

Introduced by

Representatives Mahoney, Carlisle

Senators Lyson, O'Connell, Traynor

1 A BILL for an Act to amend and reenact section 12.1-32-15 of the North Dakota Century Code,  
2 relating to the registration of sexual offenders and offenders against children.

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

4 **SECTION 1. AMENDMENT.** Section 12.1-32-15 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **12.1-32-15. Offenders against children and sexual offenders - Sexually violent**  
7 **predators - Registration requirement - Penalty.**

8 1. As used in this section:

9 a. "A crime against a child" means a violation of chapter 12.1-16, 12.1-17,  
10 12.1-18, or 12.1-29, or an equivalent ordinance, in which the victim is a minor  
11 or is otherwise of the age required for the act to be a crime or an attempt to  
12 commit these offenses.

13 b. "Department" means the department of corrections and rehabilitation.

14 c. ~~"Mental abnormality" means a congenital or acquired condition of an~~  
15 ~~individual that affects the emotional or volitional capacity of the individual in a~~  
16 ~~manner that predisposes that individual to the commission of criminal sexual~~  
17 ~~acts to a degree that makes the individual a menace to the health and safety~~  
18 ~~of other individuals.~~

19 d. ~~"Predatory" means an act directed at a stranger, or at an individual with whom~~  
20 ~~a relationship has been established or promoted for the primary purpose of~~  
21 ~~victimization.~~

22 e. ~~"Qualified board" means two or more experts in the field of behavior and~~  
23 ~~treatment of sexual offenders as determined by the department of human~~  
24 ~~services.~~

f. "Sexual offender" means a person who has pled guilty to or been found guilty of a violation of section 12.1-20-03, 12.1-20-03.1, 12.1-20-04, 12.1-20-05, 12.1-20-06, 12.1-20-07, 12.1-20-11, chapter 12.1-27.2, or subsection 2 of section 12.1-22-03.1, or an equivalent ordinance, or an attempt to commit these offenses.

g. ~~"Sexually violent predator" means a sexual offender who suffers from a mental abnormality or personality disorder that makes that offender likely to engage in predatory sexually violent offenses.~~

d. "Temporarily domiciled" means staying or being physically present at a location for longer than ten days, or maintaining employment in the jurisdiction for longer than ten days, regardless of the state of residence.

2. ~~After a person has pled guilty or been found guilty as a sexual offender, the court shall determine upon the motion of the state's attorney and after receiving a report from the qualified board if that person is a sexually violent predator. The court may order the defendant to undergo an evaluation to enable the qualified board to make an appropriate determination.~~

3. After a person has pled guilty to or been found guilty of a crime against a child or an attempted crime against a child, or after a person has pled guilty or been found guilty as a sexual offender, the court shall impose, in addition to any penalty provided by law, a requirement that the person register, within ten days of coming into a county in which the person resides or is temporarily domiciled, with the chief of police of the city or the sheriff of the county if the person resides or is employed in an area other than a city. The court shall require a person to register by stating this requirement on the court records. A person must also register if that person:

- a. Is incarcerated or is on probation or parole on August 1, 1995, for a crime against a child or as a sexual offender;
- b. Has pled guilty or nolo contendere to, or been found guilty of, an offense in a court of another state or the federal government equivalent to those offenses set forth in subdivisions a and c of subsection 1; or
- c. Has pled guilty to or been found guilty of a crime against a child or as a sexual offender within ten years prior to August 1, 1995.

1       4- 3. When a person is required to register under this section, the official in charge of a  
2           facility or institution where the person required to register is confined, or the  
3           department, shall, before the discharge, parole, or release of that person, inform  
4           the person of the duty to register pursuant to this section. The official or the  
5           department shall require the person to read and sign a form as required by the  
6           attorney general, stating that the duty of the person to register has been explained  
7           to that person. The official in charge of the place of confinement, or the  
8           department, shall obtain the address where the person expects to reside or work  
9           upon discharge, parole, or release and shall report the address to the attorney  
10          general. The official in charge of the place of confinement, or the department, shall  
11          give ~~one copy~~ three copies of the form to the person and shall send ~~four~~ three  
12          copies to the attorney general no later than forty-five days before the scheduled  
13          release of that person. The attorney general shall forward one copy to the law  
14          enforcement agency having jurisdiction where the person expects to reside or work  
15          upon discharge, parole, or release, one copy to the prosecutor who prosecuted the  
16          person, and one copy to the court in which the person was prosecuted. All forms  
17          must be transmitted and received by the law enforcement agency, prosecutor, and  
18          court thirty days before the discharge, parole, or release of the person.

19       5- 4. A person who is required to register pursuant to this section who is released on  
20          probation or discharged upon payment of a fine must, before the release or  
21          discharge, be informed of that person's duty to register under this section by the  
22          court in which that person is convicted. The court shall require the person to read  
23          and sign a form as required by the attorney general, stating that the duty of the  
24          person to register under this section has been explained to that person. The court  
25          shall obtain the address where the person expects to reside or work upon release  
26          or discharge and shall report the address to the attorney general within three days.  
27          The court shall give one copy of the form to the person and shall send two copies  
28          to the attorney general. The attorney general shall forward one copy to the  
29          appropriate law enforcement agency having jurisdiction where the person expects  
30          to reside or work upon discharge, parole, or release.

1       6- 5. Registration consists of a written statement signed by the person, giving the  
2           information required by the attorney general, and the fingerprints and photograph  
3           of the person. Within three days after registration, the registering law enforcement  
4           agency shall forward the statement, fingerprints, and photograph to the attorney  
5           general. If a person required to register pursuant to this section has a change in  
6           name ~~or~~, address, or employment address if working in this state but residing  
7           elsewhere, that person shall inform in writing, within ten days, the law enforcement  
8           agency with whom that person last registered of the person's new name or  
9           address. The law enforcement agency, within three days after receipt of the  
10          information, shall forward it to the attorney general. The attorney general shall  
11          forward the appropriate registration data to the law enforcement agency having  
12          local jurisdiction of the new place of residence or employment. Upon a change of  
13          address, the person required to register shall also register within ten days at the  
14          law enforcement agency having local jurisdiction of the new place of residence or  
15          employment. A law enforcement agency that has previously registered an offender  
16          may omit the fingerprint portion of the registration if that agency has a set of  
17          fingerprints on file for that individual and is personally familiar with and can visually  
18          identify the offender. These provisions also apply in any other state that requires  
19          registration.

20       7- 6. A person required to register under this section shall comply with the registration  
21           requirement for the longer of the following periods:

- 22           a. A period of ten years after the date of sentence or order deferring or  
23           suspending sentence upon a plea or finding of guilt or after release from  
24           incarceration, whichever is later; or  
25           b. ~~Until a court determination is made that the person no longer is a sexually~~  
26           ~~violent predator. The sexually violent predator may petition no more than~~  
27           ~~once a year for a court determination on the status of being a sexually violent~~  
28           ~~predator. The court must receive a report from the qualified board before~~  
29           ~~making the determination.~~ For the life of the person, if that person:

(1) On two or more occasions has pled guilty or nolo contendere to, or been found guilty of, an offense described in subsection 1 or subdivision b of subsection 2;

(3) Pleads guilty or is found guilty of a violation of section 12.1-20-03 and the offense is a class A felony occurring after July 31, 1999; or

(3) Has ever been civilly committed as a sexually dangerous individual pursuant to chapter 25-03.3, or under the laws of another state.

~~8-~~ 7. A person required to register under this section who violates this section is guilty of a class A misdemeanor. A court may not relieve a person who willfully violates this section from serving a term of at least ninety days in jail and completing probation of one year. A person who violates this section who previously has pled guilty or been found guilty of violating this section is guilty of a class C felony.

~~9-~~ 8. When a person is released on parole or probation and is required to register pursuant to this section, but fails to do so within the time prescribed, the court shall order the probation, or the parole board shall order the parole, of the person revoked. The statements, photographs, and fingerprints required by this section are open to inspection by the public.

~~40-~~ 9. If a person required to register pursuant to this section is temporarily sent outside the facility or institution where that person is confined under conviction or sentence, the local law enforcement agency having jurisdiction over the place where that person is being sent must be notified within a reasonable time period before that person is released from the facility or institution. This subsection does not apply to any person temporarily released under guard from the facility or institution in which that person is confined.

~~44-~~ 10. Relevant and necessary registration information shall be disclosed to the public by a law enforcement agency if the agency determines that the individual registered under this section is a public risk and disclosure of the registration information is necessary for public protection. The department, in a timely manner, shall provide law enforcement agencies any information the department determines is relevant concerning individuals required to be registered under this section who are about to be released or placed into the community. ~~A law~~ Law enforcement agency, its

1            agencies, state officials, and ~~its~~ their employees and appointees are not subject to  
2            civil or criminal liability for making risk determinations or for disclosing or for failing  
3            to disclose information as permitted by this section. Nonregistration information  
4            concerning an offender required to register under this section consisting of the  
5            name of the offender, the last known address of the offender, the offense or  
6            offenses as defined in subsection 1 to which the offender pled guilty or of which the  
7            offender was found guilty, the date of the judgment or order imposing a sentence  
8            or probation and the court entering the judgment or order, the sentence or  
9            probation imposed upon the offender, and any disposition, if known, of a sentence  
10          or probation may be disclosed to the public. The attorney general shall compile  
11          nonregistration information concerning offenders required to register under this  
12          section from criminal history record information maintained pursuant to chapter  
13          12-60 or from an agency or department of another state or the federal government  
14          and shall provide the information upon request at no cost.