

**FIRST ENGROSSMENT
with Senate Amendments**

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; 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; and
6 to provide an effective date.

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

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

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

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

20 11. Before sentencing a defendant on a felony charge under section 12.1-20-03,
21 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
22 shall order the department of corrections and rehabilitation to conduct a
23 presentence investigation and to prepare a presentence report. A presentence
24 investigation for a charge under section 12.1-20-03 must include a risk

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

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

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

17 **SECTION 4. EFFECTIVE DATE.** Section 2 of this Act becomes effective on July 1,
18 1998.