

**SECOND ENGROSSMENT
with Conference Committee Amendments
REENGROSSED HOUSE BILL NO. 1041**

Introduced by

Legislative Management
(Incarceration Issues Committee)

1 A BILL for an Act to create and enact a new section to chapter 12.1-32 and a new section to
2 chapter 54-23.3 of the North Dakota Century Code, relating to presumptive probation and
3 faith-based organizations; to amend and reenact sections 12-44.1-32, 12-54.1-01, 12-59-08,
4 12.1-17-13, and 12.1-23-05, subdivision c of subsection 1 of section 12.1-32-02, subsection 2 of
5 section 12.1-32-02, subsection 3 of section 12.1-32-07, section 19-03.1-22.3, subsection 1 of
6 section 19-03.1-22.5, subsections 5 and 7 of section 19-03.1-23, subdivision a of subsection 1
7 of section 19-03.1-23.1, subdivision f of subsection 5 of section 39-08-01, subsection 2 of
8 section 39-20-01, subsection 17 of section 50-06-05.1, and section 50-09-29 of the North
9 Dakota Century Code, relating to sentence reduction credit, medical paroles, domestic violence
10 offender treatment, grading of theft offenses, sentencing alternatives, credit for time spent in
11 custody, terms and conditions of probation, controlled substances, and the supplemental
12 nutrition assistance program; to provide a penalty; to provide for the creation of a pretrial
13 services program pilot project within the department of corrections and rehabilitation; to provide
14 a report to the legislative management; to provide for a report to the legislative assembly; to
15 provide an appropriation; to provide an effective date; and to declare an emergency.

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

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

19 **12-44.1-32. ~~Performance-based sentence~~ Sentence reduction credit.**

20 ~~The presiding judge of a judicial district in which a correctional facility is located, after~~
21 ~~consultation with the other judges in the district, may authorize the facility administrator to~~
22 ~~provide for~~ An inmate sentenced to a correctional facility under this chapter is eligible to earn
23 sentence reductions based upon performance criteria established through ~~by~~ the administrator
24 ~~except that sentence reductions may not be given to offenders sentenced under section~~

1 ~~12.1-32-09.1, including sentence reduction for good conduct.~~ While incarcerated in a
2 correctional facility, an offender may earn no more than a one-day sentence reduction per six
3 days served.

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

6 **12-54.1-01. ~~Performance-based sentence~~Sentence reduction.**

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

20 **SECTION 3. AMENDMENT.** Section 12-59-08 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **12-59-08. ~~Emergency~~Medical paroles.**

23 ~~The~~If an inmate, including an inmate whose sentence is subject to sections 12.1-32-02.1
24 and 12.1-32-09.1, and an inmate sentenced under subsection 1 of section 12.1-32-01, has a
25 serious or terminal medical condition, the parole board may consider whether to grant the
26 inmate may receive an emergency medical parole at a meeting scheduled by the chairman.
27 ~~The board may request the inmate to personally appear before the board before the board~~
28 ~~makes a decision whether to grant the inmate an emergency parole. The board may grant or~~
29 ~~deny an emergency parole, or grant a conditional emergency parole, or continue its~~
30 ~~consideration to another meeting. Two members of the parole board may grant emergency~~
31 ~~parole, subject to terms and conditions of emergency parole that may be established by the two~~

1 ~~members of the parole board, or by the department of corrections and rehabilitation with the~~
2 ~~approval of the parole board.~~ An inmate who receives an emergency medical parole remains
3 under the jurisdiction of the parole board until the expiration of the maximum term or terms of
4 imprisonment for which the inmate was sentenced, less any sentence reduction the inmate has
5 received.

6 **SECTION 4. AMENDMENT.** Section 12.1-17-13 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **12.1-17-13. Mandated treatment of domestic violence offenders.**

9 The sentence for an offense under section 12.1-17-01, 12.1-17-01.1, 12.1-17-02,
10 12.1-17-03, 12.1-17-04, or 12.1-17-05 against an actor's family or household member, as
11 defined in subsection 4 of section 14-07.1-01, must include an order to complete a domestic
12 violence offender evaluation and treatment program as determined by the court. A court may not
13 order the offender to attend anger management classes or individual counseling unless a
14 domestic violence offender treatment program is not reasonably available to the defendant and
15 the court makes findings for the record explaining why an order to complete a domestic violence
16 offender treatment program would be inappropriate.

17 **SECTION 5. AMENDMENT.** Section 12.1-23-05 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **12.1-23-05. Grading of theft offenses.**

- 20 1. Notwithstanding subsection 3, theft under this chapter is a class A felony if the
21 property or services stolen exceed fifty thousand dollars in value.
- 22 2. Notwithstanding the provisions of subsection 3, theft under this chapter is a class B
23 felony if the property or services stolen exceed ten thousand dollars in value but do
24 not exceed fifty thousand dollars or are acquired or retained by a threat to commit a
25 felony.
- 26 3. Theft under this chapter is a class C felony if:
- 27 a. The property or services stolen exceed one thousand dollars in value;
- 28 b. The property or services stolen are acquired or retained by threat and (1) are
29 acquired or retained by a public servant by a threat to take or withhold official
30 action, or (2) exceed one hundred dollars in value;

- 1 c. The property or services stolen exceed one hundred dollars in value and are
2 acquired or retained by a public servant in the course of official duties;
- 3 d. The property stolen is a firearm, ammunition, or an explosive or destructive
4 device, ~~or an automobile, aircraft, or other motor-propelled vehicle~~;
- 5 e. The property consists of any government file, record, document, or other
6 government paper stolen from any government office or from any public servant;
- 7 f. The defendant is in the business of buying or selling stolen property and the
8 defendant receives, retains, or disposes of the property in the course of that
9 business;
- 10 g. The property stolen consists of any implement, paper, or other thing uniquely
11 associated with the preparation of any money, stamp, bond, or other document,
12 instrument, or obligation of this state;
- 13 h. The property stolen consists of livestock taken from the premises of the owner;
- 14 i. The property stolen consists of a key or other implement uniquely suited to
15 provide access to property the theft of which would be a felony and it was stolen
16 to gain such access;
- 17 j. The property stolen is a card, plate, or other credit device existing for the purpose
18 of obtaining money, property, labor, or services on credit, or is a debit card,
19 electronic fund transfer card, code, or other means of access to an account for
20 the purposes of initiating electronic fund transfers; or
- 21 k. The property stolen is a prescription drug as defined in section 43-15.3-01.
- 22 4. All other theft under this chapter is a class A misdemeanor, unless the requirements of
23 subsection 5 are met.
- 24 5. Theft under this chapter of property or services of a value not exceeding five hundred
25 dollars is a class B misdemeanor if:
26 a. The theft was not committed by threat;
27 b. The theft was not committed by deception by one who stood in a confidential or
28 fiduciary relationship to the victim of the theft; and
29 c. The defendant was not a public servant or an officer or employee of a financial
30 institution who committed the theft in the course of official duties.

1 The special classification provided in this subsection applies if the offense is classified
2 under this subsection in the charge or if, at sentencing, the required factors are
3 established by a preponderance of the evidence.

4 6. Notwithstanding subsection 3 of section 12.1-06-01, an attempt to commit a theft
5 under this chapter is punishable equally with the completed offense when the actor
6 has completed all of the conduct which the actor believes necessary on the actor's
7 part to complete the theft except receipt of the property.

8 7. For purposes of grading, the amount involved in a theft under this chapter is the
9 highest value by any reasonable standard, regardless of the actor's knowledge of such
10 value, of the property or services which were stolen by the actor, or which the actor
11 believed that the actor was stealing, or which the actor could reasonably have
12 anticipated to have been the property or services involved. Thefts committed pursuant
13 to one scheme or course of conduct, whether from the same person or several
14 persons, may be charged as one offense and the amounts proved to have been stolen
15 may be aggregated in determining the grade of the offense.

16 **SECTION 6. AMENDMENT.** Subdivision c of subsection 1 of section 12.1-32-02 of the
17 North Dakota Century Code is amended and reenacted as follows:

18 c. A term of imprisonment, including intermittent imprisonment:

19 (1) In a state correctional facility in accordance with section 29-27-07, in a
20 regional corrections center, or in a county jail, if convicted of a felony or a
21 class A misdemeanor.

22 (2) In a county jail or in a regional corrections center, if convicted of a class B
23 misdemeanor.

24 (3) In a facility or program deemed appropriate for the treatment of the
25 individual offender, including available community-based or faith-based
26 programs.

27 (4) In the case of persons convicted of an offense who are under eighteen
28 years of age at the time of sentencing, the court is limited to sentencing the
29 minor defendant to a term of imprisonment in the custody of the department
30 of corrections and rehabilitation.

1 **SECTION 7. AMENDMENT.** Subsection 2 of section 12.1-32-02 of the North Dakota
2 Century Code is amended and reenacted as follows:

3 2. Credit against any sentence to a term of imprisonment must be given by the court to a
4 defendant for all time spent in custody as a result of the criminal charge for which the
5 sentence was imposed or as a result of the conduct on which such charge was based.
6 "Time spent in custody" includes time spent in custody in a jail or mental institution for
7 the offense charged, whether that time is spent prior to trial, during trial, pending
8 sentence, or pending appeal. The total amount of credit the defendant is entitled to for
9 time spent in custody and any credit for sentence reduction under section 12-44.1-32
10 or 12-54.1-01 the defendant is entitled to must be stated in the criminal judgment.

11 **SECTION 8. AMENDMENT.** Subsection 3 of section 12.1-32-07 of the North Dakota
12 Century Code is amended and reenacted as follows:

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

- 1 d. Home confinement;
- 2 e. House arrest;
- 3 f. Electronic monitoring;
- 4 g. Residential halfway house;
- 5 h. Intensive supervision program;
- 6 i. Up to five nonsuccessive periods of incarceration during any twelve-month
- 7 period, each of which may not exceed forty-eight consecutive hours; or
- 8 j. Participation in the twenty-four seven sobriety program; or
- 9 k. One period of incarceration during a period of probation not to exceed thirty
- 10 consecutive days in lieu of a petition for revocation of probation.

11 **SECTION 9.** A new section to chapter 12.1-32 of the North Dakota Century Code is created
12 and enacted as follows:

13 **Presumptive probation.**

- 14 1. The sentencing court shall sentence an individual who has pled guilty to, or has been
- 15 found guilty of, a class C felony offense or class A misdemeanor offense to a term of
- 16 probation at the time of initial sentencing, except for an offense involving domestic
- 17 violence; an offense subject to registration under section 12.1-32-15; an offense
- 18 involving a firearm or dangerous weapon, explosive, or incendiary device; or if a
- 19 mandatory term of incarceration is required by law.
- 20 2. The sentencing court may impose a sentence of imprisonment if the sentencing court
- 21 finds there are aggravating factors present to justify a departure from presumptive
- 22 probation. Aggravating factors include:
- 23 a. That the individual has pled guilty to, or has been found guilty of, a felony
- 24 offense or class A misdemeanor offense prior to the date of the commission of
- 25 the offense or offenses charged in the complaint, information, or indictment;
- 26 b. The age and vulnerability of the victim, whether the individual was in a position of
- 27 responsibility or trust over the victim, or whether the individual abused a public
- 28 position of responsibility or trust; or
- 29 c. If the individual used threats or coercion in the commission of the offense.
- 30 3. This section does not preclude the sentencing court from deferring imposition of
- 31 sentence in accordance with subsection 4 of section 12.1-32-02 or sentencing an

1 individual to a term of incarceration with credit for time spent in custody if execution of
2 the sentence is suspended.

3 **SECTION 10. AMENDMENT.** Section 19-03.1-22.3 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **19-03.1-22.3. Ingesting a controlled substance - Venue for violation - Penalty.**

6 A person who intentionally ingests, inhales, injects, or otherwise takes into the body a
7 controlled substance, unless the substance was obtained directly from a practitioner or pursuant
8 to a valid prescription or order of a practitioner while acting in the course of the practitioner's
9 professional practice, is guilty of a class AB misdemeanor if the controlled substance is
10 marijuana. Otherwise, the offense is a class A misdemeanor. The venue for a violation of this
11 section exists in either the jurisdiction in which the controlled substance was ingested, inhaled,
12 injected, or otherwise taken into the body or the jurisdiction in which the controlled substance
13 was detected in the body of the accused.

14 **SECTION 11. AMENDMENT.** Subsection 1 of section 19-03.1-22.5 of the North Dakota
15 Century Code is amended and reenacted as follows:

16 1. The use of controlled substance analog includes the ingestion, inhalation, absorption,
17 or any other method of taking the controlled substance analog into the body. An
18 individual who intentionally uses a controlled substance analog is guilty of a class G-
19 felonyA misdemeanor for a first offense and a class C felony for a second or
20 subsequent offense, unless the individual obtains the analog directly from a
21 practitioner or pursuant to a valid prescription or order of a practitioner.

22 **SECTION 12. AMENDMENT.** Subsections 5 and 7 of section 19-03.1-23 of the North
23 Dakota Century Code are amended and reenacted as follows:

24 5. A violation of this ~~chapter~~title or a law of another state or the federal government which
25 is equivalent to an offense with respect to the manufacture, delivery, or intent to deliver
26 a controlled substance under this ~~chapter~~title committed while the offender was an
27 adult and which resulted in a plea or finding of guilt must be considered a prior offense
28 under subsections 1, 3, and 4. The prior offense must be alleged in the complaint,
29 information, or indictment. The plea or finding of guilt for the prior offense must have
30 occurred before the date of the commission of the offense or offenses charged in the
31 complaint, information, or indictment.

- 1 7. a. It is unlawful for any person to willfully, as defined in section 12.1-02-02, possess
2 a controlled substance or a controlled substance analog unless the substance
3 was obtained directly from, or pursuant to, a valid prescription or order of a
4 practitioner while acting in the course of the practitioner's professional practice, or
5 except as otherwise authorized by this chapter, but any person who violates
6 section 12-46-24 or 12-47-21 may not be prosecuted under this subsection.
7 Except as otherwise provided in this subsection, any person who violates this
8 subsection is guilty of a class A misdemeanor for a first offense under this
9 subsection and a class C felony for a second or subsequent offense under this
10 subsection. If, at the time of the offense the person is in or on, ~~or within one-~~
11 ~~thousand feet [300.48 meters]~~ of the real property comprising a public or private
12 elementary or secondary school or a public career and technical education
13 school, the person is guilty of a class B felony, unless the offense involves ~~one-~~
14 ~~ounce [28.35 grams] or less of marijuana.~~ Any person who violates this
15 subsection regarding possession of ~~one ounce [28.35 grams] or less of marijuana~~
16 is guilty of a class B misdemeanor.
- 17 b. If an individual is sentenced to the legal and physical custody of the department
18 of corrections and rehabilitation under this subsection, the department may place
19 the individual in a drug and alcohol treatment program designated by the
20 department. Upon the successful completion of the drug and alcohol treatment
21 program, the department shall release the individual from imprisonment to begin
22 any court-ordered period of probation.
- 23 c. If the individual is not subject to any court-ordered probation, the court shall order
24 the individual to serve the remainder of the sentence of imprisonment on
25 supervised probation subject to the terms and conditions imposed by the court.
- 26 d. Probation under this subsection may include placement in another facility,
27 treatment program, or drug court. If an individual is placed in another facility or
28 treatment program upon release from imprisonment, the remainder of the
29 sentence must be considered as time spent in custody.

- 1 e. An individual incarcerated under this subsection as a result of a second probation
2 revocation is not eligible for release from imprisonment upon the successful
3 completion of treatment.

4 **SECTION 13. AMENDMENT.** Subdivision a of subsection 1 of section 19-03.1-23.1 of the
5 North Dakota Century Code is amended and reenacted as follows:

- 6 a. The offense was committed during a school sponsored activity or was committed
7 during the hours of six a.m. to ten p.m. if school is in session, the offense
8 involved the manufacture, delivery, or possession, with intent to manufacture or
9 deliver a controlled substance in or on, or within ~~one thousand feet [300.48-~~
10 ~~meters]~~three hundred feet [91.4 meters] of; the real property comprising a child-
11 ~~care or~~ preschool facility, a public or private elementary or secondary school, or a
12 public career and technical education school, ~~or a public or private college or~~
13 university;

14 **SECTION 14. AMENDMENT.** Subdivision f of subsection 5 of section 39-08-01 of the North
15 Dakota Century Code is amended and reenacted as follows:

- 16 f. If the offense is subject to subdivision a or b, a municipal court or district court
17 may not suspend a sentence, but may convert each day of a term of
18 imprisonment to ten hours of community service for an offense subject to
19 paragraph 2 of subdivision a. If the offense is subject to subdivision c, the district
20 court may suspend a sentence, except for sixty days' imprisonment, under
21 subsection 3 of section 12.1-32-02 on the condition that the defendant first
22 undergo and complete an evaluation for alcohol and substance abuse treatment
23 and rehabilitation. If the offense is subject to subdivision d, the district court may
24 suspend a sentence, except for one year's imprisonment, under subsection 3 of
25 section 12.1-32-02 on the condition that the defendant first undergo and
26 complete an evaluation for alcohol and substance abuse treatment and
27 rehabilitation. If the defendant is found to be in need of alcohol and substance
28 abuse treatment and rehabilitation, the district court may order the defendant
29 placed under the supervision and management of the department of corrections
30 and rehabilitation and is subject to the conditions of probation under section
31 12.1-32-07. The district court may require the defendant to complete alcohol and

1 substance abuse treatment and rehabilitation under the direction of the drug
2 court program as a condition of probation in accordance with rules adopted by
3 the supreme court. The district court may terminate probation under this section
4 when the defendant completes the drug treatment program. If the district court
5 finds that a defendant has failed to undergo an evaluation or complete treatment
6 or has violated any condition of probation, the district court shall revoke the
7 defendant's probation and shall sentence the defendant in accordance with this
8 subsection.

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

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

20 **SECTION 16. AMENDMENT.** Subsection 17 of section 50-06-05.1 of the North Dakota
21 Century Code is amended and reenacted as follows:

22 17. To act as the official agency of the state in the administration of the supplemental
23 nutrition assistance program and to direct and supervise county administration of that
24 program. Provided, however, that the department with the consent of the budget
25 section of the legislative management may terminate the program if the rate of federal
26 financial participation in administrative costs provided under Public Law 93-347 is
27 decreased or limited, or if the state or counties become financially responsible for all or
28 a portion of the coupon bonus payments under the Food Stamp Act. ~~Unless at least~~
29 ~~seven years has elapsed since the most recent felony conviction that has as an~~
30 ~~element the possession, use, or distribution of a controlled substance, the~~The
31 department ~~shall~~may not deny assistance under the supplemental nutrition assistance

1 program to any individual who has been convicted of a felony offense that has as an
2 element the possession, use, or distribution of a controlled substance as defined in
3 section 102(6) of the Controlled Substances Act [21 U.S.C. 802(6)].

4 **SECTION 17. AMENDMENT.** Section 50-09-29 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **50-09-29. Requirements for administration of temporary assistance for needy**
7 **families.**

- 8 1. Except as provided in subsections 2, 3, and 4, the department of human services, in
9 its administration of the temporary assistance for needy families program, shall:
- 10 a. Provide assistance to otherwise eligible women in the third trimester of a
11 pregnancy;
 - 12 b. Except as provided in subdivision c, afford eligible households benefits for no
13 more than sixty months;
 - 14 c. Exempt eligible households from the requirements of subdivision b due to mental
15 or physical disability of a parent or child, mental or physical incapacity of a
16 parent, or other hardship including a parent subject to domestic violence as
17 defined in section 14-07.1-01;
 - 18 d. Unless an exemption, exclusion, or disregard is required by law, count income
19 and assets whenever actually available;
 - 20 e. Except as provided in subdivision j, and as required to allow the state to receive
21 funds from the federal government under title IV-A, provide no benefits to
22 noncitizen immigrants who arrive in the United States after August 21, 1996;
 - 23 f. Limit eligibility to households with total available assets, not otherwise exempted
24 or excluded, of a value established by the department;
 - 25 g. Exclude one motor vehicle of any value in determining eligibility;
 - 26 h. Require work activities for all household members not specifically exempted by
27 the department of human services for reasons such as mental or physical
28 disability of a parent or child or mental or physical incapacity of a parent;
 - 29 i. Establish goals and take action to prevent and reduce the incidence of
30 out-of-wedlock pregnancies and establish numerical goals for reducing the
31 illegitimacy rate for the state for periods through calendar year 2005;

- 1 j. To the extent required to allow the state to receive funds from the federal
- 2 government under title IV-A, provide benefits to otherwise eligible noncitizens
- 3 who are lawfully present in the United States;
- 4 k. Establish and enforce standards against program fraud and abuse;
- 5 l. Provide employment placement programs;
- 6 m. Exempt from assets and income the savings and proportionate matching funds in
- 7 individual development accounts;
- 8 n. Determine the unemployment rate of adults living in a county that includes Indian
- 9 reservation lands and a significant population of Indian individuals by using
- 10 unemployment data provided by job service North Dakota;
- 11 o. When appropriate, require household members to complete high school;
- 12 p. To the extent required to allow the state to receive funds from the federal
- 13 government under title IV-A, exempt single parents from required work activities;
- 14 q. Provide for sanctions, including termination of assistance to the household, if a
- 15 household member fails to cooperate with work requirements;
- 16 r. Provide for sanctions, including termination of assistance to the household, if a
- 17 household member fails, without good cause, to cooperate with child support
- 18 activities;
- 19 s. Deny assistance with respect to a minor child absent from the household for
- 20 more than one calendar month, except as specifically provided by the state
- 21 agency for absences;
- 22 t. Require each household to participate in developing an individual employment
- 23 plan and provide for sanctions, including termination of assistance to the
- 24 household, if adult or minor household members age sixteen or older fail to
- 25 cooperate with the terms of the individual employment plan;
- 26 u. Provide pre-pregnancy family planning services that are to be incorporated into
- 27 the temporary assistance for needy families program assessment;
- 28 v. Except in cases of pregnancy resulting from rape or incest, not increase the
- 29 assistance amount to recognize the increase in household size when a child is
- 30 born to a household member who was a recipient of assistance under this
- 31 chapter during the probable month of the child's conception;

- 1 w. Disregard earned income as an incentive allowance for no more than twelve
2 months; and
- 3 x. Consider, and if determined appropriate, authorize demonstration projects in
4 defined areas which may provide benefits and services that are not identical to
5 benefits and services provided elsewhere; ~~and~~
- 6 y. ~~Unless at least seven years has elapsed since the most recent felony conviction~~
7 ~~that has as an element the possession, use, or distribution of a controlled~~
8 ~~substance, deny assistance to any individual who has been convicted of a felony~~
9 ~~offense that has as an element the possession, use, or distribution of a controlled~~
10 ~~substance as defined in section 102(6) of the Controlled Substances Act~~
11 ~~[21 U.S.C. 802(6)].~~
- 12 2. If the secretary of the United States department of health and human services
13 determines that funds otherwise available for the temporary assistance for needy
14 families program in this state must be reduced or eliminated should the department of
15 human services administer the program in accordance with any provision of
16 subsection 1, the department of human services shall administer the program in a
17 manner that avoids the reduction or loss.
- 18 3. If the department of human services determines, subject to the approval of the
19 legislative management, that there is insufficient worker opportunity, due to increases
20 in the unemployment rate, to participate in work activities, the department may
21 administer the temporary assistance for needy families program in a manner different
22 than provided in subsection 1.
- 23 4. If the department of human services determines, subject to the approval of the
24 legislative management, that administration of the temporary assistance for needy
25 families program, in the manner provided by subsection 1, causes otherwise eligible
26 individuals to become a charge upon the counties under chapter 50-01, the
27 department may administer the program in a manner that avoids that result.
- 28 5. The department of human services may not deny assistance to any individual who has
29 been convicted of a felony offense that has as an element the possession, use, or
30 distribution of a controlled substance as defined in section 102(6) of the Controlled
31 Substance Act [21 U.S.C. 802(6)].

1 **SECTION 18.** A new section to chapter 54-23.3 of the North Dakota Century Code is
2 created and enacted as follows:

3 **Faith-based programming.**

- 4 1. The department of corrections and rehabilitation, with contracts through the
5 department of human services and through the implementation of the community
6 behavioral health program, shall allow faith-based organizations to provide services to
7 individuals who need addiction treatment services.
- 8 2. For purposes of this section "faith-based organization" means a nonprofit corporation
9 or association operated by a religious or denominational organization, including an
10 organization operated for religious, educational, or charitable purposes and which is
11 operated, supervised, or controlled by or in connection with a religious organization, or
12 an organization that has a mission statement, policies, or practices clearly
13 demonstrating the organization is guided or motivated by faith.

14 **SECTION 19. PRETRIAL SERVICES DIVISION PILOT PROJECT - REPORT TO**

15 **LEGISLATIVE ASSEMBLY.** The department of corrections and rehabilitation may establish a
16 pretrial services program as a pilot project in one or more judicial districts during the biennium
17 beginning July 1, 2017, and ending June 30, 2019. The pretrial services pilot project must
18 involve coordination among the department, the judicial branch, the commission on legal
19 counsel for indigents, and state and local law enforcement agencies for the provision of pretrial
20 services by the department for the district courts to individuals charged with felony offenses.
21 Pretrial services include risk assessments, background and criminal history background
22 investigations, recommendations for conditions of pretrial release, monitoring and supervision of
23 individuals on pretrial release for compliance with pretrial conditions to assure the individual's
24 appearance at all court proceedings, and reporting violations of pretrial release conditions to the
25 district court. The department and the judicial branch shall provide a report of the process and
26 outcome measures of the pretrial services program and recommendations, together with any
27 legislation required to implement the recommendations, to the sixty-sixth legislative assembly.

28 **SECTION 20. JUSTICE REINVESTMENT INITIATIVE - REPORT TO LEGISLATIVE**

29 **MANAGEMENT - REPORT TO LEGISLATIVE ASSEMBLY.** Before September 1, 2018, the
30 department of corrections and rehabilitation and the supreme court shall provide a report to the
31 legislative management regarding the progress of the justice reinvestment initiative. The

1 department of corrections and rehabilitation and the supreme court shall provide a report on the
2 progress of the justice reinvestment initiative to the sixty-sixth legislative assembly.

3 **SECTION 21. APPROPRIATION.** There is appropriated out of any moneys in the general
4 fund in the state treasury, not otherwise appropriated, the sum of \$110,916, or so much of the
5 sum as may be necessary, and \$1,532,785 from federal funds, or so much of the sum as may
6 be necessary, to the department of human services for the purpose of implementing sections 16
7 and 17 of this Act, for the period beginning with the effective date of this section, and ending
8 June 30, 2019.

9 **SECTION 22. EFFECTIVE DATE.** Sections 8 and 9 of this Act become effective January 1,
10 2018.

11 **SECTION 23. EMERGENCY.** Sections 1 through 5, 7, 10 through 17, and 22 of this Act are
12 declared to be an emergency measure.