

FIRST ENGROSSMENT

ENGROSSED HOUSE BILL NO. 1301

Introduced by

Representatives Koppelman, D. Johnston, Kasper, Marschall, Rios, M. Ruby

Senators Cory, Magrum, Myrdal, Wobbema

1 A BILL for an Act to amend and reenact subsection 3 of section 12.1-32-07 of the North Dakota
2 Century Code, relating to possession of a firearm while on probation; and to provide for
3 application.

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

5 **SECTION 1. AMENDMENT.** Subsection 3 of section 12.1-32-07 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 3. The court shall provide as an explicit condition of every probation that the defendant
8 may not possess a firearm, destructive device, or other dangerous weapon while the
9 defendant is on probation. Except when the offense is for a misdemeanor offense
10 under section 12.1-17-01, 12.1-17-01.1, 12.1-17-01.2, 12.1-17-05, or 12.1-17-07.1, or
11 chapter 14-07.1, ~~the court may waive this condition of probation if the defendant has~~
12 ~~pled guilty to, or has been found guilty of, a misdemeanor or infraction offense, the~~
13 ~~misdemeanor or infraction is the defendant's first offense, and the court has made a~~
14 ~~specific finding on the record before imposition of a sentence or a probation that there~~
15 ~~is good cause to waive the condition. The court may not waive this condition of~~
16 ~~probation if the court places the defendant under the supervision and management of~~
17 ~~the department of corrections and rehabilitation.~~ court may not prohibit the defendant
18 from possessing a firearm, destructive device, or other dangerous weapon while on
19 probation for any other misdemeanor offense unless the court determines the offense
20 involved violence or a threat of violence against an individual. The court may not
21 prohibit the defendant from possessing a firearm, destructive device, or other
22 dangerous weapon while on probation for any infraction. The court shall provide as an

1 explicit condition of probation that the defendant may not willfully defraud a urine test
2 administered as a condition of probation. Unless waived on the record by the court,
3 the court shall also provide as a condition of probation that the defendant undergo
4 various agreed-to community constraints and conditions as intermediate measures of
5 the department of corrections and rehabilitation to avoid revocation, which may
6 include:

- 7 a. Community service;
- 8 b. Day reporting;
- 9 c. Curfew;
- 10 d. Home confinement;
- 11 e. House arrest;
- 12 f. Electronic monitoring;
- 13 g. Residential halfway house;
- 14 h. Intensive supervision program;
- 15 i. Up to five nonsuccessive periods of incarceration during any twelve-month
16 period, each of which may not exceed forty-eight consecutive hours;
- 17 j. Participation in the twenty-four seven sobriety program; or
- 18 k. One period of incarceration during a period of probation not to exceed thirty
19 consecutive days in lieu of a petition for revocation of probation.

20 **SECTION 2. APPLICATION.** This Act applies to a sentence to probation or any sentence
21 including a period of probation imposed after the effective date of this Act.