

Sixty-fourth  
Legislative Assembly  
of North Dakota

**BILL NO.**

Introduced by

Representative Klemin

1 A BILL for an Act to create and enact a new section to chapter 12.1-32 of the North Dakota  
2 Century Code, relating to exceptions from mandatory minimum sentences and the use of funds  
3 saved due to those exceptions.

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

5 **SECTION 1.** A new section to chapter 12.1-32 of the North Dakota Century Code is created  
6 and enacted as follows:

**Mandatory sentences - Exceptions - Reinvestment of savings.**

7     1. Notwithstanding any other provision of law, when sentencing an individual convicted of  
8         a violation for which there is a mandatory minimum sentence, the court may depart  
9         from the applicable mandatory minimum sentence if the court, in giving due regard to  
10         the nature of the crime, history and character of the defendant, and the defendant's  
11         chances of successful rehabilitation, finds substantial and compelling reasons on the  
12         record that imposition of the mandatory minimum sentence would result in substantial  
13         injustice to the defendant and that the mandatory minimum sentence is not necessary  
14         for the protection of the public.

15     2. Subsection 1 does not apply if:

- 16         a. The defendant used, attempted to use, or threatened to use serious physical  
17             force against another individual or caused serious physical injury of another  
18             individual;
- 19         b. The defendant intentionally used a firearm in a manner that caused physical  
20             injury during the commission of the offense;
- 21         c. The defendant committed an offense that involved any sexual contact against a  
22             minor, other than an offense involving sexual conduct in which the victim was at

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- 1           least thirteen years old and the offender was not more than four years older than  
2           the victim and the sexual conduct was consensual;  
3       d. The defendant has been convicted for a substantially similar offense during the  
4           ten-year period before the commission of the offense; or  
5       e. The defendant was the leader, manager, or supervisor of others in a continuing  
6           criminal enterprise.  
7       3. Upon departing from a mandatory minimum sentence, a judge shall report to the state  
8           court administrator who shall make available in electronic form and on the world wide  
9           web an annual report as to the number of departures from mandatory minimum  
10          sentences made by each judge in the state.  
11       4. In preparing budget data under section 54-44.1-06, the director of the budget shall  
12           estimate the general fund savings realized as a result of subsection 1 during the  
13           present biennium and shall include in draft appropriation acts for the next biennium  
14           funding equivalent to twenty-five percent of the estimated biennial savings to be used  
15           to advance evidence-based practices shown to reduce recidivism.