

HB 1225
Senate Appropriations – Human Resources Division
Rep. Lawrence R. Klemin
April 4, 2025

Mr. Chairman and members of the Committee. I am Lawrence R. Klemin, Representative for District 47 in Bismarck. I introduced this bill at the request of the North Dakota State's Attorneys Association. HB 1225 was originally two bills but was combined into one bill at the suggestion of Legislative Council because both bills are a part of the criminal code in Title 12.1.

Section 1 relates to **reckless endangerment**. Currently there are two levels of penalty, a Class C felony if the offender acted with extreme indifference to human life, otherwise it is a Class A misdemeanor. The bill increases the penalty to a Class B felony if the individual used a firearm in committing the offense of reckless endangerment.

The reason for the increase in penalty is because of the rise in offenses using guns. There have been situations where guns are being shot inside crowded bars, inside hotels where bullets penetrate the walls into the next room and injure other guests, guns fired on the street with innocent people standing around, and guns being fired into crowds. There are also instances of drive by shootings into residences and apartment buildings without regard for possible injury to the people inside. This is extreme indifference to the value of human life while using a firearm. With this amendment in the bill, the penalty for reckless endangerment with the use of a firearm for a Class B felony would be a mandatory prison term of four years without parole.

Section 12.1-32-02.1 relates to mandatory prison terms for armed offenders and provides, in part, 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, destructive device, or **firearm**; or

b. An offender prohibited from possessing a firearm under section 62.1-02-01 [prior felony conviction involving violence] possesses a firearm while in the course of committing any felony offense under subsection 1, 3, or 7 of section 19-03.1-23 [drug dealer].

2. **This requirement** applies only when possession of a dangerous weapon, explosive, 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.

Section 2 of the bill amends Section 12.1-32-09(1)(c) relating to **habitual offenders**. If the court finds that the individual is an habitual offender, the court can impose an extended sentence. An individual is an habitual offender under current law if the offender has been convicted of two felonies of Class C or above in North Dakota or in another state or federal court. The maximum penalty in North Dakota for a Class C felony is five years. The problem is that under the laws in some other states, the maximum penalty for a Class C felony may be less than five years. Consequently, a Class C felony conviction in North Dakota can't be combined with a Class C felony conviction in another state that has a lesser sentence for purpose of the habitual offender statute. The court can't sentence the individual as an habitual offender. However, taking out the North Dakota reference to a "**Class C**" felony will allow the court to consider any felony from another state without the need to match maximum penalties to sentence an offender as an habitual offender.

In some cases, criminals in North Dakota with two felony convictions are being treated more harshly than criminals from other states with two felony convictions. Criminals coming into North Dakota should be treated the same as criminals in North Dakota – a felony is a felony regardless of the maximum punishment.

Fiscal Note

The fiscal note prepared by DOCR is only for Section 1 of the bill relating to reckless endangerment. If you consider amending the bill due to the fiscal note, please don't also remove or amend Section 2 for this reason. The fiscal note is for the 2027-2029 biennium. There is no fiscal effect for the 2025-2027 biennium.

Rep. Lawrence R. Klemin
District 47, Bismarck