

Sixty-fourth  
Legislative Assembly  
of North Dakota

ENGROSSED HOUSE BILL NO. 1367

Introduced by

Representatives Brabandt, K. Koppelman, Louser

Senator Burckhard

1 A BILL for an Act to amend and reenact section 12.1-32-06.1 of the North Dakota Century  
2 Code, relating to court authority to impose additional periods of probation.

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

4 **SECTION 1. AMENDMENT.** Section 12.1-32-06.1 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **12.1-32-06.1. Length and termination of probation - Additional probation for violation**  
7 **of conditions - Penalty.**

8 1. Except as provided in this section, the total length of ~~the period of~~ unsupervised  
9 probation imposed in conjunction with a sentence to probation or a suspended  
10 execution or deferred imposition of sentence may not extend for more than five years  
11 for a felony and two years for a misdemeanor or infraction from the later of the date of:

- 12 a. The order imposing probation;
- 13 b. The defendant's release from incarceration; or
- 14 c. Termination of the defendant's parole.

15 2. Except as provided in this section the total length of supervised probation imposed in  
16 conjunction with a sentence of probation or a suspended execution or deferred  
17 imposition of sentence may not extend for more than five years for a class C felony,  
18 ten years for all other felony offenses, and two years for a class A misdemeanor from  
19 the later of the date of:

- 20 a. The order imposing probation;
- 21 b. The defendant's release from incarceration; or
- 22 c. Termination of the defendant's parole.

23 2-3. If the defendant has pled or been found guilty of an offense for which the court  
24 imposes a sentence of restitution or reparation for damages resulting from the

1 commission of the offense, the court may, following a restitution hearing pursuant to  
2 section 12.1-32-08, impose an additional ~~period~~periods of unsupervised probation not  
3 to exceed five years for each additional period imposed.

4 ~~3.4.~~ If the defendant has pled or been found guilty of a felony sexual offense in violation of  
5 chapter 12.1-20, the court shall impose at least five years but not more than ten years  
6 of supervised probation to be served after sentencing or incarceration. If the defendant  
7 has pled or been found guilty of a class AA felony sexual offense in violation of section  
8 12.1-20-03 or 12.1-20-03.1, the court may impose lifetime supervised probation on the  
9 defendant. If the defendant has pled or been found guilty of a misdemeanor sexual  
10 offense in violation of chapter 12.1-20, the court may impose an additional  
11 ~~period~~periods of probation not to exceed two years for each additional period  
12 imposed. If the unserved portion of the defendant's maximum period of incarceration is  
13 less than one year, a violation of the probation imposed under this subsection is a  
14 class A misdemeanor.

15 ~~4.5.~~ If the defendant has pled or been found guilty of abandonment or nonsupport of  
16 spouse or children, the period of probation may be continued for as long as  
17 responsibility for support continues.

18 ~~5.6.~~ In felony and misdemeanor cases, in consequence of violation of probation conditions,  
19 the court may impose an additional ~~period~~periods of probation ~~not to exceed five-~~  
20 ~~years.~~The additional period of probation may follow a period of incarceration if the  
21 defendant has not served the maximum period of incarceration available at the time of  
22 initial sentencing or deferment.if the defendant has not served the maximum sentence  
23 of imprisonment or probation available to the court at the time of initial sentencing or  
24 deferment. The court shall allow the defendant credit for a sentence of probation from  
25 the date the defendant began probation until the date a petition to revoke probation  
26 was filed with the court. If the defendant is on supervised probation, the defendant is  
27 not entitled to credit for a sentence of probation for any period the defendant has  
28 absconded from supervision. The total amount of credit a defendant is entitled to for  
29 time spent on probation must be stated in the criminal judgment or order of revocation  
30 of probation.

- 1     ~~6.7.~~   The court may terminate a period of probation and discharge the defendant at any  
2           time earlier than that provided in subsection 1 if warranted by the conduct of the  
3           defendant and the ends of justice.
- 4     ~~7.8.~~   Notwithstanding the fact that a sentence to probation subsequently can be modified or  
5           revoked, a judgment that includes such a sentence constitutes a final judgment for all  
6           other purposes.