provided under ~~section~~sections 12-48.1-01 and 12-48.1-02 and pursuant to
- 23 ~~rules adopted by the department of corrections and rehabilitation~~, an offender who is
- 24 sentenced as a dangerous special offender or habitual offender under section
- 25 12.1-32-09, or is convicted of a crime in violation of section 12.1-16-01, 12.1-16-02,
- 26 subsection 2 of section 12.1-17-02, section 12.1-18-01, subdivision a of subsection 1
- 27 or subdivision b of subsection 2 of section 12.1-20-03, section 12.1-22-01,
- 28 subdivision b of subsection 2 of section 12.1-22-02, or an attempt to commit the
- 29 offenses, and who receives a sentence of imprisonment is not eligible for release from
- 30 confinement on any basis until eighty-five percent of the sentence imposed by the

1 court has been served or the sentence is commuted. ~~All other offenders are not~~
2 ~~eligible for release from confinement on any basis until:~~

3 ~~a. Fifty percent of the sentence imposed by the court is served, not including any~~
4 ~~time credited under section 12-54.1-01, and the offender is paroled;~~

5 ~~b. The offender's sentence is commuted and the offender served the commuted~~
6 ~~sentence;~~

7 ~~c. Eighty-five percent of the sentence imposed by the court is served; or~~

8 ~~d. The offender is pardoned.~~

9 2. In the case of an offender who is sentenced to a term of life imprisonment with
10 opportunity for parole under subsection 1 of section 12.1-32-01, the term "sentence
11 imposed" means the remaining life expectancy of the offender on the date of
12 sentencing. The remaining life expectancy of the offender must be calculated on the
13 date of sentencing, computed by reference to a recognized mortality table as
14 established by rule by the supreme court.

15 3. Notwithstanding this section, an offender sentenced under subsection 1 of section
16 12.1-32-01 may not be eligible for parole until the requirements of that subsection
17 have been met.

18 4. ~~An offender who is convicted of a class C felony in violation of section 12.1-17-02, or~~
19 ~~an attempt to commit the offense, and who has received a sentence of imprisonment~~
20 ~~or a sentence of imprisonment upon revocation of probation before August 1, 2015, is~~
21 ~~eligible to have the offender's sentence considered by the parole board.~~

22 5. ~~Notwithstanding subsection 4, this section does not apply to a sentence imposed upon~~
23 ~~revocation of probation. For purposes of this section "confinement" does not include~~
24 ~~placement or residence in a transitional facility, halfway house, or similar facility,~~
25 ~~operating under contract, in partnership with, or under the direction of the department~~
26 ~~of corrections and rehabilitation or other correctional facility, with unsecured or~~
27 ~~minimum security housing, except during the last six months before an offender's~~
28 ~~release from incarceration.~~

29 5. Notwithstanding subsection 4, placement or residence at the James River correctional
30 center, Missouri River correctional center, Heart River correctional center, or Dakota
31 women's correctional and rehabilitation center, or county jail is "confinement" for

1 purposes of this section, provided the order to place the inmate in the center or jail is
2 approved by an identifiable employee of the department of corrections and
3 rehabilitation after the employee determines, with reasonable certainty, the placement
4 will not pose a danger to the public.

5 **SECTION 16. AMENDMENT.** Section 39-10-71 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **39-10-71. Fleeing or attempting to elude a peace officer - Penalty.**

8 1. A driver of a motor vehicle who willfully fails or refuses to bring the vehicle to a stop, or
9 who otherwise flees or attempts to elude, in any manner, a pursuing police vehicle or
10 peace officer, when given a visual or audible signal to bring the vehicle to a stop, is
11 guilty of a:

12 a. Class A misdemeanor for a first offense and a class C felony for a subsequent
13 offense within three years;

14 b. Class C felony if the driver violates this section while willfully fleeing during or
15 after the commission of a felony; or

16 c. Class C felony if, at any time during the flight or pursuit, the driver willfully
17 operates the vehicle in a manner constituting an inherent risk of death or serious
18 bodily injury to a third person.

19 2. A signal complies with this section if the signal is perceptible to the driver and:

20 a. If given from a vehicle, the signal is given by hand, voice, emergency light, or
21 siren, and the stopping vehicle is appropriately marked showing it to be an official
22 police vehicle; or

23 b. If not given from a vehicle, the signal is given by hand, voice, emergency light, or
24 siren, and the officer is in uniform or prominently displays the officer's badge of
25 office.

26 3. A felony conviction under this section carries a penalty of at least thirty days'
27 imprisonment and, if there is an underlying conviction, the imprisonment must be
28 consecutive to any sentence of imprisonment for the underlying conviction.

29 4. Upon a motion by a state's attorney, a court may order that a motor vehicle used in the
30 commission of a violation of this section be impounded by a peace officer for up to six
31 months.

1 | **SECTION 17. APPROPRIATION - DEPARTMENT OF CORRECTIONS AND**
2 | **REHABILITATION - ELECTRONIC MONITORING IN TRANSITIONAL FACILITIES -**
3 | **ONE-TIME FUNDING.** There is appropriated out of any moneys in the general fund in the state
4 | treasury, not otherwise appropriated, the sum of \$600,000, or so much of the sum as may be
5 | necessary, to the department of corrections and rehabilitation for the purpose of using electronic
6 | monitoring in transitional facilities, for the biennium beginning July 1, 2025, and ending June 30,
7 | 2027.

8 | **SECTION 18. APPLICATION.** Sections 1, 2, 3, 4, 5, 6, ~~914~~, and ~~4015~~ of this Act apply to
9 | individuals who are charged after July 31, 2025, with violations subject to the provisions of this
10 | Act.