

SENATE BILL NO. 2259

Introduced by

Senators Dever, Flakoll, Freborg

Representatives Delmore, Headland, Thoreson

1 A BILL for an Act to amend and reenact subsections 1, 2, 3, 8, and 9 of section 12.1-32-15 of
2 the North Dakota Century Code relating to registration requirements for sexual offenders and
3 offenders against children.

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

5 **SECTION 1. AMENDMENT.** Subsections 1, 2, 3, 8, and 9 of section 12.1-32-15 of the
6 North Dakota Century Code are amended and reenacted as follows:

7 1. As used in this section:

- 8 a. "A crime against a child" means a violation of chapter 12.1-16, section
9 12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04,
10 subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01,
11 12.1-18-02, 12.1-18-05, chapter 12.1-29, or subdivision a of subsection 1 or
12 subsection 2 of section 14-09-22, or an equivalent ~~ordinance~~ offense from
13 another court in the United States, a tribal court, or court of another country, in
14 which the victim is a minor or is otherwise of the age required for the act to be
15 a crime or an attempt to commit these offenses.
- 16 b. "Department" means the department of corrections and rehabilitation.
- 17 c. "Mental abnormality" means a congenital or acquired condition of an
18 individual that affects the emotional or volitional capacity of the individual in a
19 manner that predisposes that individual to the commission of criminal sexual
20 acts to a degree that makes the individual a menace to the health and safety
21 of other individuals.
- 22 d. "Predatory" means an act directed at a stranger or at an individual with whom
23 a relationship has been established or promoted for the primary purpose of
24 victimization.

1 e. "Sexual offender" means a person who has pled guilty to or been found guilty,
2 including juvenile delinquent adjudications, of a violation of section
3 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,
4 12.1-20-07 except for subdivision a, 12.1-20-11, 12.1-20-12.1, or
5 12.1-20-12.2, chapter 12.1-27.2, or subsection 2 of section 12.1-22-03.1, or
6 an equivalent ~~ordinance~~ offense from another court in the United States, a
7 tribal court, or court of another country, or an attempt to commit these
8 offenses.

9 f. "Sexually dangerous individual" means an individual who meets the definition
10 specified in section 25-03.3-01.

11 g. "Temporarily domiciled" means staying or being physically present in this
12 state for more than thirty days in a calendar year or at a location for longer
13 than ten consecutive days, attending school for longer than ten days, or
14 maintaining employment in the jurisdiction for longer than ten days, regardless
15 of the state of the residence.

16 2. The court shall impose, in addition to any penalty provided by law, a requirement
17 that the individual register, within ~~ten~~ three days of coming into a county in which
18 the individual resides or is temporarily domiciled. The individual must register with
19 the chief of police of the city or the sheriff of the county if the individual resides,
20 attends school, or is employed in an area other than a city. The court shall require
21 an individual to register by stating this requirement on the court records, if that
22 individual:

23 a. Has pled guilty or nolo contendere to, or been found guilty as a felonious
24 sexual offender or an attempted felonious sexual offender, including juvenile
25 delinquent adjudications of equivalent offenses unless the offense is listed in
26 subdivision c.

27 b. Has pled guilty or nolo contendere to, or been found guilty as a sexual
28 offender for, a misdemeanor or attempted misdemeanor. The court may
29 deviate from requiring an individual to register if the court first finds the
30 individual is no more than three years older than the victim if the victim is a
31 minor, the individual has not previously been convicted as a sexual offender

1 or of a crime against a child, and the individual did not exhibit mental
2 abnormality or predatory conduct in the commission of the offense.

3 c. Is a juvenile found delinquent under subdivision d of subsection 1 of section
4 12.1-20-03, subdivision a of subsection 2 of section 12.1-20-03, or as a
5 sexual offender for a misdemeanor. The court may deviate from requiring the
6 juvenile to register if the court first finds the juvenile has not previously been
7 convicted as a sexual offender or for a crime against a child, and the juvenile
8 did not exhibit mental abnormality or predatory conduct in the commission of
9 the offense.

10 d. Has pled guilty or nolo contendere to, or been found guilty of, a crime against
11 a child or an attempted crime against a child, including juvenile delinquent
12 adjudications of equivalent offenses. Except if the offense is described in
13 section 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 and the person is not
14 the parent of the victim, the court may deviate from requiring an individual to
15 register if the court first finds the individual has not previously been convicted
16 as a sexual offender or for a crime against a child, and the individual did not
17 exhibit mental abnormality or predatory conduct in the commission of the
18 offense.

19 e. Has pled guilty or nolo contendere, been found guilty, or been adjudicated
20 delinquent of any crime against another individual which is not otherwise
21 specified in this section if the court finds the individual demonstrated mental
22 abnormality or sexual predatory conduct in the commission of the offense and
23 therefore orders registration for the individual. If the court orders an individual
24 to register as an offender under this section, the individual shall comply with
25 all of the registration requirements in this chapter.

26 3. If a court has not ordered an individual to register in this state, an individual who
27 resides or is temporarily domiciled in this state shall register if the individual:

28 a. Is incarcerated or is on probation or parole after July 31, 1995, for a crime
29 against a child described in section 12.1-29-02, or section 12.1-18-01 or
30 12.1-18-02 if the individual was not the parent of the victim, or as a sexual
31 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~~ an offense from another court in the United States, a tribal court, or court of another country equivalent to those offenses set forth in this section; or

c. Has pled guilty or nolo contendere to, or has been found guilty of, a 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~~ fifteen 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. A period of twenty-five 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, if the offender is assigned a moderate risk by the attorney general as provided in subsection 12; or

c. 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 a crime against a child or as a sexual offender, ~~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~~ from another court in the United States, a tribal court, or court of another country; or

1 (3) ~~Has been civilly committed as a sexually dangerous individual under~~
2 ~~chapter 25-03.3, under the laws of another state, or by the federal~~
3 ~~government~~ Is assigned a high risk by the attorney general as provided
4 in subsection 12.

5 9. An individual required to register under this section who violates this section is
6 guilty of a class ~~A misdemeanor~~ C felony. A court may not relieve an individual,
7 other than a juvenile, who violates this section from serving a term of at least ninety
8 days in jail and completing probation of one year. ~~An individual who violates this~~
9 ~~section who previously has pled guilty or been found guilty of violating this section~~
10 ~~is guilty of a class C felony.~~