

## CLASSIFICATION OF CRIMINAL OFFENSES STUDY - BACKGROUND MEMORANDUM

Senate Concurrent Resolution No. 4051 (copy attached as an appendix) directs the Legislative Council to study the classification of criminal offenses throughout the North Dakota Century Code (NDCC). The testimony on Senate Concurrent Resolution No. 4051 indicated that a proper classification of offenses would provide for equitable punishment based upon the elements of the offense committed and that the appropriate classification of offenses may result in more efficient use of the state's resources in determining levels of punishment, rehabilitation, and the appropriate alternatives to incarceration.

### BACKGROUND

In North Dakota, classification of criminal offenses commences with the Constitution of North Dakota. Section 7 of Article I of the Constitution provides that "[e]very citizen of this state shall be free to obtain employment wherever possible, and any person, corporation, or agent thereof, maliciously interfering or hindering in any way, any citizen from obtaining or enjoying employment already obtained, from any other corporation or person, shall be deemed guilty of a misdemeanor." Section 10 of Article I of the Constitution refers to the term "felony" and provides that no person shall be proceeded against for a felony except by indictment, until another procedure is provided by law.

Section 11 of Article XI provides that "[a]ll officers not liable to impeachment shall be subject to removal for misconduct, malfeasance, **crime** or **misdemeanor** in office, or for habitual drunkenness or gross incompetency in such manner as may be provided by law."

Section 11 of Article I, dealing with bail for criminal offenses, refers to "capital offenses" which need not be bailable where proof of commission "is evident or the presumption great."

The statutory classification of crimes in North Dakota is primarily contained in NDCC Title 12.1; however, a number of felonies, misdemeanors, and infractions can be found throughout the Century Code.

### PREVIOUS STUDIES

During the 1971-72 interim, the Judiciary "B" Committee, pursuant to House Concurrent Resolution No. 3050, was assigned to review and revise the substantive criminal statutes of North Dakota, or so much thereof as may reasonably be revised during the 1971-72 interim. The committee consisted of both legislative and citizen members. The committee's work was funded in part by a federal grant obtained through the Combined Law Enforcement Council. The committee recommended Senate Bill No. 2045,

which created a new criminal code defining and classifying criminal offenses, providing defenses to criminal charges, and delineating sentencing criteria. The bill abolished the death penalty, eliminated mandatory minimum sentences, restricted the use of deadly force in apprehending alleged criminals, and consolidated theft laws. The bill was enacted by the 1973 Legislative Assembly.

The 1973-74 interim Judiciary "A" Committee, pursuant to House Concurrent Resolution No. 3006, continued the substantive and formal study and revision of the criminal statutes. As a result of this study, the committee recommended Senate Bill No. 2040. The bill amended the Criminal Code enacted in 1973, created an offense classification known as an infraction, clarified certain offense definitions, expanded the instances wherein the use of force by peace officers is justified, and created a separate fine schedule for business organizations. The bill also made several changes in the sentencing code. The bill was passed by the 1975 Legislative Assembly.

During the 1987-88 interim, the Judiciary Committee, pursuant to Senate Concurrent Resolution No. 4022, studied the criminal sentencing statutes in misdemeanor and felony cases. The committee recommended House Bill No. 1052 to consolidate NDCC Chapter 12-53, relating to suspended execution of sentences, with Chapter 12.1-32, which provides for the classification of offenses, penalties, and a broad array of sentencing alternatives available to the court. According to the Judiciary Committee's final report, the bill was intended to clarify a court's authority to impose a sentence if conditions of probation are violated following the suspended execution of a sentence and to clarify the status of a person receiving a deferred imposition of sentence. The bill was also intended to address conflicts and inconsistencies existing in the sentencing statutes. The bill was passed by the 1989 Legislative Assembly.

The 1997-98 interim Criminal Justice Committee, pursuant to Senate Concurrent Resolution No. 4049, was directed to study the feasibility and desirability of revising the sections of the Century Code which relate to sexual offenses. The committee recommended a bill that would have required a mark on the driver's license of a felonious sexual offender and an individual who has committed a felony against a child. The bill failed to pass the House.

### 1999 LEGISLATION

The 1999 legislation relating to the criminal classifications may be classified in these areas--sentencing; sexual offenses; and new offenses.

## Sentencing

**Senate Bill No. 2305** expanded the meaning of "communicates in writing" for the purposes of the crime of harassment to include electronic transmissions, electronic mail, facsimile, or other similar means. The bill also permitted a court to impose as a condition of probation that a person refrain from any subscription to, access, or use of the Internet.

## Sexual Offenses

**Senate Bill No. 2299** provided for the registration requirements for an individual who has pled guilty or been found guilty of a sexual offense, including juvenile delinquent adjudications of equivalent offenses.

## New Offenses

**House Bill No. 1184** made it a Class A misdemeanor to give false information or a false report to a law enforcement officer. The bill also provided that every applicant for a position as a law enforcement officer must be requested to state in writing whether the applicant has ever pled or been found guilty of a felony.

**House Bill No. 1295** added butane, fluorocarbon, and nitrous oxide to the list of volatile chemicals for which the inhalation of vapors from a listed chemical is prohibited.

**House Bill No. 1379** provided that a person is guilty of an offense if the person removes, damages, or obstructs any telephone or telephone line so as to interfere with an emergency telephone call. The offense is a Class C felony if done intentionally and a Class A misdemeanor if done knowingly or recklessly.

**Senate Bill No. 2125** changed the penalty from a Class B misdemeanor to an infraction for a person to sell or furnish tobacco products to a minor and for a minor to purchase, possess, smoke, or use tobacco products. The bill also authorized a city or county to adopt an ordinance or resolution regarding the sale of tobacco to minors and use of tobacco by minors which is more stringent than this bill; however, the penalty for the sale of tobacco to minors and use of tobacco by minors is a fee of at least \$25. The bill became effective on April 9, 1999.

**Senate Bill No. 2186** made it a Class C felony for a person to knowingly cause bodily fluids or excrement to come into contact with law enforcement or correctional facility personnel and a Class A misdemeanor if the person recklessly causes the contact. The bill also required state agencies to release the results of any testing for any reportable disease performed on an individual convicted of a crime who is imprisoned if the request is made by the individual and documentation exists that the individual has had significant exposure to the disease.

**Senate Bill No. 2223** increased the penalty for assault from a Class A misdemeanor to a Class C felony if the victim is under the age of 12 years and increased the penalty for aggravated assault from a Class C felony to a Class B felony if the victim is

under the age of 12 years or the victim suffers permanent loss or impairment of the function of a bodily member or organ.

**Senate Bill No. 2225** made it a Class C felony for a person to use or attempt to use the personal identifying information of an individual to obtain credit, money, goods, services, or anything else of value without the individual's consent.

## NORTH DAKOTA CENTURY CODE CRIMINAL CLASSIFICATIONS

Statutory provisions governing criminal classifications are primarily contained in NDCC Title 12.1 with sentencing in misdemeanor and felony cases primarily contained in Chapter 12.1-32; however, criminal classifications can be found throughout the Century Code. The following is a list, by felony classification, title, section, and caption of the felony offenses contained in the Century Code. For some crimes, the type of felony an offender is guilty of is dependent upon the circumstances of the crime; therefore, some sections may be listed under several felony classifications.

### Class AA Felonies

#### Title 12.1 - Criminal Code

- 12.1-16-01. Murder.
- 12.1-16-04. Assisting the commission of suicide - Causing death by suicide - Penalties.
- 12.1-17.1-02. Murder of an unborn child.

#### Title 14 - Domestic Relations and Persons

- 14-02.6-02. Prohibition - Penalty - Exception (partial birth abortion).

#### Title 19 - Foods, Drugs, Oils, and Compounds

- 19-03.1-23.1. Increased penalties for aggravating factors in drug offenses (a Class AA felony if the violation of Section 19-03.1-23 is designated as a Class A felony).

### Class A Felonies

#### Title 12 and 12.1 - Corrections, Parole, and Probation; and Criminal Code

- 12-44.1-21. Prohibited acts (within a correctional facility).
- 12.1-07-01. Treason.
- 12.1-16-01. Murder.
- 12.1-17-12. Assault or homicide while fleeing peace officer.
- 12.1-17.1-02. Murder of an unborn child.
- 12.1-18-01. Kidnapping.
- 12.1-20-03. Gross sexual imposition.
- 12.1-20-03.1. Continuous sexual abuse of a child.
- 12.1-20-17. Transfer of body fluid that may contain the human immunodeficiency virus - Definitions - Defenses - Penalty.
- 12.1-22-01. Robbery.

- 12.1-31-07.1. Exploitation of a vulnerable adult - Penalty.

#### **Title 14 - Domestic Relations and Persons**

- 14-02.2-01. Live fetal experimentation - Penalty.

#### **Title 19 - Food, Drugs, Oils, and Compounds**

- 19-03.1-23. Prohibited acts A - Mandatory terms of imprisonment and fines - Unclassified offenses - Penalties.
- 19-03.1-23.1. Increased penalties for aggravating factors in drug offenses.

### **Class B Felonies**

#### **Title 6 - Banks and Banking**

- 6-07-06. Insolvent bank or officer receiving deposit - Penalty.
- 6-07-08. Directors participating in fraudulent insolvency - Penalty.

#### **Title 10 - Corporations**

- 10-04-18. Penalties (issue and sale of securities).

#### **Title 12 and 12.1 - Corrections, Parole, and Probation; and Criminal Code**

- 12-44.1-21. Prohibited acts (within Penitentiary).
- 12-46-24. Prohibition on delivery or possession of alcoholic beverages or controlled substances to or by students - Penalties.
- 12-47-21. Alcoholic beverages and controlled substances prohibited - Physician's orders - Use of tobacco - Weapons and firearms - Penalty.
- 12.1-06.1-02. Leading a criminal association - Classification.
- 12.1-06.1-03. Illegal control of an enterprise - Illegally conducting an enterprise.
- 12.1-08-03. Hindering law enforcement.
- 12.1-08-04. Aiding consummation of crime.
- 12.1-08-06. Escape.
- 12.1-08-09. Introducing or possessing contraband useful for escape.
- 12.1-16-02. Manslaughter.
- 12.1-17-02. Aggravated assault.
- 12.1-17-12. Assault or homicide while fleeing peace officer.
- 12.1-17.1-03. Manslaughter of an unborn child.
- 12.1-18-01. Kidnapping.
- 12.1-20-03. Gross sexual imposition.
- 12.1-20-04. Sexual imposition.
- 12.1-21-01. Arson.
- 12.1-21-04. Release of destructive forces.
- 12.1-21-05. Criminal mischief.
- 12.1-21.1-04. Penalty (animal research facility damage).
- 12.1-22-01. Robbery.

- 12.1-22-02. Burglary.
- 12.1-22-04. Unlawful entry into or concealment within a vehicle.
- 12.1-23-07. Misapplication of entrusted property.
- 12.1-23-08.3. Dealing in stolen property.
- 12.1-24-01. Forgery or counterfeiting.
- 12.1-24-02. Facilitation of counterfeiting.
- 12.1-24-03. Deceptive writings.
- 12.1-27.2-02. Use of a minor in a sexual performance.
- 12.1-27.2-03. Promoting or directing an obscene sexual performance by a minor.
- 12.1-31-07. Endangering a vulnerable adult - Penalty.

#### **Title 14 - Domestic Relations and Persons**

- 14-02.1-04. Limitations on the performance of abortions - Penalty.
- 14-09-22. Abuse or neglect of child - Penalty.

#### **Title 19 - Foods, Drugs, Oils, and Compounds**

- 19-03.1-23. Prohibited acts A - Mandatory terms of imprisonment and fines - Unclassified offenses - Penalties.
- 19-03.1-23.1. Increased penalties for aggravating factors in drug offenses.
- 19-04-08. Distribution of anabolic steroids prohibited - Exception - Penalty.

#### **Title 23 - Health and Safety**

- 23-06-27. Protection of human burial sites, human remains, and burial goods - Unlawful acts - Penalties - Exceptions.

#### **Title 39 - Motor Vehicles**

- 39-30-02. Violations and penalties (motor vehicle chop shops).

#### **Title 43 - Occupations and Professions**

- 43-10.1-08. Penalties (pre-need funeral services).

#### **Title 51 - Sales and Exchanges**

- 51-19-14. Criminal penalties (franchise investment law).
- 51-23-14. Criminal penalties (commodity transactions).

### **Class C Felonies**

#### **Title 5 - Alcoholic Beverages**

- 5-01-16. Direct sale from out-of-state seller to consumer - Penalty.

#### **Title 6 - Banks and Banking**

- 6-01-29. Obstructing or misleading examiner - Penalty.
- 6-08-16. Issuing check or draft without sufficient funds or credit - Notice - Time limitation - Financial liability - Penalty.

- 6-08-16.2. Issuing check without account - Financial liability - Penalty - Exceptions.
- 7-03-07. Obtaining property by fraud, false bookkeeping and reports - Preventing inspection of books - Penalty.
- 7-05-04. Reports confidential - Exceptions - Penalty (building and loan associations).
- 7-08-01. Operation without authority prohibited - Penalty.

#### **Titles 12 and 12.1 - Corrections, Parole, and Probation; and Criminal Code**

- 12-56-03. Violation of compact - Penalty.
- 12.1-06-02. Criminal facilitation.
- 12.1-06.1-08. Computer fraud - Computer crime - Classification - Penalty.
- 12.1-06.2-02. Criminal street gang crime - Penalty.
- 12.1-06.2-03. Encouraging minors to participate in criminal street gang - Penalty.
- 12.1-08-02. Preventing arrest or discharge of other duties.
- 12.1-08-03. Hindering law enforcement.
- 12.1-08-04. Aiding consummation of crime.
- 12.1-08-05. Failure to appear after release - Bail jumping.
- 12.1-08-06. Escape.
- 12.1-08-08. Inciting or leading riot in detention facilities.
- 12.1-08-09. Introducing or possessing contraband useful for escape.
- 12.1-09-01. Tampering with witnesses and informants in proceedings.
- 12.1-09-02. Tampering with informants in criminal investigations.
- 12.1-09-03. Tampering with physical evidence.
- 12.1-11-01. Perjury.
- 12.1-11-05. Tampering with public records.
- 12.1-12-01. Bribery.
- 12.1-12-02. Illegal influence between legislators or between legislators and governor.
- 12.1-12-06. Threatening public servants.
- 12.1-12-07. Sports bribery.
- 12.1-12-08. Commercial bribery.
- 12.1-13-01. Disclosure of confidential information provided to government.
- 12.1-15-02. Interception of wire or oral communications - Eavesdropping.
- 12.1-15-03. Traffic in intercepting devices.
- 12.1-16-03. Negligent homicide.
- 12.1-16-04. Assisting the commission of suicide - Causing death by suicide - Penalties.
- 12.1-17-01.1. Assault.
- 12.1-17-02. Aggravated assault.
- 12.1-17-03. Reckless endangerment.
- 12.1-17-04. Terrorizing.
- 12.1-17-07.1. Stalking.
- 12.1-17-11. Contact by bodily fluids or excrement.
- 12.1-17.1-04. Negligent homicide of an unborn child.
- 12.1-17.1-05. Aggravated assault of an unborn child.
- 12.1-18-02. Felonious restraint.
- 12.1-20-04. Sexual imposition.
- 12.1-20-05. Corruption or solicitation of minors.
- 12.1-20-06.1. Sexual exploitation by therapist - Definitions - Penalty.
- 12.1-20-07. Sexual assault.
- 12.1-20-11. Incest.
- 12.1-20-13. Bigamy.
- 12.1-21-02. Endangering by fire or explosion.
- 12.1-21-04. Release of destructive forces.
- 12.1-21-05. Criminal mischief.
- 12.1-21-06. Tampering with or damaging a public service.
- 12.1-21-06.1. Interference with telephone during emergency call.
- 12.1-21.1-04. Penalty (animal research facility damage).
- 12.1-22-01. Robbery.
- 12.1-22-02. Burglary.
- 12.1-22-03. Criminal trespass.
- 12.1-22-03.1. Surreptitious intrusion.
- 12.1-22-04. Unlawful entry into or concealment within a vehicle.
- 12.1-23-02.1. Disarming or attempting to disarm a law enforcement officer.
- 12.1-23-05. Grading of theft offenses.
- 12.1-23-06. Unauthorized use of a vehicle.
- 12.1-23-07. Misapplication of entrusted property.
- 12.1-23-08. Defrauding secured creditors.
- 12.1-23-08.3. Dealing in stolen property.
- 12.1-23-11. Unauthorized use of personal identifying information - Penalty.
- 12.1-24-01. Forgery or counterfeiting.
- 12.1-24-02. Facilitation of counterfeiting.
- 12.1-24-03. Deceptive writings.
- 12.1-25-01. Inciting riot.
- 12.1-25-02. Arming rioters.
- 12.1-27.1-01. Obscenity - Definitions - Dissemination - Classification of offenses.
- 12.1-27.1-03. Promoting obscenity to minors - Minor performing in obscene performance - Classification of offenses.
- 12.1-27.2-04. Promoting a sexual performance by a minor.
- 12.1-27.2-04.1. Possession of certain materials prohibited.
- 12.1-28-02. Gambling - Related offenses - Classification of offenses.
- 12.1-29-01. Promoting prostitution.
- 12.1-29-02. Facilitating prostitution.
- 12.1-31-02. Engaging in or financing criminal usury business.
- 12.1-31-05. Child procurement - Penalty.

- 12.1-31-07.1. Exploitation of a vulnerable adult - Penalty.
- 12.1-31.1-03. Unlawful possession of drug paraphernalia.
- 12.1-31.1-04. Unlawful manufacture or delivery of drug paraphernalia.
- 12.1-31.1-05. Unlawful delivery of drug paraphernalia to a minor.
- 12.1-32-15. Offenders against children and sexual offenders - Sexually violent predators - Registration requirement - Penalty.
- 12.1-36-01. Surgical alteration of the genitals of female minor - Penalty - Exception.
- 12.1-37-01. Willful failure to pay child support - Classification of offenses - Affirmative defense - Penalty.

### **Title 13 - Debtor and Creditor Relationship**

- 13-04.1-13. Penalty (money brokers).

### **Title 14 - Domestic Relations and Persons**

- 14-02.1-05. Preserving life of a viable child - Penalty.
- 14-02.1-08. Protection of viable fetus born alive - Penalty.
- 14-02.2-02. Experimentation on dead fetus - Use of fetal organs or tissue for transplantation or experimentation - Sale of fetus or fetal organs or tissue - Penalty .
- 14-07-15. Abandonment or nonsupport of child - Penalty.
- 14-07-16. Abandonment or nonsupport of spouse - Penalty.
- 14-07.1-06. Penalty for violation of a protection order.
- 14-09-22. Abuse or neglect of child - Penalty.
- 14-10-06. Unlawful to encourage or contribute to the deprivation or delinquency of minor - Penalty.
- 14-10-08. Person to whom child confided substituting other child - Penalty.

### **Title 15 - Education**

- 15-05-08. Penalty for mining and prospecting in violation of requirements governing.

### **Title 16.1 - Elections**

- 16.1-01-12. Election offenses - Penalty.

### **Title 19 - Foods, Drugs, Oils, and Compounds**

- 19-03.1-23. Prohibited acts A - Mandatory terms of imprisonment and fines - Unclassified offenses - Penalties (drug offenses).
- 19-03.1-23.1. Increased penalties for aggravating factors in drug offense.
- 19-03.1-24. Prohibited acts B - Penalties (drug offenses).
- 19-03.1-25. Prohibited acts C - Penalties (drug offenses).

- 19-03.2-03. Prohibited acts - Penalties - Exception (drug offenses).

### **Title 20.1 - Game, Fish, Predators, and Boating**

- 20.1-06-02. Fish protected - Penalty.

### **Title 23 - Health and Safety**

- 23-06-03.1. Payments on pre-need funeral contracts to be deposited - Depository shall keep record of deposit - Personal property storage - Penalty.
- 23-06-24. Unlawful removal of dead body - Penalty.
- 23-06-26. Purchasing body forbidden - Penalty.
- 23-06-27. Protection of human burial sites, human remains, and burial goods - Unlawful acts - Penalties - Exceptions.
- 23-06.4-10. Penalties (Uniform Rights of Terminally Ill Act).
- 23-06.5-18. Penalties (durable power of attorney for health care).
- 23-07-21. Penalties (reportable diseases).
- 23-07.3-03. Penalty (notification of exposure to infectious diseases).
- 23-07.5-02. Informed consent for testing or disclosure - Exception (HIV testing).
- 23-07.5-08. Penalty (HIV testing).
- 23-07.7-02. Testing procedures - Results of test - Penalty (court-ordered testing for sexually transmitted diseases).

### **Title 26.1 - Insurance**

- 26.1-02.1-05. Penalties - Probation - Restitution (insurance fraud).
- 26.1-15.1-36. Penalties (fraternal benefit societies).
- 26.1-26-03. Acting as agent, broker, or consultant without license prohibited - Penalty.
- 26.1-33.1-02. License requirements - Penalty (viatical settlement contracts).

### **Title 31 - Judicial Proof**

- 31-13-04. DNA testing - Procedure - Immunity - Penalty.

### **Title 32 - Judicial Remedies**

- 32-22-38. Removing or concealing prisoner to avoid writ.

### **Title 36 - Livestock**

- 36-09-23. Removal of livestock from state - Brand inspection - Penalty.
- 36-21.1-07. Cockfights, dogfights, and other exhibitions prohibited - Penalties.

### **Title 37 - Military**

- 37-01-20. Penalty for resisting when state of insurrection exists.

**Title 38 - Mining and Gas and Oil Production**

- 38-08-16. Civil and criminal penalties (control of gas and oil resources).
- 38-08.1-07. Civil and criminal penalties (geophysical exploration requirements).
- 38-19-07. Penalties (geothermal resource development regulation).

**Title 39 - Motor Vehicles**

- 39-04-56. Altering or forging registration card - Penalty.
- 39-05-11. Altering or forging certificate of title - Penalty.
- 39-05-28. Penalty for defacing, destroying, removing, or altering engine, serial, or identification numbers.
- 39-08-01. Persons under the influence of intoxicating liquor or any other drugs or substances not to operate vehicle - Penalty.
- 39-08-04. Accidents involving death or personal injuries - Penalty.
- 39-10-71. Fleeing or attempting to elude a peace officer - Penalty.
- 39-21-51. Alteration of odometers or other mileage recorders, hour meters on tachometers or other hour recorders - Penalty.

**Title 43 - Occupations and Professions**

- 43-15.1-02. Prohibited drug purchase or receipt - Penalty (wholesale drug distributors).
- 43-15.1-04. Wholesale drug distributor and pharmacy distributor licensing requirements - Penalty.
- 43-15.1-05. Out-of-state wholesale drug distributor and pharmacy distributor licensing requirements - Penalty.
- 43-23.1-23. Penalties (Subdivided Lands Disposition Act).

**Title 47 - Property**

- 47-21.1-06. Penalty (sound recordings).

**Title 49 - Public Utilities**

- 49-10.1-08. Tampering, altering, or damaging railroad property - Penalty.

**Title 50 - Public Welfare**

- 50-12-17. Penalty (child-placing agency).
- 50-22-05. Enforcement - Penalties (charitable organizations soliciting contributions).

**Title 51 - Sales and Exchanges**

- 51-07-04.1. Defacing, destroying, or altering serial numbers on farm machinery - Penalty.
- 51-16.1-04. Penalty - Civil remedies (pyramid promotional and referral sales schemes).
- 53-06.1-16. Violation of law or rule - Fraudulent scheme or technique to cheat or skim unlawful - Penalty.

**Title 53 - Sports and Amusements**

- 53-06.2-16. Prohibited acts - Penalties (parimutuel horse racing).
- 53-11-05. Penalty - Remedies (contest prize notices).

**Title 54 - State Government**

- 54-06-12. Publishing false statements - Penalty.
- 54-10-23. Obstructing or misleading auditor - Penalty.

**Title 57 - Taxation**

- 57-01-14. Tax information furnished by United States secretary of the treasury - Penalty for disclosure.

**Title 62.1 - Weapons**

- 62.1-02-03. Possession or sale of short-barreled rifle or shotgun - Penalty - Application.
- 62.1-02-08. Illegal firearms, ammunition, or explosive materials business.
- 62.1-02-09. Possession of explosive and destructive device in government building - Penalty.
- 62.1-02-11. Possessing explosive prohibited - Exception - Penalty.
- 62.1-05-01. Possession and sale of machine guns, automatic rifles, silencers, and bombs - Penalty - Forfeiture.

**Title 65 - Workers' Compensation**

- 65-04-14. False payroll report - Liability of employer - Collection and disposition of penalty.
- 65-05-33. Filing false claim or false statement - Penalty.

**Misdemeanors and Infractions**

A search of the Century Code indicates that there are 382 offenses classified as Class A misdemeanors, 358 classified as Class B misdemeanors, and 151 classified as infractions. The following is a list, by title, of the number of misdemeanor crimes (Class A and B and infractions) contained within that title of the Century Code:

Title 1 - General Provisions (1)
Title 2 - Aeronautics (10)
Title 4 - Agriculture (35)
Title 5 - Alcoholic Beverages (16)
Title 6 - Banks and Banking (20)
Title 7 - Building and Loan Associations (4)
Title 8 - Carriage (5)
Title 9 - Contracts and Obligations (1)
Title 10 - Corporations (12)
Title 11 - Counties (15)
Title 12 - Corrections and Parole and Probation (28)

Title 12.1 - Criminal Code (175)  
 Title 13 - Debtor and Creditor Relationship (6)  
 Title 14 - Domestic Relations and Persons (16)  
 Title 15 - Education (11)  
 Title 16.1 - Elections (12)  
 Title 18 - Fires (10)  
 Title 19 - Foods, Drugs, Oils, and Compounds (40)  
 Title 20.1 - Game, Fish, Predators, and Boating (20)  
 Title 21 - Governmental Finance (5)  
 Title 23 - Health and Safety (59)  
 Title 24 - Highways, Bridges, and Ferries (8)  
 Title 25 - Mental and Physical Illness or Disability (8)  
 Title 26.1 - Insurance (30)  
 Title 27 - Judicial Branch of Government (10)  
 Title 28 - Judicial Procedure, Civil (1)  
 Title 29 - Judicial Procedure, Criminal (13)  
 Title 31 - Judicial Proof (1)  
 Title 32 - Judicial Remedies (2)  
 Title 34 - Labor and Employment (16)  
 Title 35 - Liens (3)  
 Title 36 - Livestock (32)  
 Title 37 - Military (8)  
 Title 38 - Mining and Gas and Oil Production (2)  
 Title 39 - Motor Vehicles (64)  
 Title 40 - Municipal Government (4)  
 Title 42 - Nuisances (1)  
 Title 43 - Occupations and Professions (60)  
 Title 44 - Offices and Officers (3)  
 Title 45 - Partnerships (2)  
 Title 46 - Printing Laws (2)  
 Title 47 - Property (7)  
 Title 48 - Public Buildings (2)  
 Title 49 - Public Utilities (13)  
 Title 50 - Public Welfare (11)  
 Title 51 - Sales and Exchanges (20)  
 Title 52 - Social Security (4)  
 Title 53 - Sports and Amusements (11)  
 Title 54 - State Government (16)  
 Title 55 - State Historical Society and State Parks (7)

Title 57 - Taxation (25)  
 Title 58 - Townships (2)  
 Title 60 - Warehousing and Deposits (2)  
 Title 61 - Waters (19)  
 Title 62.1 - Weapons (13)  
 Title 63 - Weeds (1)  
 Title 64 - Weights, Measures, and Grades (2)  
 Title 65 - Workers' Compensation (7)

### **SUGGESTED STUDY APPROACH**

The committee, in its study of the classification of criminal offenses throughout the Century Code, may wish to approach this study as follows:

1. Review the criminal classification categories of NDCC Title 12.1 and other titles throughout the Century Code, select those titles and sections in need of review, and prioritize the order in which the selected titles and sections should be reviewed.
2. Seek recommendations from the Attorney General, the Judiciary Branch, the Department of Corrections and Rehabilitation, state's attorneys, law enforcement, the State Bar Association, and other interested parties regarding recommended revisions of existing statutes and suggestions for new statutes.
3. Prepare bill drafts based upon the recommendations and conduct public hearings on those drafts to receive testimony from those individuals and agencies who would be impacted by the changes.
4. Develop final recommendations and prepare legislation necessary to implement the recommendations.

ATTACH:1

**Fifty-sixth Legislative Assembly, State of North Dakota, begun in the Capitol in the City of Bismarck, on Tuesday, the fifth day of January, one thousand nine hundred and ninety-nine**

**SENATE CONCURRENT RESOLUTION NO. 4051  
(Senator W. Stenehjem)  
(Representative DeKrey)**

A concurrent resolution directing the Legislative Council to study the classification of criminal offenses throughout the North Dakota Century Code.

**WHEREAS**, the last major review of criminal offenses was done during the 1973-74 interim, which resulted in a bill that amended 597 existing sections and repealed 245 existing sections of the code; and

**WHEREAS**, there are over 247 offenses classified as felonies, over 708 offenses classified as misdemeanors, and over 147 offenses classified as infractions; and

**WHEREAS**, the proper classification of offenses provides for equitable punishment based upon the elements of the offense committed; and

**WHEREAS**, the appropriate classification of offenses may result in more efficient use of state resources in determining levels of punishment, rehabilitation, and the appropriate alternatives to incarceration;

**NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:**

That the Legislative Council study the classification of criminal offenses throughout the North Dakota Century Code; and

**BE IT FURTHER RESOLVED**, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Fifty-seventh Legislative Assembly.