

**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. The court may not prohibit the~~  
18 ~~defendant from possessing a firearm, destructive device, or other dangerous weapon~~  
19 ~~while on probation for any other misdemeanor offense or infraction.~~ The court shall  
20 provide as an explicit condition of probation that the defendant may not willfully  
21 defraud a urine test administered as a condition of probation. Unless waived on the  
22 record by the court, the court shall also provide as a condition of probation that the  
23 defendant undergo various agreed-to community constraints and conditions as

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

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