

# CORRECTIONS, PAROLE, AND PROBATION

## CHAPTER 97

### HOUSE BILL NO. 1392

(Representatives K. Koppelman, Hanson, Hogan, Karls, Klemin, Larson, Paur)  
(Senators Hogue, Lyson)

AN ACT to amend and reenact sections 12-44.1-01 and 12-44.1-04 and subsection 1 of section 12-44.1-06 of the North Dakota Century Code, relating to correctional facilities.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 12-44.1-01 of the North Dakota Century Code is amended and reenacted as follows:

##### **12-44.1-01. Definitions.**

As used in this chapter:

1. "Administrator" means the sheriff, chief of police, administrator, superintendent, director, or other individual serving as the chief executive officer of a correctional facility.
2. "Adult lockup" means a secure temporary-hold nonresidential facility that does not hold individuals overnight and includes a facility with cuffing rails or cuffing benches.
3. "Correctional facility" means a city or county jail or detention center, regional corrections center, or juvenile detention center for the detention or confinement of persons in accordance with law. The use of the term does not imply and may not be used to require the provision of services including treatment, counseling, career and technical education, or other educational services, except as may otherwise be required or provided for under this chapter.
- ~~3-4.~~ "Correctional facility staff" means correctional personnel with titles such as jailer, deputy, counselor, correctional officer, or any other title, whose duties include the ongoing supervision of inmates in a correctional facility.
- ~~4-5.~~ "Court holding facility" means a secure facility, other than an adult correctional facility or adult lockup, used to temporarily detain individuals before or after a detention hearing or other court proceedings, and is not used to detain individuals overnight.
6. "Inmate" means any person individual, whether sentenced or unsentenced, who is detained or confined in a correctional facility. The term does not include

an individual who is under the supervision of the correctional facility and is supervised under home detention, electronic monitoring, or a similar program that does not involve physical detention or confinement in the facility.

- 5-7. "Jail" means a correctional facility, including a county or city jail or a regional corrections center.
- 6-8. "Juvenile detention center" means a publicly ~~or privately established and~~ maintained correctional facility for the detention of juveniles. The term does not include the North Dakota youth correctional center.
- 7-9. "Regional corrections center" means a correctional facility established and maintained by more than one county or city, or a combination of counties and cities, for the confinement of inmates.
- 8-10. "Trained correctional facility staff" means correctional personnel who have completed a course of training approved by the ~~department of corrections and rehabilitation~~ peace officer standards and training board.

**SECTION 2. AMENDMENT.** Section 12-44.1-04 of the North Dakota Century Code is amended and reenacted as follows:

**12-44.1-04. Administration - Organization - Management.**

The administrator of each correctional facility shall:

1. Formulate an operations manual, available to all correctional facility staff, which delineates the written policies and procedures for operating and maintaining the correctional facility.
2. Review and update all policies and procedures in the operations manual at least annually.
3. Specify an administrator in the operations manual to whom all correctional facility staff are responsible. The operations manual shall include the administrator's duties, responsibilities, and authority for the management of the correctional facility staff, inmates, programs, and physical plant.
4. Ensure that correctional facility staff who work in direct and continuing contact with inmates receive correctional facility training as determined and approved by the ~~department of corrections and rehabilitation~~ peace officer standards and training board.

**SECTION 3. AMENDMENT.** Subsection 1 of section 12-44.1-06 of the North Dakota Century Code is amended and reenacted as follows:

1. The department of corrections and rehabilitation shall, following inspection pursuant to section 12-44.1-24, grade correctional facilities as to length of allowable inmate confinement based upon construction, size, and usage, as follows:
  - a. "Grade one" means a correctional facility for confining inmates not more than one year.
  - b. "Grade two" means a correctional facility for confining inmates not more than ninety days.

- c. "Grade three" means a correctional facility for confining inmates not more than ninety-six hours.
- d. "Grade four" means an adult lockup or court holding facility in which individuals may not be detained overnight.

Approved April 12, 2013  
Filed April 11, 2013

## CHAPTER 98

### HOUSE BILL NO. 1108

(Human Services Committee)

(At the request of the Department of Corrections and Rehabilitation)

AN ACT to amend and reenact section 12-44.1-29 of the North Dakota Century Code, relating to medication administration in correctional facilities.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 12-44.1-29 of the North Dakota Century Code is amended and reenacted as follows:

#### **12-44.1-29. Provision of medication - Training requirements - Verification - Rules.**

1. A correctional facility may authorize an employee to provide medication to an inmate of a correctional facility if the employee is:
  - a. Licensed or registered under title 43 and is providing the medication within the scope of practice of the profession for which the individual is licensed or registered; or
  - b. A correctional facility staff member who has successfully completed a medication administration training that has been preapproved assistant I training and competency evaluation program approved by the North Dakota board of nursing state department of health under chapter 23-44. The requirements for a medication assistant I training and competency evaluation program must be met, except for the requirement a correctional facility staff member must be a nurse aide or certified nurse aide on the department registry prior to entry into the medication assistant I training and competency evaluation program or following successful completion of the program.
2. If a correctional facility uses a correctional facility staff member to provide medication to an inmate under subdivision b of subsection 1:
  - a. The Upon successful completion of the department-approved medication assistant I training and competency evaluation program, the correctional facility staff member may not provide the medication by the parenteral route administration to inmates consistent within the scope and limitations of medication administration included in the medication assistant I training and competency evaluation program; and
  - b. The correctional facility shall provide to the board of nursing verification of appropriate medication administration training for that correctional facility staff member maintain records of all correctional facility staff members who have successfully completed the department-approved medication assistant I training and competency evaluation program, including verification of successful completion of the program. The department may periodically review the correctional facility's records to assure compliance

with medication assistant I training and competency evaluation requirements.

Approved March 27, 2013

Filed March 27, 2013

## CHAPTER 99

### HOUSE BILL NO. 1119

(Government and Veterans Affairs Committee)  
(At the request of the Department of Corrections and Rehabilitation)

AN ACT to amend and reenact section 12-47-12 of the North Dakota Century Code, relating to authority of the warden of the state penitentiary to make rules.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 12-47-12 of the North Dakota Century Code is amended and reenacted as follows:

##### **12-47-12. Warden to make rules.**

The warden, subject to the approval of the director of the department of corrections and rehabilitation, shall make rules not in conflict with the laws of this state and shall prescribe penalties for violation of the rules:

1. For the admission of visitors, ~~but admission of visitors may not be limited to less than four days in each week, subject to the space limitations of the facility.~~
2. For the government of officers and employees of the penitentiary.
3. For the conduct of offenders imprisoned in the penitentiary.

A printed copy of the rules must be furnished to each offender imprisoned in the penitentiary at the time of admission and to each official or employee of the penitentiary at the time of hire. Two copies of the rules must be furnished to the state law library for the use of the state officials and the public. The rules must be explained to an offender who cannot read English.

Approved April 10, 2013  
Filed April 10, 2013

## CHAPTER 100

### HOUSE BILL NO. 1115

(Judiciary Committee)  
(At the request of the State Parole Board)

AN ACT to amend and reenact sections 12-59-03, 12-59-04, 12-59-05, 12-59-07, 12-59-08, 12-59-09, and 12-59-10 of the North Dakota Century Code, relating to parole.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 12-59-03 of the North Dakota Century Code is amended and reenacted as follows:

##### **12-59-03. Supplies - Regulations governing parole.**

The board shall provide ~~books of record, application blanks, and such other supplies as are necessary to the performance of its duties.~~ It shall formulate rules and regulations governing the manner in which inmates may become eligible to apply for discharge on parole.

**SECTION 2. AMENDMENT.** Section 12-59-04 of the North Dakota Century Code is amended and reenacted as follows:

##### **12-59-04. Parole records - Inspection.**

All parole records of the department of corrections and rehabilitation obtained in the discharge of official duty by any member of the parole board or employee of a division or department of the department of corrections and rehabilitation on behalf of the parole board may not be disclosed except in the manner provided under section 12-47-36. ~~An application for parole and the decision~~The decisions of the parole board ~~on the application to grant or deny parole~~ are open records.

**SECTION 3. AMENDMENT.** Section 12-59-05 of the North Dakota Century Code is amended and reenacted as follows:

##### **12-59-05. Consideration by board.**

~~Applications~~Every inmate's eligibility for parole must be reviewed in accordance with the rules adopted by the parole board. The board shall consider all pertinent information regarding each ~~applicant~~inmate, including the circumstances of the offense, the presentence report, the ~~applicant's~~inmate's family, educational, and social history and criminal record, the ~~applicant's~~inmate's conduct, employment, participation in education and treatment programs while in the custody of the department of corrections and rehabilitation, and the ~~applicant's~~inmate's medical and psychological records.

**SECTION 4. AMENDMENT.** Section 12-59-07 of the North Dakota Century Code is amended and reenacted as follows:

### **12-59-07. Requirements precedent to parole.**

The parole board may grant an application for parole to an inmate if the board is convinced the applicant inmate will conform to the terms and conditions of parole the board or the department of corrections and rehabilitation may establish for the applicant inmate. The department of corrections and rehabilitation may establish intermediate conditions of parole, including incarceration for a period of seventy-two hours and restitution, subject to the subsequent approval of the parole board.

**SECTION 5. AMENDMENT.** Section 12-59-08 of the North Dakota Century Code is amended and reenacted as follows:

### **12-59-08. Application for parole – Emergency paroles.**

An applicant for parole shall file an application with the department of corrections and rehabilitation. The parole board may consider the application whether an inmate may receive an emergency parole at a meeting scheduled by the chairman. The board may request an applicant the inmate to personally appear before the board before the board makes a decision on an application whether to grant the inmate an emergency parole. The board may grant or deny an emergency parole, or grant a conditional emergency parole, or continue its consideration to another meeting. In the event of an application for emergency parole, two Two members of the parole board may grant emergency parole, subject to terms and conditions of emergency parole that may be established by the two members of the parole board, or by the department of corrections and rehabilitation with the approval of the parole board. An applicant inmate who receives an emergency parole remains in the legal custody of the department of corrections and rehabilitation under the jurisdiction of the parole board until the expiration of the maximum term or terms of imprisonment for which the applicant inmate was sentenced, less any sentence reduction the applicant inmate has received.

**SECTION 6. AMENDMENT.** Section 12-59-09 of the North Dakota Century Code is amended and reenacted as follows:

### **12-59-09. Contents of application for parole Inmates subject to jurisdiction of parole board.**

An application for parole must be in writing, addressed to the department of corrections and rehabilitation, and must be signed by the applicant or some person in the applicant's behalf. All inmates sentenced to the legal and physical custody of the department of corrections and rehabilitation are subject to the jurisdiction of the parole board, except when parole for the inmate is prohibited by statute.

**SECTION 7. AMENDMENT.** Section 12-59-10 of the North Dakota Century Code is amended and reenacted as follows:

### **12-59-10. Notice of application for parole.**

The department of corrections and rehabilitation shall provide written notice of an application for parole to the district court and state's attorney's office in the county or counties where judgment of conviction was entered against the applicant inmate when the parole board is reviewing whether an inmate may be released on parole. The notice must include the name of the applicant inmate, the date of entry and docket number of the criminal judgment, the crime or crimes stated in the criminal judgment, and the date and place for the parole board's meeting on the application to review whether an inmate may be released on parole.

Approved March 26, 2013

Filed March 27, 2013

## CHAPTER 101

### HOUSE BILL NO. 1138

(Representatives Larson, Dockter, Karls)  
(Senators Carlisle, Lyson)

AN ACT to amend and reenact sections 12-63-09 and 12-63-12 of the North Dakota Century Code, relating to peace officer licenses; and to repeal section 12-63-08 of the North Dakota Century Code, relating to peace officer licenses.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 12-63-09 of the North Dakota Century Code is amended and reenacted as follows:

##### **12-63-09. Limited license.**

1. Pending successful completion of the written examination required in this chapter, the ~~The~~ board may grant a limited license to a person ~~an individual~~ who has completed the education, medical, and psychological examination requirements, criminal history background investigation, and has been qualified to carry a sidearm ~~requirements of the board and this chapter.~~
2. The limited license allows the person ~~individual~~ to practice ~~perform~~ peace officer duties in accordance with the rules of the board. ~~Except as otherwise provided, the limited license is valid for no longer than the earlier of the expiration of the next available training session, until the person is issued a license under section 12-63-10, or until the limited license is suspended or revoked by the board.~~
3. After being ~~becoming~~ employed but before taking the written examination ~~as a peace officer,~~ the person ~~individual~~ shall attend the first available basic full-time peace officer ~~training program~~ recognized ~~course~~ authorized by the board. ~~The limited license may be renewed one time if the person has failed the examination. On terms and conditions prescribed by the board, the~~ in accordance with the rules of the board.
4. The limited license is limited to the jurisdiction in which the person is employed ~~and is valid until:~~
  - a. The individual has completed the first available basic full-time peace officer training course authorized by the board; and
  - b. The individual has completed the licensing examination and has been issued a peace officer license by the board.
5. The limited license may be renewed one time if the individual has failed the licensing examination.
6. The limited license is subject to section 12-63-12.

**SECTION 2. AMENDMENT.** Section 12-63-12 of the North Dakota Century Code is amended and reenacted as follows:

**12-63-12. Adverse license action - Appeal.**

1. The board shall deny a license, refuse to renew a license, suspend a license, revoke a license, or impose probationary conditions if the individual has been convicted or pled guilty or nolo contendere before a court of competent jurisdiction in any state, or before any court, of a felony offense.
2. The board may deny a license, refuse to renew a license, suspend a license, or revoke a license, or may impose probationary conditions if the ~~person~~individual:
  - a. Has been convicted or pled guilty or nolo contendere before a court of competent jurisdiction in any state, or before any court, of an offense involving domestic violence or violation of a domestic violence restraining order, an offense involving child abuse or neglect, an offense involving firearms under title 12.1 or title 62.1, or another criminal offense determined by the board to have a direct bearing upon a person's~~an individual's~~ ability to serve as a peace officer, or the board determines, following a conviction or adjudication, that the ~~person~~individual is not rehabilitated under section 12.1-33-02.1.
  - b. Has used unjustified deadly force in the performance of the duties as a peace officer as described in section 12.1-05-07.
  - c. Has made a false material statement under oath to the board.
  - d. Has made a false material statement to the board while obtaining or renewing a license or permit.
  - e. Has violated a provision of this chapter or a rule of the board.
- ~~2-3.~~ Denial, refusal to renew, suspension, revocation, or imposition of probationary condition on a license may be ordered by the board after a hearing in a ~~manner provided by rules adopted by the board~~accordance with chapter 28-32. An application for reinstatement may be made to the board one year from the date of the refusal to renew or the revocation of the license. The board may accept or reject an application for reinstatement and may hold a hearing to consider the reinstatement. In the case of a denial of an application, the applicant may not reapply for a period of one year from the date of the order of denial.
- ~~3-4.~~ An appeal from the final decision of the board to refuse to issue, to not renew, to suspend, or to revoke a license may be made to the district court. Venue is the county in which the aggrieved ~~person~~individual resides. The appeal must be made within ~~ninety~~thirty days from the service of the decision on the ~~person~~individual.

**SECTION 3. REPEAL.** Section 12-63-08 of the North Dakota Century Code is repealed.

Approved April 29, 2013  
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