

Introduced by

Representative Koppelman

1 A BILL for an Act to amend and reenact subsection 3 of section 12.1-32-07 of the North Dakota
2 Century Code, relating to possession of a firearm while on probation; to provide for application;
3 and to provide an effective date.

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

5 **SECTION 1. AMENDMENT.** Subsection 3 of section 12.1-32-07 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 3. The court shall provide as an explicit condition of every probation that the defendant
8 may not possess a firearm, destructive device, or other dangerous weapon while the
9 defendant is on probation. ~~Except when the offense is for a misdemeanor offense~~
10 ~~under section 12.1-17-01, 12.1-17-01.1, 12.1-17-01.2, 12.1-17-05, or 12.1-17-07.1, or~~
11 ~~chapter 14-07.1, the court may waive this condition of probation if the defendant has~~
12 ~~pled guilty to, or has been found guilty of, a misdemeanor or infraction offense, the~~
13 ~~misdemeanor or infraction is the defendant's first offense, and the court has made a~~
14 ~~specific finding on the record before imposition of a sentence or a probation that there~~
15 ~~is good cause to waive the condition. The court may not waive this condition of~~
16 ~~probation if the court places the defendant under the supervision and management of~~
17 ~~the department of corrections and rehabilitation. The court may not prohibit the~~
18 ~~defendant from possessing a firearm, destructive device, or other dangerous weapon~~
19 ~~while on probation for any other misdemeanor offense or infraction.~~ The court shall
20 provide as an explicit condition of probation that the defendant may not willfully
21 defraud a urine test administered as a condition of probation. Unless waived on the
22 record by the court, the court shall also provide as a condition of probation that the
23 defendant undergo various agreed-to community constraints and conditions as

1 intermediate measures of the department of corrections and rehabilitation to avoid
2 revocation, which may include:

- 3 a. Community service;
- 4 b. Day reporting;
- 5 c. Curfew;
- 6 d. Home confinement;
- 7 e. House arrest;
- 8 f. Electronic monitoring;
- 9 g. Residential halfway house;
- 10 h. Intensive supervision program;
- 11 i. Up to five nonsuccessive periods of incarceration during any twelve-month
12 period, each of which may not exceed forty-eight consecutive hours;
- 13 j. Participation in the twenty-four seven sobriety program; or
- 14 k. One period of incarceration during a period of probation not to exceed thirty
15 consecutive days in lieu of a petition for revocation of probation.

16 **SECTION 2. APPLICATION.** This Act applies to a sentence to probation or any sentence
17 including a period of probation imposed after the effective date of this Act.

18 **SECTION 3. EFFECTIVE DATE.** This Act becomes effective immediately upon its filing with
19 the secretary of state.