

Introduced by

1 A BILL for an Act to create and enact sections 12-59-05.1, 12-59-07.1, 12.1-17-13.1,
 2 subsections 3 and 4 of section 12.1-32-07.1, and subsection 18 of section 54-23.3-04 of the
 3 North Dakota Century Code, relating to a risk and needs assessment tool, conditions of parole,
 4 presumptive termination of probation, and a batterers intervention standards oversight board; to
 5 amend and reenact sections 12-44.1-32, 12-54.1-01, 12-59-08, 12-59-15, 12.1-17-13,
 6 12.1-32-01, 12.1-32-03.1, subsection 2 of section 12.1-32-06.1, section 12.1-32-07,
 7 subdivision c of subsection 4 of section 12.1-32-08, sections 12.1-32-09.1, 12.1-32-14,
 8 12.1-32-16, 39-24.1-07, subsection 17 of section 50-06-05.1, subdivision a of subsection 7 of
 9 section 54-23.4-01, and section 54-23.4-06 of the North Dakota Century Code, relating to
 10 performance-based sentence reduction, medical paroles, responses to parole and probation
 11 violations, classification of offenses, conditions of probation, presumptive termination of
 12 probation, treatment for domestic violence offenders, the sentencing of violent offenders, the
 13 supplemental nutrition assistance program, and victim compensation; to repeal section
 14 12-59-22 of the North Dakota Century Code, relating to the twenty-four seven sobriety program;
 15 and to provide for the creation of a pretrial services program pilot project within the department
 16 of corrections and rehabilitation.

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

18 **SECTION 1. AMENDMENT.** Section 12-44.1-32 of the North Dakota Century Code is
 19 amended and reenacted as follows:

20 **12-44.1-32. Performance-based sentence reduction.**

21 1. The presiding judge of a judicial district in which a correctional facility is located, after
 22 consultation with the other judges in the district, may authorize the facility
 23 administrator to provide for sentence reductions. An offender committed to the legal
 24 and physical custody of a county jail or regional correction center may earn sentence

1 reductions based upon performance criteria established throughby the administrator
2 except that sentence reductions may not be given to offenders sentenced under
3 section 12.1-32-09.1. Performance criteria must include participation in court-ordered
4 or staff-recommended treatment, education programs, and good work performance.
5 The sentence reduction policy must be written and available to the public and
6 offenders.

7 2. An offender may receive good time sentence reductions for any sentence longer than
8 sixty days or for time spent in custody before sentencing and commitment, but is not
9 eligible for sentence reduction or credit for time spent while on pretrial probation or
10 community supervision. While incarcerated in a correctional facility, an offender may
11 earn no more than a one-day sentence reduction per six days served.

12 **SECTION 2. AMENDMENT.** Section 12-54.1-01 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **12-54.1-01. Performance-based sentence reduction.**

15 Except as provided under section 12.1-32-09.1, offenders committed to the legal and
16 physical custody of the department of corrections and rehabilitation are eligible to earn
17 sentence reductions based upon performance criteria established through department and
18 penitentiary rules. Performance criteria includes participation in court-ordered or
19 staff-recommended treatment and education programs and good work performance. The
20 department may credit an offender committed to the legal and physical custody of the
21 department who is eligible for sentence reduction five days good time per month for each month
22 of the sentence imposed. The department may not credit an offender with any sentence
23 reduction for time spent in custody prior to sentence and commitment, ~~for time.~~ Time under
24 supervised probation, or for any sentence where the incarceration time is six months or less is
25 not eligible for sentence reduction or sentence reduction credit.

26 **SECTION 3.** Section 12-59-05.1 of the North Dakota Century Code is created and enacted
27 as follows:

28 **12-59-05.1. Structured decisionmaking.**

29 The parole board shall adopt evidence-based parole guidelines to assist in evaluating an
30 inmate's eligibility and suitability for parole which must incorporate the validated risk and needs

1 assessment tool for parole decisionmaking developed by the department of corrections and
2 rehabilitation.

3 **SECTION 4.** Section 12-59-07.1 of the North Dakota Century Code is created and enacted
4 as follows:

5 **12-59-07.1. Conditions of parole.**

6 The parole board may require an inmate to comply with any the following conditions upon
7 release:

- 8 1. Community service.
- 9 2. Day reporting.
- 10 3. Curfew.
- 11 4. Home confinement.
- 12 5. House arrest.
- 13 6. Electronic monitoring.
- 14 7. Placement in a residential halfway house.
- 15 8. Intensive supervision.
- 16 9. Up to five nonsuccessive periods of incarceration during any twelve-month period,
17 each of which may not exceed seventy-two consecutive hours.
- 18 10. Participation in the twenty-four seven sobriety program.

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

21 **12-59-08. EmergencyMedical paroles.**

22 Thef the physician at a correctional facility has determined an inmate has a serious or
23 terminal medical condition, the parole board may consider whether angrant the inmate may
24 receive an emergencya medical parole at a meeting scheduled by the chairman. The board
25 may request the inmate to personally appear before the board before the board makes a
26 decision whether to grant the inmate an emergency parole. The board may grant or deny an
27 emergency parole, or grant a conditional emergency parole, or continue its consideration to
28 another meeting. Two members of the parole board may grant emergency parole, subject to
29 terms and conditions of emergency parole that may be established by the two members of the
30 parole board, or by the department of corrections and rehabilitation with the approval of the
31 parole board, notwithstanding the limitations on parole eligibility under sections 12.1-32-02.1

1 and 12.1-32-09.1. An inmate who receives an emergency parole remains under the jurisdiction
2 of the parole board until the expiration of the maximum term or terms of imprisonment for which
3 the inmate was sentenced, less any sentence reduction the inmate has received.

4 **SECTION 6. AMENDMENT.** Section 12-59-15 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **12-59-15. Breach of parole - Responses to violations - Hearings - Order of**
7 **recommitment.**

8 1. Violations of parole are divided into three classes:

9 a. A "compliance violation" means any violation of a condition of supervision which
10 is not a risk violation or revocation violation and may be sanctioned by:

11 (1) Extension of the period of supervision within the period provided by law;

12 (2) Additional reporting and compliance requirements;

13 (3) Testing for the use of drugs and alcohol;

14 (4) If ordered by the court, counseling and treatment for emotional or other
15 mental health problems, including substance abuse; or

16 (5) Other community constraints and conditions as provided in this chapter.

17 b. A "risk violation" means arrest for absconding or arrest for a new felony or
18 misdemeanor offense other than a revocation violation offense, or the sixth or
19 subsequent individually sanctioned compliance violation and may be sanctioned
20 by:

21 (1) Up to thirty days' confinement; or

22 (2) Any sanction provided as a condition of parole.

23 c. A "revocation violation" means an arrest for a violent felony offense or a violation
24 of a protective order and may be sanctioned by:

25 (1) An order for revocation of probation; or

26 (2) Any sanction described in this section.

27 2. A parole and probation officer may administer the conditions of parole provided in
28 section 12.1-59-7.1. An officer shall obtain approval from the parole board before any
29 period of confinement of more than seventy-two hours may be imposed.

1 3. Any intermediate measure or incentive must be applied in accordance with a matrix of
2 behaviors and corresponding responses developed by the department of corrections
3 and rehabilitation.

4 4. When it is alleged that a parolee has violated any of the terms or conditions of parole
5 established by the parole board or by the department of corrections and rehabilitation,
6 the director of the department of corrections and rehabilitation may issue a warrant for
7 the arrest of the parolee.

8 ~~2.5.~~ Upon issuance of a warrant of arrest for a parole violation, the running of the time
9 period of parole must be suspended until the parole board issues a final order under
10 this section. The parolee is entitled to credit for time spent in physical custody from the
11 time of arrest until the time the parole board issues a final order.

12 ~~3.6.~~ The parolee is entitled to a preliminary hearing, as promptly as is convenient after the
13 arrest and reasonably near the place of the alleged violation or arrest, to determine
14 whether there is probable cause to find that the parolee violated any of the terms and
15 conditions of parole established by the board or by the department of corrections and
16 rehabilitation.

17 ~~4.7.~~ The preliminary hearing must be conducted before the director of the department of
18 corrections and rehabilitation or other hearing officer authorized by the director. The
19 preliminary hearing must be conducted by a disinterested hearing officer not directly
20 involved in the supervision of the parolee or by the person bringing the allegation of a
21 parole violation.

22 ~~5.8.~~ If the hearing officer determines there is probable cause to find that the parolee has
23 violated any of the terms and conditions of parole established by the board or by the
24 department of corrections and rehabilitation, the board may redetermine the time
25 remaining in the period of parole to reflect any portion of the period during which the
26 parolee was not under supervision or not in the custody of law enforcement personnel
27 in the state.

28 ~~6.9.~~ If the hearing officer determines there is probable cause to find that the parolee has
29 violated any of the terms and conditions of parole established by the board or by the
30 department of corrections and rehabilitation, the parolee must be returned to the
31 physical custody of the department of corrections and rehabilitation, transferred to

1 another correctional facility or the state hospital, or released from actual custody
2 pursuant to such terms and conditions as may be established by the parole board or
3 the department of corrections and rehabilitation, pending a final revocation hearing
4 before the parole board. If the board determines at the final revocation hearing that the
5 parolee has violated any of the terms and conditions of parole established by the
6 board or by the department of corrections and rehabilitation, it may order that the
7 parolee be recommitted to the physical custody of the department of corrections and
8 rehabilitation to serve all or part of the remaining time of the sentence that has not
9 been served in custody.

10 ~~7-10.~~ At any hearing pursuant to this section a record must be made and the parolee shall
11 have:

- 12 a. Written notice of the purpose of the hearing and the alleged violations.
13 b. The opportunity to be heard in person and present witnesses and documentary
14 evidence.
15 c. The opportunity to confront and cross-examine adverse witnesses, unless the
16 hearing officer determines that confrontation would create a risk of harm to the
17 witness.
18 d. A written statement as to the reasons for the decision.

19 ~~8-11.~~ When the board determines the parolee has absconded from supervision, the board
20 may order the parolee to pay the costs of being returned to the board. Moneys
21 recovered under this subsection must be remitted to the department of corrections and
22 rehabilitation.

23 12. After a parolee has completed twelve consecutive months on parole without a risk or
24 revocation violation, the parole board may place the parolee on the diversion caseload
25 as defined by the department of corrections and rehabilitation.

26 **SECTION 7. AMENDMENT.** Section 12.1-17-13 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **12.1-17-13. Mandated treatment of domestic violence offenders.**

29 1. The sentence for an offense under section 12.1-17-01, 12.1-17-01.1, 12.1-17-02,
30 12.1-17-03, 12.1-17-04, or 12.1-17-05 against an actor's family or household member,
31 as defined in subsection 4 of section 14-07.1-01, must include an order to complete a

1 ~~domestic violence offender treatment~~batterers intervention program. A court may not
2 ~~order the offender to attend anger management classes or individual counseling~~
3 ~~unless a domestic violence offender treatment program is not reasonably available to~~
4 ~~the defendant and the court makes findings for the record explaining why an order to~~
5 ~~complete a domestic violence offender treatment program would be inappropriate~~The
6 order must be included in the conditions of probation.

7 2. For purposes of this section and section 12.1-17-13.1, "batterers intervention program"
8 means a program certified according to minimum standards set by the batterers
9 intervention program standards oversight board as defined in this chapter.

10 **SECTION 8.** Section 12.1-17-13.1 of the North Dakota Century Code is created and
11 enacted as follows:

12 **12.1-17-13.1. Batterers intervention standards oversight board.**

- 13 1. The batterers intervention standards oversight board consists of ten members:
- 14 a. The director of the department of corrections and rehabilitation, or a designee of
15 the director;
 - 16 b. Three representatives from the domestic violence advocacy programs in the
17 state, appointed by the chief justice of the supreme court;
 - 18 c. One local law enforcement official appointed by the attorney general;
 - 19 d. The attorney general, or a designee of the attorney general;
 - 20 e. A qualified elector of this state appointed by the governor;
 - 21 f. The chief justice of the supreme court, or a designee of the chief justice;
 - 22 g. The director of the state department of health, or a designee of the director; and
 - 23 h. A presiding district court judge appointed by the chief justice of the supreme
24 court.
- 25 2. Duties of the board:
- 26 a. The board shall establish minimum standards for a batterers intervention
27 program, including:
 - 28 (1) The duration of a batterers intervention program, which must be a minimum
29 of forty contact hours over the course of twenty weeks;

- 1 (2) A requirement that a participant in the program must be personally
2 responsible for any program fees, and that a certified program must
3 accommodate varying levels of ability to pay; and
4 (3) A provision to provide reciprocity to any individual who has completed a
5 similar program in another jurisdiction;
6 b. The board shall monitor and review each batterers intervention program to
7 ensure compliance through periodic onsite inspections.
8 c. The board shall investigate and decide appeals, complaints, requests for
9 variances, and post-enrollment certification applications. The board shall act
10 upon a post-enrollment certification application within thirty days of submission of
11 the application.
12 3. For purposes of this section, "post-enrollment certification application" means an
13 application made to the board by an individual mandated to attend a certified batterers
14 intervention program and who has enrolled in a program not certified by the board
15 before adjudication.

16 **SECTION 9. AMENDMENT.** Section 12.1-32-01 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **12.1-32-01. Classification of offenses - Penalties.**

19 Offenses are divided into ~~seven~~eight classes, which are denominated and subject to
20 maximum penalties and presumptive penalties, as follows:

- 21 1. Class AA felony, for which a maximum penalty of life imprisonment without parole may
22 be imposed. The court must designate whether the life imprisonment sentence
23 imposed is with or without an opportunity for parole. Notwithstanding the provisions of
24 section 12-59-05, a person found guilty of a class AA felony and who receives a
25 sentence of life imprisonment with parole, shall not be eligible to have that person's
26 sentence considered by the parole board for thirty years, less sentence reduction
27 earned for good conduct, after that person's admission to the penitentiary.
28 2. Class A felony, for which a maximum penalty of twenty years' imprisonment, a fine of
29 twenty thousand dollars, or both, may be imposed.
30 3. Class B felony, for which a maximum penalty of ten years' imprisonment, a fine of
31 twenty thousand dollars, or both, may be imposed.

- 1 4. Class C felony, for which a maximum penalty of five years' imprisonment, a fine of ten
2 thousand dollars, or both, may be imposed.
- 3 5. Class D felony, for which a maximum penalty of two years' imprisonment, a fine of five
4 thousand dollars, or both, may be imposed. If the conviction for a class D felony is the
5 defendant's first felony conviction and the class D offense is the most serious charge
6 associated with the conviction, the court shall impose a deferred imposition of
7 sentence for which a term of imprisonment may not be imposed unless at least one of
8 the factors described in subdivision a or b is present. The court may depart from a
9 sentence of probation or a deferred imposition for a first-time felony offender if the
10 judge states, at the time of sentencing and in the written order, the substantial and
11 compelling reasons for imposing an alternate sentence. The court shall impose a
12 maximum penalty of a period of probation or a fully suspended sentence of
13 incarceration unless at least one of the following factors is present:
- 14 a. The defendant is concurrently or consecutively sentenced to imprisonment for a
15 felony other than a class D felony.
- 16 b. There are substantial and compelling reasons why the defendant cannot be
17 supervised effectively and safely in the community.
- 18 6. Class A misdemeanor, for which a maximum penalty of one year's imprisonment, a
19 fine of three thousand dollars, or both, may be imposed. The court shall impose a
20 maximum penalty of a period of probation or a fully suspended sentence of
21 incarceration for a class A misdemeanor unless at least one of the factors in
22 subdivision a or b of subsection 5 is present. The court may depart from a sentence of
23 probation if the judge states, at the time of sentencing and in the written order, the
24 substantial and compelling reasons for imposing a sentence of incarceration.
- 25 ~~6-7.~~ Class B misdemeanor, for which a maximum penalty of thirty days' imprisonment, a
26 fine of one thousand five hundred dollars, or both, may be imposed. The court shall
27 impose a maximum penalty of unsupervised probation or up to two hundred forty
28 hours of community service for a class B misdemeanor unless at least one of the
29 factors in subdivision a or b of subsection 5 is present. The court may depart from a
30 sentence of probation if the judge states, at the time of sentencing and in the written

1 order, the substantial and compelling reasons for imposing a sentence of
2 incarceration.

3 ~~7.8.~~ Infraction, for which a maximum fine of one thousand dollars may be imposed. Any
4 person convicted of an infraction who has, within one year prior to commission of the
5 infraction of which the person was convicted, been previously convicted of an offense
6 classified as an infraction may be sentenced as though convicted of a class B
7 misdemeanor. If the prosecution contends that the infraction is punishable as a class B
8 misdemeanor, the complaint ~~shall~~must specify that the offense is a misdemeanor.

9 This section ~~shall not be construed to~~does not forbid sentencing under section 12.1-32-09,
10 relating to extended sentences.

11 **SECTION 10. AMENDMENT.** Section 12.1-32-03.1 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **12.1-32-03.1. Procedure for trial of infraction - Incidents.**

14 1. Except as provided in this subsection, all procedural provisions relating to the trial of
15 criminal cases as provided in the statutes or rules relating to criminal procedure shall
16 apply to the trial of a person charged with an infraction. A person charged with an
17 infraction is not entitled to be furnished counsel at public expense nor to have a trial by
18 jury unless the person may be subject to a sentence of imprisonment under
19 subsection ~~7~~8 of section 12.1-32-01.

20 2. Except as provided in this title, all provisions of law and rules of criminal procedure
21 relating to misdemeanors ~~shall~~ apply to infractions, including, ~~but not limited to,~~ the
22 powers of law enforcement officers, the jurisdiction of courts, the periods for
23 commencing action and bringing a case to trial, and the burden of proof.

24 3. Following conviction of an infraction, the offender may be sentenced in accordance
25 with subsection 1 of section 12.1-32-02, except that a term of imprisonment may not
26 be imposed except in accordance with subsection 3 of section 12.1-32-05, or
27 subsection ~~7~~8 of section 12.1-32-01.

28 4. If a statute provides that conduct is an infraction without specifically including a
29 requirement of culpability, no culpability is required.

30 **SECTION 11. AMENDMENT.** Subsection 2 of section 12.1-32-06.1 of the North Dakota
31 Century Code is amended and reenacted as follows:

- 1 2. Except as provided in this section, the length of supervised probation imposed in
2 conjunction with a sentence of probation or a suspended execution or deferred
3 imposition of sentence may not extend for more than five years for a felony offense
4 subject to section 12.1-32-09.1, a felony offense subject to section 12.1-32-02.1,
5 which involves the use of a firearm or dangerous weapon, a second or subsequent
6 violation of section 12.1-17-07.1, a second or subsequent violation of any domestic
7 violence protection order, a violation of chapter 12.1-41, or a violation of section
8 14-09-22; three years for ~~any other~~ a class AA, class A, class B, or class C felony
9 offense; two years for a class D felony offense; one year for a class A misdemeanor;
10 and three hundred sixty days for a class B misdemeanor offense from the later of the
11 date of:
12 a. The order imposing probation;
13 b. The defendant's release from incarceration; or
14 c. Termination of the defendant's parole.

15 **SECTION 12. AMENDMENT.** Section 12.1-32-07 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **12.1-32-07. Supervision of probationer - Conditions of probation - Revocation.**

- 18 1. When the court imposes probation upon conviction for a felony offense subject to
19 section 12.1-32-09.1 or 12.1-32-02.1, a second or subsequent violation of section
20 12.1-17-07.1, a second or subsequent violation of any domestic violence protection
21 order, a violation of chapter 12.1-41, a violation of section 14-09-22, or a felony
22 offense under chapter 39-08, the court shall place the defendant under the supervision
23 and management of the department of corrections and rehabilitation. When the court
24 imposes probation upon conviction or order of disposition in all other felony cases, the
25 court may place the defendant under the supervision and management of the
26 department of corrections and rehabilitation. In class A misdemeanor cases, the court
27 may place the defendant under the supervision and management of the department of
28 corrections and rehabilitation or other responsible party. In all other cases, the court
29 may place the defendant under the supervision and management of a community
30 corrections program other than the department of corrections and rehabilitation. A
31 community corrections program means a program for the supervision of a defendant,

1 including monitoring and enforcement of terms and conditions of probation set by the
2 court.

3 2. The conditions of probation must be such as the court in its discretion deems
4 reasonably necessary to ensure that the defendant will lead a law-abiding life or to
5 assist the defendant to do so. The court shall provide as an explicit condition of every
6 probation that the defendant not commit another offense during the period for which
7 the probation remains subject to revocation. The court shall order supervision costs
8 and fees of not less than fifty-five dollars per month unless the court makes a specific
9 finding on record that the imposition of fees will result in an undue hardship. If the
10 offender has not paid the full amount of supervision fees and costs before completion
11 or termination of probation, the court may issue an order, after opportunity for hearing,
12 to determine the amount of supervision fees and costs that are unpaid. The order may
13 be filed, transcribed, and enforced by the department of corrections and rehabilitation
14 in the same manner as civil judgments rendered by a district court of this state.

15 3. The court shall provide as an explicit condition of every probation that the defendant
16 may not possess a firearm, destructive device, or other dangerous weapon while the
17 defendant is on probation. Except when the offense is a misdemeanor offense under
18 section 12.1-17-01, 12.1-17-01.1, 12.1-17-05, or 12.1-17-07.1, or chapter 14-07.1, the
19 court may waive this condition of probation if the defendant has pled guilty to, or has
20 been found guilty of, a misdemeanor or infraction offense, the misdemeanor or
21 infraction is the defendant's first offense, and the court has made a specific finding on
22 the record before imposition of a sentence or a probation that there is good cause to
23 waive the condition. The court may not waive this condition of probation if the court
24 places the defendant under the supervision and management of the department of
25 corrections and rehabilitation. The court shall provide as an explicit condition of
26 probation that the defendant may not willfully defraud a urine test administered as a
27 condition of probation. Unless waived on the record by the court, the court shall also
28 provide as a condition of probation that the defendant undergo various agreed-to
29 community constraints and conditions as intermediate measures of the department of
30 corrections and rehabilitation to avoid revocation, which may include:

31 a. Community service;

- 1 b. Day reporting;
- 2 c. Curfew;
- 3 d. Home confinement;
- 4 e. House arrest;
- 5 f. Electronic monitoring;
- 6 g. Residential halfway house;
- 7 h. Intensive supervision program;
- 8 i. Up to five nonsuccessive periods of incarceration during any twelve-month
- 9 period, each of which may not exceed forty-eight consecutive hours; or
- 10 j. Participation in the twenty-four seven sobriety program.
- 11 4. Violations of probation are divided into three classes:
- 12 a. A "compliance violation" means any violation of a condition of supervision which
- 13 is not a risk violation or revocation violation and may be sanctioned by:
- 14 (1) Extension of the period of supervision within the period provided by law;
- 15 (2) Additional reporting and compliance requirements;
- 16 (3) Testing for the use of drugs and alcohol;
- 17 (4) If ordered by the court, counseling and treatment for emotional or other
- 18 mental health problems, including substance abuse; or
- 19 (5) Other community constraints and conditions as provided in this chapter.
- 20 b. A "risk violation" means arrest for absconding or arrest for a new felony or
- 21 misdemeanor offense other than a revocation violation offense, or the sixth or
- 22 subsequent individually sanctioned compliance violation and may be sanctioned
- 23 by:
- 24 (1) Up to thirty days confinement; or
- 25 (2) Any sanction provided as a condition of probation.
- 26 c. A "revocation violation" means an arrest for a violent felony offense or a violation
- 27 of a protective order and may be sanctioned by:
- 28 (1) An order for revocation of probation; or
- 29 (2) Any sanction described in this section.

- 1 5. Parole and probation officers may administer any community constraint or condition
2 provided under subsection 3. An officer shall obtain judicial approval before any period
3 of confinement of more than forty-eight hours may be imposed.
- 4 6. A county jail must accept and hold any probationer sanctioned to incarceration if the
5 county jail has bed space available.
- 6 7. Any intermediate measure or incentive must be applied in accordance with a matrix of
7 behaviors and corresponding responses developed by the department of corrections
8 and rehabilitation.
- 9 8. A petition for revocation must include documentation of any violation and any
10 response to a violation imposed by the department of corrections and rehabilitation.
- 11 9. When imposing a sentence to probation, probation in conjunction with imprisonment,
12 probation in conjunction with suspended execution or deferred imposition of
13 sentence, the court may impose such conditions as it deems appropriate and may
14 include any one or more of the following:
- 15 a. Work faithfully at a suitable employment or faithfully pursue a course of study or
16 of career and technical education training that will equip the defendant for
17 suitable employment.
- 18 b. Undergo available medical or psychiatric treatment and remain in a specified
19 institution if required for that purpose.
- 20 c. Attend or reside in a facility established for the instruction, recreation, or
21 residence of persons on probation.
- 22 d. Support the defendant's dependents and meet other family responsibilities.
- 23 e. Make restitution or reparation to the victim of the defendant's conduct for the
24 damage or injury which was sustained or perform other reasonable assigned
25 work. When restitution, reparation, or assigned work is a condition of probation,
26 the court shall proceed as provided in subsection 1 or 2, as applicable, of section
27 12.1-32-08.
- 28 f. Pay a fine imposed after consideration of the provisions of section 12.1-32-05.
- 29 g. Refrain from excessive use of alcohol or any use of narcotics or of another
30 dangerous or abusable drug without a prescription.

- 1 h. Permit the probation officer to visit the defendant at reasonable times at the
2 defendant's home or elsewhere.
- 3 i. Remain within the jurisdiction of the court, unless granted permission to leave by
4 the court or the probation officer.
- 5 j. Answer all reasonable inquiries by the probation officer and promptly notify the
6 probation officer of any change in address or employment.
- 7 k. Report to a probation officer at reasonable times as directed by the court or the
8 probation officer.
- 9 l. Submit to a medical examination or other reasonable testing for the purpose of
10 determining the defendant's use of narcotics, marijuana, or other controlled
11 substance whenever required by a probation officer.
- 12 m. Refrain from associating with known users or traffickers in narcotics, marijuana,
13 or other controlled substances.
- 14 n. Submit the defendant's person, place of residence, or vehicle to search and
15 seizure by a probation officer at any time of the day or night, with or without a
16 search warrant.
- 17 o. Serve a term of imprisonment of up to one-half of the maximum term authorized
18 for the offense of which the defendant was convicted.
- 19 p. Reimburse the costs and expenses determined necessary for the defendant's
20 adequate defense when counsel is appointed or provided at public expense for
21 the defendant. When reimbursement of indigent defense costs and expenses is
22 imposed as a condition of probation, the court shall proceed as provided in
23 subsection 4 of section 12.1-32-08.
- 24 q. Provide community service for the number of hours designated by the court.
- 25 r. Refrain from any subscription to, access to, or use of the internet.
- 26 ~~5-10.~~ When the court imposes a sentence to probation, probation in conjunction with
27 imprisonment, or probation in conjunction with suspended execution or deferred
28 imposition of sentence, the defendant must be given a certificate explicitly setting forth
29 the conditions on which the defendant is being released.
- 30 ~~6-11.~~ The court, upon notice to the probationer and with good cause, may modify or enlarge
31 the conditions of probation at any time prior to the expiration or termination of the

1 period for which the probation remains conditional. If the defendant violates a
2 condition of probation at any time before the expiration or termination of the period, the
3 court may continue the defendant on the existing probation, with or without modifying
4 or enlarging the conditions, or may revoke the probation and impose any other
5 sentence that was available under section 12.1-32-02 or 12.1-32-09 at the time of
6 initial sentencing or deferment. In the case of suspended execution of sentence, the
7 court may revoke the probation and cause the defendant to suffer the penalty of the
8 sentence previously imposed upon the defendant.

9 ~~7-12.~~ The court may continue or modify probation conditions or revoke probation for a
10 violation of probation conditions occurring before the expiration or termination of the
11 period of probation notwithstanding that the order of the court is imposed after the
12 expiration or termination has occurred. The petition for revocation must be issued
13 within sixty days of the expiration or termination of probation.

14 ~~8-13.~~ Jurisdiction over a probationer may be transferred from the court that imposed the
15 sentence to another court of this state with the concurrence of both courts. Retransfers
16 of jurisdiction may also occur in the same manner. The court to which jurisdiction has
17 been transferred under this subsection may exercise all powers permissible under this
18 chapter over the defendant.

19 ~~9-14.~~ Notwithstanding any other provision of law, the court may authorize the defendant to
20 assist law enforcement officers in an investigation of a criminal offense upon the terms
21 and conditions as the court may require by written order. The court shall hold a
22 hearing in camera before issuing an order under this subsection. The order must be
23 sealed and is subject to inspection only upon order of the court.

24 **SECTION 13.** Subsections 3 and 4 to section 12.1-32-07.1 of the North Dakota Century
25 Code are created and enacted as follows:

26 3. A defendant is eligible for a presumptive termination of probation after a period of
27 twelve consecutive months on probation or a cumulative period of twelve months of
28 parole and probation without a risk revocation as defined in section 12.1-32-07. This
29 subsection does not apply to a defendant on probation for an offense under section
30 12.1-32-09.1, a felony offense subject to section 12.1-32-02.1, a second or
31 subsequent violation of section 12.1-17-07.1, a second or subsequent violation of any

1 domestic violence protection order, a violation of chapter 12.1-41, or a violation of
2 section 14-09-22. A defendant with any outstanding fine, fee, or restitution order is not
3 eligible for early termination, but may be placed on the lowest level of supervision for
4 the remainder of the payment schedule.

- 5 4. A probation officer shall file a petition on behalf of the defendant and the court shall
6 hold a status hearing to review the defendant's probation history when a defendant is
7 eligible for presumptive termination and discharge. The court shall approve an
8 automatic discharge from probation upon the defendant's completion of a period of
9 three months on the diversion caseload, except the court may depart from the
10 presumptive termination if the judge states on the record the reason for denying the
11 termination of supervision.

12 **SECTION 14. AMENDMENT.** Subdivision c of subsection 4 of section 12.1-32-08 of the
13 North Dakota Century Code is amended and reenacted as follows:

- 14 c. If at any time the court finds that the defendant is able to reimburse costs and
15 expenses and has willfully failed to do so, the court may continue, modify, or
16 enlarge the conditions of probation or revoke probation as provided in
17 subsection ~~6~~11 or ~~7~~12, as applicable, of section 12.1-32-07.

18 **SECTION 15. AMENDMENT.** Section 12.1-32-09.1 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **12.1-32-09.1. Sentencing of violent offenders.**

- 21 1. Except as provided under section 12-48.1-02 and pursuant to rules adopted by the
22 department of corrections and rehabilitation, an offender who is convicted of a crime in
23 violation of section 12.1-16-01, 12.1-16-02, subsection 2 of section 12.1-17-02, section
24 12.1-18-01, subdivision a of subsection 1 or subdivision b of subsection 2 of section
25 12.1-20-03, section 12.1-22-01, subdivision b of subsection 2 of section 12.1-22-02, or
26 an attempt to commit the offenses, and who receives a sentence of imprisonment is
27 not eligible for release from confinement on any basis until eighty-five percent of the
28 sentence imposed by the court has been served or the sentence is commuted.
- 29 2. A sentence of incarceration for a violent offender under subsection 1 must include a
30 period of supervision of at least one year following release.

1 3. In the case of an offender who is sentenced to a term of life imprisonment with
2 opportunity for parole under subsection 1 of section 12.1-32-01, the term "sentence
3 imposed" means the remaining life expectancy of the offender on the date of
4 sentencing. The remaining life expectancy of the offender must be calculated on the
5 date of sentencing, computed by reference to a recognized mortality table as
6 established by rule by the supreme court.

7 ~~3.4.~~ Notwithstanding this section, an offender sentenced under subsection 1 of section
8 12.1-32-01 may not be eligible for parole until the requirements of that subsection
9 have been met.

10 **SECTION 16. AMENDMENT.** Section 12.1-32-14 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **12.1-32-14. Restoration of property or other work to be required of certain offenders.**

13 Other provisions of this chapter notwithstanding, whenever a ~~person~~ individual convicted
14 of criminal mischief is placed on probation pursuant to section 12.1-32-02 or 12.1-32-07, the
15 court shall include as a condition of that probation the requirement that the ~~person~~ individual
16 perform restoration or other assigned work as specified in subdivision e of subsection ~~49~~ of
17 section 12.1-32-07.

18 **SECTION 17. AMENDMENT.** Section 12.1-32-16 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **12.1-32-16. Restitution to be required of certain offenders - Penalty.**

21 Notwithstanding any other provision in this chapter, whenever a ~~person~~ individual whose
22 license has been suspended for nonpayment of child support under section 50-09-08.6 is
23 convicted of engaging in activity for which the license was required, the court shall require as a
24 condition of the sentence that the ~~person~~ individual pay restitution in the amount of two hundred
25 fifty dollars, or a higher amount set by the court, as specified in subdivision e of subsection ~~49~~
26 of section 12.1-32-07. Any restitution ordered under this section must be paid to the state
27 disbursement unit for distribution under section 14-09-25.

28 **SECTION 18. AMENDMENT.** Section 39-24.1-07 of the North Dakota Century Code is
29 amended and reenacted as follows:

1 **39-24.1-07. Criminal penalties for operating snowmobile while having alcohol or drug**
2 **concentrations.**

3 Upon conviction of a violation of subdivision c of subsection 5 of section 39-24-09, the court
4 shall impose the following minimum penalties:

- 5 1. Notwithstanding subsection 78 of section 12.1-32-01, if the ~~person's~~individual's record
6 indicates that, within the five years preceding the date of the offense, the
7 ~~person~~individual has not violated subdivision c of subsection 5 of section 39-24-09 or
8 the ~~person~~individual has not been prohibited from operating a snowmobile under this
9 chapter, the offense is an infraction. The court shall impose a minimum fine of two
10 hundred fifty dollars and, as a condition of that ~~person's~~individual's probation, shall
11 prohibit that ~~person~~individual from operating a snowmobile on all public land or private
12 land with public access for sixty days within the snowmobile season that runs from
13 December first through April first.
- 14 2. If the ~~person's~~individual's record indicates that, within the five years preceding the date
15 of the offense, the ~~person~~individual has one violation of subdivision c of subsection 5
16 of section 39-24-09 or the ~~person~~individual has once been prohibited from operating a
17 snowmobile under this chapter, the offense is a class B misdemeanor. The court shall
18 impose a minimum fine of three hundred fifty dollars and, as a condition of that
19 ~~person's~~individual's probation, shall prohibit that ~~person~~individual from operating a
20 snowmobile on all public land or private land with public access for one year from the
21 date of the sentence.
- 22 3. If the ~~person's~~individual's record indicates that, within the five years preceding the date
23 of the offense, the ~~person~~individual has had at least two violations of subdivision c of
24 subsection 5 of section 39-24-09 or the ~~person~~individual has at least twice been
25 prohibited from operating a snowmobile under this chapter, the offense is a class B
26 misdemeanor. The court shall impose a minimum fine of four hundred fifty dollars and,
27 as a condition of that ~~person's~~individual's probation, shall prohibit that ~~person~~individual
28 from operating a snowmobile on all public land or private land with public access for
29 two years from the date of the sentence.

30 **SECTION 19. AMENDMENT.** Subsection 17 of section 50-06-05.1 of the North Dakota
31 Century Code is amended and reenacted as follows:

1 17. To act as the official agency of the state in the administration of the supplemental
2 nutrition assistance program and to direct and supervise county administration of that
3 program. Provided, however, that the department with the consent of the budget
4 section of the legislative management may terminate the program if the rate of federal
5 financial participation in administrative costs provided under Public Law 93-347 is
6 decreased or limited, or if the state or counties become financially responsible for all or
7 a portion of the coupon bonus payments under the Food Stamp Act. ~~Unless at least~~
8 ~~seven years has elapsed since the most recent felony conviction that has as an~~
9 ~~element the possession, use, or distribution of a controlled substance, the department~~
10 ~~shall deny assistance under the supplemental nutrition assistance program to any~~
11 ~~individual who has been convicted of a felony offense that has as an element the~~
12 ~~possession, use, or distribution of a controlled substance as defined in section 102(6)-~~
13 ~~of the Controlled Substances Act [21 U.S.C. 802(6)].~~

14 **SECTION 20.** Subsection 18 to section 54-23.3-04 of the North Dakota Century Code is
15 created and enacted as follows:

16 18. To develop and maintain a risk assessment tool that must be validated at least every
17 four years. Before June first of even-numbered years, the director shall prepare and
18 submit a report to the legislative management on data relating to the risk assessment
19 tool and the impact on subpopulations, such as gender, race, and ethnicity.

20 **SECTION 21. AMENDMENT.** Subdivision a of subsection 7 of section 54-23.4-01 of the
21 North Dakota Century Code is amended and reenacted as follows:

22 a. "Allowable expense" means reasonable charges incurred for reasonably needed
23 products, services, and accommodations required to participate in criminal justice
24 proceedings, to attend a funeral, or for appointments due to the injury, including
25 those for medical care, rehabilitation, rehabilitative occupational training, and
26 other remedial treatment and care. The term includes a total charge not in excess
27 of ~~five~~seven thousand ~~five~~hundred dollars for expenses in any way related to
28 funeral, cremation, and burial. ~~The term does not include that portion of a charge~~
29 ~~for a room in a hospital, clinic, convalescent or nursing home, or any other~~
30 ~~institution engaged in providing nursing care and related services, in excess of a~~

1 reasonable and customary charge for semiprivate accommodations, unless the
2 excess represents costs of other accommodations that are medically required.

3 **SECTION 22. AMENDMENT.** Section 54-23.4-06 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **54-23.4-06. Application for compensation - Awards - Limitations on awards.**

- 6 1. An applicant for an award of compensation shall apply in writing in a form that
7 conforms substantially to that prescribed by the division. If a resident of this state is a
8 victim of criminally injurious conduct, but the criminally injurious conduct occurred
9 outside the geographical boundaries of this state, the resident has the same rights
10 under this chapter as if the criminally injurious conduct occurred within this state upon
11 a showing that the state, territory, country, or political subdivision of the country in
12 which the criminally injurious conduct occurred does not have a crime victims
13 compensation law which covers the bodily injury or death of the victim.
- 14 2. A claim for compensation must be filed within ~~one year~~two years from the date the
15 criminally injurious conduct was reported to a law enforcement officer. The division
16 may extend the time for filing if it determines that the interests of justice so require.
17 ~~There is no appeal from a decision of the division not to extend the filing time, not to~~
18 ~~reopen, or not to reinvestigate a claim.~~A decision to extend the time of filing may be
19 appealed under section 54-23.4-15.
- 20 3. Compensation may not be awarded to a claimant who is the offender or an accomplice
21 of the offender, nor to any claimant if the award would unjustly benefit the offender or
22 an accomplice.
- 23 4. Compensation may not be awarded unless the criminally injurious conduct resulting in
24 injury or death was reported to a law enforcement officer within ninety-six hours after
25 its occurrence or the division finds there was good cause for the failure to report within
26 that time. In the case of child abuse or sexual molestation of a child, the criminally
27 injurious conduct must be reported to a law enforcement officer within three years after
28 the child reaches the age of majority.
- 29 5. The division, upon finding that the claimant has not fully cooperated with appropriate
30 law enforcement agencies, may deny, reconsider, or reduce an award of
31 compensation.

- 1 6. Compensation otherwise payable to a claimant must be reduced or denied:
- 2 a. To the extent the economic loss upon which the claim is based is recouped from
- 3 other persons, including collateral sources; and
- 4 b. To the extent the division deems reasonable because of the contributory
- 5 misconduct of the claimant or of a victim on whose behalf compensation is
- 6 claimed; ~~and~~
- 7 ~~c. To the extent the division deems reasonable when it is determined that a victim~~
- 8 ~~was under the influence of an alcoholic beverage or a controlled substance at the~~
- 9 ~~time the criminally injurious conduct occurred and the victim's intoxication was a~~
- 10 ~~factor causing the criminally injurious conduct.~~
- 11 7. Compensation for work loss, replacement services loss, dependent's economic loss,
- 12 and dependent's replacement services loss may not exceed three hundred dollars per
- 13 week.
- 14 8. Compensation payable to a victim and to all other claimants sustaining economic loss
- 15 because of injury to or death of that victim may not exceed twenty-five thousand
- 16 dollars in the aggregate. If a resident of this state is the victim of criminally injurious
- 17 conduct outside the geographical boundaries of this state and the total amount of
- 18 crime victims compensation benefits payable where the criminally injurious conduct
- 19 occurred is less than twenty-five thousand dollars, the division may pay additional
- 20 compensation to the victim. The maximum additional compensation the division may
- 21 pay is the difference between twenty-five thousand dollars and the total amount of
- 22 crime victims compensation benefits payable where the criminally injurious conduct
- 23 occurred.
- 24 9. Compensation payable to a victim for property loss related to crime scene cleanup
- 25 may not exceed two thousand five hundred dollars.
- 26 10. Compensation payable to a victim for loss of property to replace locks, windows, and
- 27 other residential security items at a victim's residence or at the residential scene of a
- 28 crime may not exceed five hundred dollars per residence.
- 29 11. Compensation for reasonable expenses incurred by a victim or by a victim service
- 30 program on behalf of a victim for up to three months of housing assistance may not
- 31 exceed a cumulative lifetime maximum of two thousand dollars per person.

1 **SECTION 23. REPEAL.** Section 12-59-22 of the North Dakota Century Code is repealed.

2 **SECTION 24. PRETRIAL SERVICES DIVISION PILOT PROJECT - REPORT TO**

3 **LEGISLATIVE ASSEMBLY.** The department of corrections and rehabilitation may establish a
4 pretrial services program as a pilot project in one or more judicial districts during the biennium
5 beginning July 1, 2017, and ending June 30, 2019. The pretrial services pilot project must
6 involve coordination among the department, the judicial branch, and state and local law
7 enforcement agencies for the provision of pretrial services by the department for the district
8 courts to individuals charged with felony offenses. Pretrial services include risk assessments,
9 background and criminal history background investigations, recommendations for conditions of
10 pretrial release, monitoring and supervision of individuals on pretrial release for compliance with
11 pretrial conditions to assure the individual's appearance at all court proceedings, and reporting
12 violations of pretrial release conditions to the district court. The department and the judicial
13 branch shall provide a report of the process and outcome measures of the pretrial services
14 program and recommendations, together with any legislation required to implement the
15 recommendations, to the sixty-sixth legislative assembly.