Sixty-fourth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2015

HOUSE BILL NO. 1030
(Legislative Management)
(Commission on Alternatives to Incarceration)

AN ACT to create and enact a new section to chapter 12.1-32 of the North Dakota Century Code, relating to exceptions from mandatory minimum sentences; to amend and reenact subsection 19 of section 12.1-01-04, subdivision a of subsection 3 of section 12.1-20-03, and subsection 2 of section 12.1-32-07.1 of the North Dakota Century Code, relating to the definition of manifest injustice.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 19 of section 12.1-01-04 of the North Dakota Century Code is amended and reenacted as follows:

19. ~~Repealed by S.L. 1975, ch. 116, § 33~~"Manifest injustice" means a specific finding by the court that the imposition of sentence is unreasonably harsh or shocking to the conscience of a reasonable individual, with due consideration of the totality of circumstances.

SECTION 2. AMENDMENT. Subdivision a of subsection 3 of section 12.1-20-03 of the North Dakota Century Code is amended and reenacted as follows:

a. An offense under this section is a class AA felony if in the course of the offense the actor inflicts serious bodily injury upon the victim, if the actor's conduct violates subdivision a of subsection 1, or if the actor's conduct violates subdivision d of subsection 1 and the actor was at least twenty-two years of age at the time of the offense. For any conviction of a class AA felony under subdivision a of subsection 1, the court shall impose a minimum sentence of twenty years' imprisonment, with probation supervision to follow the incarceration. The court may deviate from the mandatory sentence if the court finds that the sentence would impose a manifest injustice ~~as defined in section 39-01-01~~ and the defendant has accepted responsibility for the crime or cooperated with law enforcement. However, a defendant convicted of a class AA felony under this section may not be sentenced to serve less than five years of incarceration.

SECTION 3. AMENDMENT. Subsection 2 of section 12.1-32-07.1 of the North Dakota Century Code is amended and reenacted as follows:

2. Whenever a person has been placed on probation pursuant to subsection 4 of section 12.1-32-02, the court at any time, when the ends of justice will be served, and when reformation of the probationer warrants, may terminate the period of probation and discharge the person so held. A person convicted of gross sexual imposition under subdivision a of subsection 1 of section 12.1-20-03 is not entitled to early termination of probation pursuant to this section, unless the court finds after at least eight years of supervised probation that further supervision would impose a manifest injustice ~~as defined in section 39-01-01~~. Every defendant who has fulfilled the conditions of probation for the entire period, or who has been discharged from probation prior to termination of the probation period, may at any time be permitted in the discretion of the court to withdraw the defendant's plea of guilty. The court may in its discretion set aside the verdict of guilty. In either case, the court may dismiss the information or indictment against the defendant. The court may, upon its own motion or upon application by the defendant and before dismissing the information or indictment, reduce to a misdemeanor a felony conviction for which the plea of guilty has been withdrawn or set aside. The defendant must then be released from all penalties and disabilities resulting from the offense or crime of

which the defendant has been convicted except as provided by sections 12.1-32-15 and 62.1-02-01.

SECTION 4. A new section to chapter 12.1-32 of the North Dakota Century Code is created and enacted as follows:

Mandatory sentences - Exceptions.

1. In addition to any other provision of law, when sentencing an individual convicted of a violation in chapter 19-03.1 for which there is a mandatory minimum sentence, the court may depart from the applicable mandatory minimum sentence if the court, in giving due regard to the nature of the crime, history and character of the defendant, and the defendant's chances of successful rehabilitation, finds a compelling reason on the record that imposition of the mandatory minimum sentence would result in manifest injustice to the defendant and that the mandatory minimum sentence is not necessary for the protection of the public.

2. Subsection 1 does not apply if the individual is sentenced under section 12.1-32-02.1.

3. Upon departing from a mandatory minimum sentence, a judge shall report to the state court administrator who shall make available in electronic form and on the world wide web an annual report by July 1 of each year on the total number of departures from mandatory minimum sentences.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-fourth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1030.

House Vote:	Yeas 92	Nays 0	Absent 2
Senate Vote:	Yeas 47	Nays 0	Absent 0

Chief Clerk of the House

Received by the Governor at 10:26 A.M. on April 17, 2015.

Approved at 9:54 A.M. on April 20, 2015.

Governor

Filed in this office this 20th day of April, 2015,

at 2:33 o'clock P. M.

Secretary of State