

**HOUSE BILL NO. 1228**

Introduced by

Representatives Ista, Adams, Heinert, Paur

Senators Bakke, Dwyer

1 A BILL for an Act to amend and reenact section 12.1-32-07.4 of the North Dakota Century  
2 Code, relating to presumptive probation.

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

4 **SECTION 1. AMENDMENT.** Section 12.1-32-07.4 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **12.1-32-07.4. Presumptive probation.**

7 1. The sentencing court shall sentence an individual who has pled guilty to, or has been  
8 found guilty of, a class C felony offense or class A misdemeanor offense to a term of  
9 probation at the time of initial sentencing, except for an offense involving domestic  
10 violence; an offense subject to registration under section 12.1-32-15; an offense  
11 involving a firearm or dangerous weapon, explosive, or incendiary device; or if a  
12 mandatory term of incarceration is required by law.

13 2. The sentencing court may impose a sentence of imprisonment if the sentencing court  
14 finds there are aggravating factors present to justify a departure from presumptive  
15 probation. Aggravating factors include:

16 a. That the individual has plead guilty to, or has been found guilty of, a felony  
17 offense or class A misdemeanor offense prior to the date of the commission of  
18 the offense or offenses charged in the complaint, information, or indictment;

19 b. The age and vulnerability of the victim, whether the individual was in a position of  
20 responsibility or trust over the victim, or whether the individual abused a public  
21 position of responsibility or trust; ~~or~~

22 c. If the individual used threats or coercion in the commission of the offense; or

23 d. Any other factor determined by the court to be appropriate.

- 1           3. This section does not preclude the sentencing court from deferring imposition of
- 2           sentence in accordance with subsection 4 of section 12.1-32-02 or sentencing an
- 3           individual to a term of incarceration with credit for time spent in custody if execution of
- 4           the sentence is suspended.