

Fifty-fifth  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1046

Introduced by

Legislative Council

(Criminal Justice Committee)

(Representatives Kretschmar, R. Kelsch, Mahoney, Kliniske, Brown)  
(Senator Nalewaja)

1 A BILL for an Act to create and enact a new subsection to section 12.1-01-04 and a new  
2 subsection to section 50-06-05.1 of the North Dakota Century Code, relating to the definition of  
3 risk assessment and the authority of the department of human services to establish the method  
4 of risk assessment; and to amend and reenact subsection 11 of section 12.1-32-02 of the North  
5 Dakota Century Code, relating to risk assessments in certain presentence investigations.

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

7 **SECTION 1.** A new subsection to section 12.1-01-04 of the 1995 Supplement to the  
8 North Dakota Century Code is created and enacted as follows:

9 "Risk assessment" means an initial phase with a secondary process approved by  
10 the department of human services for the evaluation of the likelihood that a person  
11 who committed an offense will commit another similar offense. The initial phase is  
12 an assessment tool that is administered by a trained probation and parole officer.  
13 A predetermined score on the initial phase initiates the secondary process that  
14 includes a clinical interview, psychological testing, and verification through  
15 collateral information or psychophysiological testing, or both.

16 **SECTION 2. AMENDMENT.** Subsection 11 of section 12.1-32-02 of the 1995  
17 Supplement to the North Dakota Century Code is amended and reenacted as follows:

18 11. Before sentencing a defendant on a felony charge under section 12.1-20-03,  
19 12.1-20-11, 12.1-27.2-02, 12.1-27.2-03, 12.1-27.2-04, or 12.1-27.2-05, a court  
20 shall order the department of corrections and rehabilitation to conduct a  
21 presentence investigation and to prepare a presentence report. A presentence  
22 investigation for a charge under section 12.1-20-03 must include a risk  
23 assessment. A court may order the inclusion of a risk assessment in any  
24 presentence investigation. In all felony or class A misdemeanor offenses, in which

1 force, as defined in section 12.1-01-04, or threat of force is an element of the  
2 offense or in violation of section 12.1-22-02, or an attempt to commit the offenses,  
3 a court, unless a presentence investigation has been ordered, must receive a  
4 criminal record report before the sentencing of the defendant. Unless otherwise  
5 ordered by the court, the criminal record report must be conducted by the  
6 department of corrections and rehabilitation after consulting with the prosecuting  
7 attorney regarding the defendant's criminal record. The criminal record report  
8 must be in writing, filed with the court before sentencing, and made a part of the  
9 court's record of the sentencing proceeding.

10 **SECTION 3.** A new subsection to section 50-06-05.1 of the 1995 Supplement to the  
11 North Dakota Century Code is created and enacted as follows:

12 In consultation with the department of corrections and rehabilitation, to formulate  
13 standards before July 1, 1998, which must be satisfied for a risk assessment under  
14 section 12.1-32-02.