

Sixty-Fourth
Legislative Assembly
of North Dakota

_____ BILL NO. _____

Introduced by:

A BILL for an Act to amend and reenact section 19-03.1-45 of the North Dakota Century Code, relating to probation and treatment; to amend and reenact sections 19-03.4-03 and 19-03.4-04 of the North Dakota Century Code, relating to drug paraphernalia; and to repeal section 19-03.1-22.3, relating to ingestion of controlled substances, and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA

SECTION 1. AMENDMENT. Section 19-03.1-45 of the North Dakota Century Code is amended and reenacted as follows:

1. If a person has pled guilty or has been found guilty of a felony violation of subsection 7 of section 19-03.1-23, if that person has not previously pled guilty or been found guilty of any offense involving the use, possession, manufacture, or delivery of a controlled substance or of any other felony offense of this or another state or the federal government, ~~and if the court imposes probation,~~ the court shall impose a period of probation ~~of not less than eighteen months in conjunction~~ up to the length authorized under section 12.1-32-06.1 with a suspended execution of a sentence of imprisonment, a sentence to probation, or an order deferring imposition of sentence.
2. Upon a plea or finding of guilt of a person subject to the provisions of subsection 1, the court shall order a presentence investigation to be conducted by the department. The presentence investigation shall include a drug and alcohol evaluation conducted by a licensed addiction counselor.
3. If the licensed addiction counselor recommends treatment, the court shall require the person to participate in an addiction program licensed by the department of human services as a condition of the probation. The court shall commit the person to treatment through a licensed addiction program until determined suitable for discharge by the court. The term of treatment ~~shall~~ may not exceed eighteen months and may include an aftercare plan.

During the commitment and while subject to probation, the person shall be supervised by the department.

4. If the person fails to participate in, or has a pattern of intentional conduct that demonstrates the person's refusal to comply with or participate in the treatment program, as established by judicial finding, the person shall be subject to revocation of the probation. Notwithstanding subsection 2 of section 12.1-32-02, the amount of time participating in the treatment program under this section is not "time spent in custody and will not be a credit against any sentence to term of imprisonment.
5. In this section:
 - a. "Department" means the department of corrections and rehabilitation; and
 - b. "Licensed addiction counselor" is a person licensed pursuant to section 43-45-05.1.

SECTION 2. AMENDMENT. Section 19-03.4-03 of the North Dakota Century Code is amended and reenacted as follows:

A person may not use or possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of chapter 19-03.1. Any person violating this section is guilty of a class ~~C felony~~ A misdemeanor if the drug paraphernalia is used, or possessed with intent to be used, to manufacture, compound, convert, produce, process, prepare, test, inject, ingest, inhale, or analyze a controlled substance, other than marijuana, classified in schedule I, II, or III of chapter 19-03.1. Otherwise, a violation of this section is a class ~~A~~ B misdemeanor.

SECTION 3. AMENDMENT. Section 19-03.4-04 of the North Dakota Century Code is amended and reenacted as follows:

A person may not deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, if that person knows or should reasonably know that the drug paraphernalia will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of chapter 19-

03.1. Any person violating this section is guilty of a class ~~C felony~~A misdemeanor if the drug paraphernalia will be used to manufacture, compound, convert, produce, process, prepare, test, inject, ingest, inhale, or analyze a controlled substance, other than marijuana, classified in schedule I, II, or III of chapter 19-03.1. Otherwise, a violation of this section is a class AB misdemeanor.

SECTION 4. REPEAL. Section 19-03.1-22.3 of the North Dakota Century Code is repealed