

HOUSE BILL NO. 1490

Introduced by

Representatives Ista, Hagert, Heinert, Louser, O'Brien, Schauer, Schreiber-Beck

Senator Dwyer

1 A BILL for an Act to amend and reenact section 12.1-32-07.4 of the North Dakota Century
2 Code, relating to presumptive probation; and to provide a penalty.

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

4 **SECTION 1. AMENDMENT.** Section 12.1-32-07.4 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **12.1-32-07.4. Presumptive probation.**

7 1. The sentencing court shall sentence an individual who has pled guilty to, or has been
8 found guilty of, a class C felony offense or class A misdemeanor offense to a term of
9 probation at the time of initial sentencing, except for an offense involving domestic
10 violence; an offense subject to registration under section 12.1-32-15; an offense
11 involving a firearm or dangerous weapon, explosive, or incendiary device; or if a
12 mandatory term of incarceration is required by law.

13 2. The sentencing court may impose a sentence of imprisonment if the sentencing court
14 finds there are aggravating factors present to justify a departure from presumptive
15 probation. Aggravating factors include:

16 a. That the individual has plead guilty to, or has been found guilty of, a felony
17 offense or class A misdemeanor offense prior to the date of the commission of
18 the offense or offenses charged in the complaint, information, or indictment;

19 b. The age and vulnerability of the victim, whether the individual was in a position of
20 responsibility or trust over the victim, or whether the individual abused a public
21 position of responsibility or trust; or

22 c. If the individual used force, threats, or coercion in the commission of the offense.

23 3. This section does not preclude the sentencing court from deferring imposition of
24 sentence in accordance with subsection 4 of section 12.1-32-02 or sentencing an

Sixty-eighth
Legislative Assembly

- 1 individual to a term of incarceration with credit for time spent in custody if execution of
- 2 the sentence is suspended.