

**Fifty-fifth Legislative Assembly, State of North Dakota, begun in the  
Capitol in the City of Bismarck, on Monday, the sixth day of January,  
one thousand nine hundred and ninety-seven**

HOUSE BILL NO. 1046  
(Legislative Council)  
(Criminal Justice Committee)  
(Representatives Kretschmar, R. Kelsch, Mahoney, Kliniske, Brown)  
(Senator Nalewaja)

AN ACT to create and enact a new subsection to section 12.1-01-04 and a new subsection to section 50-06-05.1 of the North Dakota Century Code, relating to the definition of risk assessment and the authority of the department of human services to establish the method of risk assessment; to amend and reenact subsection 11 of section 12.1-32-02 of the North Dakota Century Code, relating to risk assessments in certain presentence investigations; and to provide an effective date.

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

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

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

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

11. Before sentencing a defendant on a felony charge under section 12.1-20-03, 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 shall order the department of corrections and rehabilitation to conduct a presentence investigation and to prepare a presentence report. A presentence investigation for a charge under section 12.1-20-03 must include a risk assessment. A court may order the inclusion of a risk assessment in any presentence investigation. In all felony or class A misdemeanor offenses, in which force, as defined in section 12.1-01-04, or threat of force is an element of the offense or in violation of section 12.1-22-02, or an attempt to commit the offenses, a court, unless a presentence investigation has been ordered, must receive a criminal record report before the sentencing of the defendant. Unless otherwise ordered by the court, the criminal record report must be conducted by the department of corrections and rehabilitation after consulting with the prosecuting attorney regarding the defendant's criminal record. The criminal record report must be in writing, filed with the court before sentencing, and made a part of the court's record of the sentencing proceeding.

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

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

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

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Speaker of the House

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President of the Senate

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Chief Clerk of the House

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Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-fifth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1046.

House Vote:      Yeas    90      Nays    0      Absent    7

Senate Vote:    Yeas    47      Nays    0      Absent    2

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Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 1997.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 1997.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 1997,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

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Secretary of State