

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

SENATE BILL NO. 2116
(Judiciary Committee)
(At the request of the Department of Corrections and Rehabilitation)

AN ACT to create and enact subsection 8 to section 12-47-21 and a new subsection to section 12-47-36 of the North Dakota Century Code, relating to wireless electronic communications devices on or within premises under the control of the department of corrections and rehabilitation and records of offenders; to amend and reenact subsection 7 of section 12-47-21 of the North Dakota Century Code, relating to the definition of contraband; to repeal section 12-47-38 of the North Dakota Century Code, relating to contracting with county jails to house female prisoners; to provide a penalty; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Subsection 8 to section 12-47-21 of the North Dakota Century Code is created and enacted as follows:

8. a. It is unlawful for a penitentiary inmate to willfully manufacture, possess, or use a wireless electronic communications device on or within any premises under the control of the department of corrections and rehabilitation or any of its divisions except for law enforcement purposes.
- b. It is unlawful for any person to willfully deliver, or possess with intent to deliver, a wireless electronic communications device to a penitentiary inmate or to any person for redelivery to a penitentiary inmate, or to allow a penitentiary inmate to possess or use a wireless electronic communications device, on or within any premises under the control of the department of corrections and rehabilitation or any of its divisions except for law enforcement purposes.
- c. A violation of this subsection is a class C felony.

SECTION 2. AMENDMENT. Subsection 7 of section 12-47-21 of the North Dakota Century Code is amended and reenacted as follows:

7. As used in this section, "controlled substance" is as defined in subsection 6 of section 19-03.1-01 and includes counterfeit substances as defined in subsection 7 of section 19-03.1-01. As used in this section, "willfully" is as defined in section 12.1-02-02. As used in this section, "alcohol" and "alcoholic beverage" are as defined in section 5-01-01. As used in this section, "tobacco" means any form of tobacco, including cigarettes, cigars, snuff, or tobacco in any form in which it may be used for smoking or chewing. As used in this section, a wireless electronic communications device includes a cellular telephone, personal digital assistant, pager, mobile broadband card, internet router, digital camera, two-way radio, modem, or any other electronic device capable of wireless transmission, reception, interception, or storage of oral communications, text, electronic mail, video or photograph images, data signals, or radio communications, and also includes a component of a wireless electronic device, regardless whether the component itself is able to transmit, store, or receive oral communications, text, electronic mail, video or photograph images, data signals, or radio communications. A wireless electronic communications device does not include a medically prescribed device or any other device approved by the department.

SECTION 3. A new subsection to section 12-47-36 of the North Dakota Century Code is created and enacted as follows:

The medical, psychological, and treatment records of the department relating to persons in the custody or under the supervision and management of the division of adult services of the department of corrections and rehabilitation may be disclosed for the purpose of conducting research and educational activities. A person conducting research or educational activities may not redisclose identifying information received under this subsection.

SECTION 4. REPEAL. Section 12-47-38 of the North Dakota Century Code is repealed.

SECTION 5. EMERGENCY. This Act is declared to be an emergency measure.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2116 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 45 Nays 0 Absent 2

President of the Senate

Secretary of the Senate

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 83 Nays 0 Absent 11

Speaker of the House

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,

at ___ o'clock _____ M.

Secretary of State