

CRIMINAL CODE

CHAPTER 690

HOUSE BILL NO. 1480

(Representatives DeKrey, Grande, Delmore, Mahoney)

(Senators Traynor, Lyson)

(Approved by the Delayed Bills Committee)

SEXUAL OFFENDER REGISTRATION

AN ACT to amend and reenact subsections 1, 2, 3, and 8 of section 12.1-32-15 of the North Dakota Century Code, relating to registration requirements for sexual offenders and offenders against children; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 1, 2, 3, and 8 of section 12.1-32-15 of the 2001 Supplement to the North Dakota Century Code are amended and reenacted as follows:

1. As used in this section:
 - a. "A crime against a child" means a violation of chapter 12.1-16, ~~42.1-17, 42.1-18,~~ section 12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04, subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01, 12.1-18-02, 12.1-18-05, chapter 12.1-29, or subdivision a of subsection 1 or subsection 2 of section 14-09-22, or an equivalent ordinance, in which the victim is a minor or is otherwise of the age required for the act to be a crime or an attempt to commit these offenses.
 - b. "Department" means the department of corrections and rehabilitation.
 - c. "Mental abnormality" means a congenital or acquired condition of an individual that affects the emotional or volitional capacity of the individual in a manner that predisposes that individual to the commission of criminal sexual acts to a degree that makes the individual a menace to the health and safety of other individuals.
 - d. "Predatory" means an act directed at a stranger or at an individual with whom a relationship has been established or promoted for the primary purpose of victimization.
 - e. "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, 12.1-20-05.1, 12.1-20-06, 12.1-20-07 except for subdivision a, 12.1-20-11, 12.1-20-12.1, or 12.1-20-12.2, 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.

- f. "Sexually dangerous individual" means an individual who meets the definition specified in section 25-03.3-01.
 - g. "Temporarily domiciled" means staying or being physically present in this state for more than thirty days in a calendar year or at a location for longer than ten consecutive days, attending school for longer than ten days, or maintaining employment in the jurisdiction for longer than ten days, regardless of the state of the residence.
2. The court shall impose, in addition to any penalty provided by law, a requirement that the individual register, within ten days of coming into a county in which the individual resides or is temporarily domiciled. The individual must register with the chief of police of the city or the sheriff of the county if the individual resides, attends school, or is employed in an area other than a city. The court shall require an individual to register by stating this requirement on the court records, if that individual:
- a. Has pled guilty or nolo contendere to, or been found guilty as a felonious sexual offender or an attempted felonious sexual offender, including juvenile delinquent adjudications of equivalent offenses unless the offense is listed in subdivision c.
 - b. Has pled guilty or nolo contendere to, or been found guilty as a sexual offender for, a misdemeanor or attempted misdemeanor. The court may deviate from requiring an individual to register if the court first finds the individual is no more than three years older than the victim if the victim is a minor, the individual has not previously been convicted as a sexual offender or of a ~~felony~~ crime against a child, and the individual did not exhibit mental abnormality or predatory conduct in the commission of the offense.
 - c. Is a juvenile found delinquent under subdivision d of subsection 1 of section 12.1-20-03, subdivision a of subsection 2 of section 12.1-20-03, or as a sexual offender for a misdemeanor. The court may deviate from requiring the juvenile to register if the court first finds the juvenile has not previously been convicted as a sexual offender or for a ~~felony~~ crime against a child, and the juvenile did not exhibit mental abnormality or predatory conduct in the commission of the offense.
 - d. Has pled guilty or nolo contendere to, or been found guilty of, a ~~felony~~ crime against a child or an attempted ~~felony~~ crime against a child, including juvenile delinquent adjudications of equivalent offenses. Except if the offense is described in section 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 and the person is not the parent of the victim, the court may deviate from requiring an individual to register if the court first finds the individual has not previously been convicted as a sexual offender or for a ~~felony~~ crime against a child, and the individual did not exhibit mental abnormality or predatory conduct in the commission of the offense.

- e. Has pled guilty or nolo contendere, been found guilty, or been adjudicated delinquent of any crime against another individual which is not otherwise specified in this section if the court finds the individual demonstrated mental abnormality or sexual predatory conduct in the commission of the offense and therefore orders registration for the individual. If the court orders an individual to register as an offender under this section, the individual shall comply with all of the registration requirements in this chapter.
3. If a court has not ordered an individual to register in this state, ~~the~~ an individual who resides or is temporarily domiciled in this state shall register if the individual:
- a. Is incarcerated or is on probation or parole after July 31, 1995, for a crime against a child described in section 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 if the individual was not the parent of the victim, or as a sexual offender;
 - b. Has pled guilty or nolo contendere to, or been found guilty of, an offense in a court of this state for which registration is mandatory under this section or another state or the federal government equivalent to those offenses set forth in this section if the individual was ordered by a court or required to register as a sexual offender, or for a crime against a child in another state or by the federal government; or
 - c. Has pled guilty or nolo contendere to, or has been found guilty of, a ~~felonious~~ crime against a child or as a sexual offender for which registration is mandatory under this section if the conviction occurred after July 31, 1985.
8. An individual required to register under this section shall comply with the registration requirement for the longer of the following periods:
- a. A period of ten years after the date of sentence or order deferring or suspending sentence upon a plea or finding of guilt or after release from incarceration, whichever is later; or
 - b. For the life of the individual, if that individual:
 - (1) On two or more occasions has pled guilty or nolo contendere to, or been found guilty of, ~~an offense in which that individual was ordered by a court or otherwise required to register a crime against a child or as a felonious sexual offender or felonious offender against a child under this section, or an equivalent offense of another state or the federal government.~~ If all qualifying offenses are misdemeanors, this lifetime provision does not apply unless a qualifying offense was committed after August 1, 1999;
 - (2) Pleads guilty or nolo contendere to, or is found guilty of, an offense committed after August 1, 1999, which is described in subdivision a of subsection 1 of section 12.1-20-03, section 12.1-20-03.1, or subdivision d of subsection 1 of section 12.1-20-03 if the person is an adult and the victim is under age twelve, or section 12.1-18-01 if that individual is an adult

other than a parent of the victim, or an equivalent offense of another state or the federal government; or

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

SECTION 2. EFFECTIVE DATE. This Act becomes effective on January 1, 2002.

Approved November 30, 2001
Filed November 30, 2001