

Fifty-fifth  
Legislative Assembly  
of North Dakota

**SENATE BILL NO. 2233**

Introduced by

Senators Nalewaja, Mathern, Watne

Representatives Carlisle, R. Kelsch, Mahoney

1 A BILL for an Act to create and enact a new section to chapter 12.1-32 of the North Dakota  
2 Century Code, relating to the deferred imposition of sentence for gross sexual imposition; to  
3 amend and reenact subsection 3 of section 12.1-20-02, subsection 1 of section 12.1-20-05, and  
4 section 12.1-20-07 of the North Dakota Century Code, relating to the definition of a sexual act,  
5 corruption of a minor, and sexual assault; and to provide a penalty.

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

7 **SECTION 1. AMENDMENT.** Subsection 3 of section 12.1-20-02 of the North Dakota  
8 Century Code is amended and reenacted as follows:

9 3. "Sexual act" means sexual contact between human beings consisting of contact  
10 between the penis and the vulva, the penis and the anus, the mouth and the penis,  
11 ~~or the mouth and the vulva, or any other portion of the human body and the penis~~  
12 ~~or vulva~~; or the use of an object which comes in contact with the victim's anus,  
13 vulva, or penis. For the purposes of this subsection, sexual contact between the  
14 penis and the vulva, ~~or between the penis and the anus, any other portion of the~~  
15 ~~human body and the anus or vulva~~, or an object and the anus, vulva, or penis of  
16 the victim, occurs upon penetration, however slight. Emission is not required.

17 **SECTION 2. AMENDMENT.** Subsection 1 of section 12.1-20-05 of the North Dakota  
18 Century Code is amended and reenacted as follows:

19 1. An adult who engages in a sexual act with another person or who causes another  
20 person to engage in a sexual act, is guilty of a class ~~A misdemeanor~~ C felony if the  
21 other person is a minor, fifteen years of age or older.

22 **SECTION 3. AMENDMENT.** Section 12.1-20-07 of the North Dakota Century Code is  
23 amended and reenacted as follows:

24 **12.1-20-07. Sexual assault.**

- 1           1. A person who knowingly has sexual contact with another person, or who causes  
2           ~~such other another~~ person to have sexual contact with ~~him~~ that person, is guilty of  
3           an offense if:
- 4           a. ~~He~~ That person knows or has reasonable cause to believe that the contact is  
5           offensive to the other person;
- 6           b. ~~He~~ That person knows or has reasonable cause to believe that the other  
7           person suffers from a mental disease or defect which renders ~~him or her~~ that  
8           other person incapable of understanding the nature of ~~his or her~~ that other  
9           person's conduct;
- 10          c. ~~He~~ That person or someone with ~~his~~ that person's knowledge has  
11          substantially impaired the other person's power to appraise or control ~~his or~~  
12          ~~her~~ that other person's conduct, by administering or employing without ~~the~~  
13          ~~other's~~ that other person's knowledge intoxicants or other means for the  
14          purpose of preventing resistance;
- 15          d. The other person is in official custody or detained in a hospital, prison, or  
16          other institution and the actor has supervisory or disciplinary authority over  
17          ~~him or her~~ that other person;
- 18          e. The other person is a minor, fifteen years of age or older, and the actor is ~~his~~  
19          ~~or her~~ the other person's parent, guardian, or is otherwise responsible for  
20          general supervision of the other person's welfare; or
- 21          f. The other person is a minor, fifteen years of age or older, and the actor is an  
22          adult.
- 23          2. The offense is a class ~~A misdemeanor~~ C felony if the actor's conduct violates  
24          subdivision b, c, e, or f of subsection 1, ~~otherwise the offense is a class A~~  
25          misdemeanor if the actor's conduct violates subdivision d of subsection 1, or a  
26          class B misdemeanor if the actor's conduct violates subdivision a of subsection 1.

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

29           **Gross sexual imposition - Deferred imposition of sentence.** A person who violates  
30   subdivision d of subsection 1 or subdivision a of subsection 2 of section 12.1-20-03 may not

- 1 receive a deferred imposition of sentence unless that person proves at trial by clear and
- 2 convincing evidence that that person did not know the victim was less than fifteen years old.