

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1041

In lieu of the amendments adopted by the Senate as printed on pages 872-874 of the Senate Journal, Reengrossed House Bill No. 1041 is amended as follows:

Page 1, line 4, replace "subsections" with "subsection"

Page 1, line 4, remove "and 6"

Page 1, line 7, replace "section 43-45-06" with "subsection 2 of section 39-20-01"

Page 1, line 11, remove "addiction counseling services,"

Page 1, line 14, remove "and"

Page 1, line 14, after "assembly" insert "; to provide an appropriation; to provide an effective date; and to declare an emergency"

Page 3, line 26, remove overstrike over "one"

Page 3, line 26, remove "two"

Page 3, line 26, remove "five hundred"

Page 6, remove lines 26 through 30

Page 7, remove lines 1 through 30

Page 8, remove lines 1 through 5

Page 8, after line 8 insert:

"1."

Page 8, line 11, remove "involving domestic violence; an offense"

Page 8, line 11, replace "section 12.1-17-07.1" with "chapters 12.1-06.2, 12.1-08, and 12.1-09, section 12.1-16-03"

Page 8, line 11, remove "chapter"

Page 8, line 12, replace "12.1-41, or sections" with "chapters 12.1-17, 12.1-18, and 12.1-22, section 12.1-23-02.1, chapter 12.1-25, an offense subject to registration under section 12.1-32-15, chapter 12.1-36, or section"

Page 8, line 12, replace "or 14-09-22" with ", including attempt, serving as an accomplice to an offense, or conspiracy to commit the offense"

Page 8, line 12, after the underscored semicolon insert "an attempt to commit"

Page 8, line 13, after "weapon" insert "or serving as an accomplice or in a conspiracy to commit an offense involving a firearm or dangerous weapon"

Page 8, line 13, remove "The sentencing court may"

Page 8, remove lines 14 and 15

Page 8, line 16, remove "aggravating factors on the record at the time of sentencing."

Page 8, after line 19, insert:

- "2. This section does not apply to an offense committed under subsection 1 of section 12.1-22-02.
3. This section does not apply if the sentencing court finds there are aggravating factors present to justify a departure from presumptive probation. The sentencing court shall state the aggravating factors on the record at the time of sentencing. Aggravating factors include:
  - a. That the individual has plead guilty to, or has been found guilty of, a felony offense or class A misdemeanor offense prior to the date of the commission of the offense or offenses charged in the complaint, information, or indictment;
  - b. The age and vulnerability of the victim, whether the individual was in a position of responsibility or trust over the victim, or whether the individual abused a public position of responsibility or trust; or
  - c. If the individual used threats or coercion in the commission of the offense."

Page 12, replace lines 16 through 26 with:

**"SECTION 15. AMENDMENT.** Subsection 2 of section 39-20-01 of the North Dakota Century Code is amended and reenacted as follows:

2. The test or tests must be administered at the direction of a law enforcement officer only after placing the individual, ~~except individuals mentioned in section 39-20-03,~~ under arrest and informing that individual that the individual is or will be charged with the offense of driving or being in actual physical control of a vehicle upon the public highways while under the influence of intoxicating liquor, drugs, or a combination thereof. For the purposes of this chapter, the taking into custody of a child under section 27-20-13 or an individual under twenty-one years of age satisfies the requirement of an arrest. The law enforcement officer shall determine which of the tests is to be used."

Page 16, after line 29, insert:

**"SECTION 20. APPROPRIATION - DEPARTMENT OF HUMAN SERVICES.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$110,916, or so much of the sum as may be necessary, and \$1,532,785 from federal funds, or so much of the sum as may be necessary, to the department of human services for the purpose of implementing sections 16 and 17 of this Act, for the biennium beginning July 1, 2017, and ending June 30, 2019.

**SECTION 21. EFFECTIVE DATE.** Sections 7 and 8 of this Act become effective January 1, 2018.

**SECTION 22. EMERGENCY.** Sections 1 through 6, 9 through 14, and 16 and 17 of this Act are declared to be an emergency measure."

Renumber accordingly