

April 13, 2017

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1041

That the Senate recede from its amendments as printed on pages 1289-1291 of the House Journal and pages 1000 and 1001 of the Senate Journal and that Reengrossed House Bill No. 1041 be amended as follows:

Page 1, line 1, after "12.1-32" insert "and a new section to chapter 54-23.3"

Page 1, line 2, after "probation" insert "and faith-based organizations"

Page 1, line 3, after the fourth comma insert "subdivision c of subsection 1 of section 12.1-32-02,"

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

Page 1, line 4, remove "and 6"

Page 1, line 6, remove "section 19-03.4-03,"

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

Page 1, line 9, after the second comma insert "sentencing alternatives,"

Page 1, line 10, remove "and controlled substance paraphernalia"

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 the overstrike over "one"

Page 3, line 26, remove "two"

Page 3, line 26, remove "five hundred"

Page 5, after line 15, insert:

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

- c. A term of imprisonment, including intermittent imprisonment:
  - (1) In a state correctional facility in accordance with section 29-27-07, in a regional corrections center, or in a county jail, if convicted of a felony or a class A misdemeanor.
  - (2) In a county jail or in a regional corrections center, if convicted of a class B misdemeanor.
  - (3) In a facility or program deemed appropriate for the treatment of the individual offender, including available community-based or faith-based programs.

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

Page 6, remove lines 26 and 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 9, replace "convicted of" with "who has pled guilty to, or has been found guilty of,"

Page 8, line 11, remove "in violation of section 12.1-17-07.1, chapter"

Page 8, line 12, replace "12.1-41, or sections 14-07.1-06 or 14-09-22" with "subject to registration under section 12.1-32-15"

Page 8, line 13, after "weapon" insert ", explosive, or incendiary device"

Page 8, after line 13, insert:

"2."

Page 8, line 15, remove "The sentencing court shall state the"

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

3."

Page 8, line 23, after the second comma insert "injects,"

Page 8, line 26, replace "for a first offense and" with "if the controlled substance is marijuana. Otherwise, the offense is"

Page 8, line 26, remove "for a"

Page 8, line 27, remove "second or subsequent offense"

Page 8, line 28, after the second comma insert "injected,"

Page 9, line 6, replace "B" with "A"

Page 9, line 6, replace "A misdemeanor" with "C felony"

Page 9, line 11, overstrike "chapter" and insert immediately thereafter "title"

Page 9, line 13, overstrike "chapter" and insert immediately thereafter "title"

Page 9, line 26, after "a" insert "class A misdemeanor for a first offense under this subsection and a"

Page 9, line 26, remove the overstrike over "~~C felony~~"

Page 9, line 26, replace "A misdemeanor" with "for a second or subsequent offense under this subsection"

Page 9, line 28, remove the overstrike over "~~or a~~"

Page 9, line 29, remove the overstrike over "~~public career and technical education school,~~"

Page 10, line 21, after "offense" insert "was committed during a school sponsored activity or was committed during the hours of six a.m. to ten p.m. if school is in session, the offense"

Page 10, line 22, overstrike the second "or" and insert immediately thereafter an underscored comma

Page 10, line 22, remove the overstrike over "~~; or within~~"

Page 10, line 23, after the overstruck closing bracket insert "three hundred feet [91.4 meters]"

Page 10, line 23, overstrike "child care or"

Page 10, line 24, remove the overstrike over the first overstruck comma

Page 10, line 24, remove "or"

Page 10, line 24, remove the overstrike over the second overstruck comma and insert immediately thereafter "or a"

Page 10, line 24, remove the overstrike over "~~public career and~~"

Page 10, line 25, remove the overstrike over "~~technical education school~~"

Page 10, remove lines 26 through 31

Page 11, remove lines 1 through 20

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

**Faith-based programming.**

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

Page 16, after line 29, insert:

"**SECTION 21. APPROPRIATION.** 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 17 and 18 of this Act, for the period beginning with the effective date of this section, and ending June 30, 2019.

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

**SECTION 23. EMERGENCY.** Sections 1 through 5, 7, 10 through 18, and 22 of this Act are declared to be an emergency measure."

Renumber accordingly