

Sixtieth
Legislative Assembly
of North Dakota

ENGROSSED 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, 7, 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, 7, 8, and 9 of section 12.1-32-15 of
6 the 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,
14 in which the victim is a minor or is otherwise of the age required for the act to
15 be 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,
15 regardless 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;

- 1 b. Has pled guilty or nolo contendere to, or been found guilty of, an offense in a
2 court of this state for which registration is mandatory under this section or
3 ~~another state or the federal government~~ an offense from another court in the
4 United States, a tribal court, or court of another country equivalent to those
5 offenses set forth in this section; or
- 6 c. Has pled guilty or nolo contendere to, or has been found guilty of, a crime
7 against a child or as a sexual offender for which registration is mandatory
8 under this section if the conviction occurred after July 31, 1985.

- 9 7. Registration consists of a written statement signed by the individual, giving the
10 information required by the attorney general, and the fingerprints and photograph
11 of the individual. An individual who is not required to provide a sample of blood
12 and other body fluids under section 31-13-03 or by the individual's state or court of
13 conviction or adjudication shall submit a sample of blood and other body fluids for
14 inclusion in a centralized data base of DNA identification records under section
15 31-13-05. The collection, submission, testing and analysis of, and records
16 produced from, samples of blood and other body fluids, are subject to chapter
17 31-13. Evidence of the DNA profile comparison is admissible in accordance with
18 section 31-13-02. A report of the DNA analysis certified by the state crime
19 laboratory is admissible in accordance with section 31-13-05. A district court shall
20 order an individual who refuses to submit a sample of blood or other body fluids for
21 registration purposes to show cause at a specified time and place why the
22 individual should not be required to submit the sample required under this
23 subsection. Within three days after registration, the registering law enforcement
24 agency shall forward the statement, fingerprints, and photograph to the attorney
25 general and shall submit the sample of the individual's blood and body fluids to the
26 state crime laboratory. If an individual required to register pursuant to this section
27 has a change in name, school, or address, that individual shall inform in writing, at
28 least ten days before the change, the law enforcement agency with whom that
29 individual last registered of the individual's new name, school, residence address,
30 or employment address. The law enforcement agency, within three days after
31 receipt of the information, shall forward it to the attorney general. The attorney

1 general shall forward the appropriate registration data to the law enforcement
2 agency having local jurisdiction of the new place of residence, school, or
3 employment. Upon a change of address, the individual required to register shall
4 also register within ~~ten~~ three days at the law enforcement agency having local
5 jurisdiction of the new place of residence, school, or employment. The individual
6 registering under this section shall periodically confirm the information required
7 under this subsection in a manner and at an interval determined by the attorney
8 general. A law enforcement agency that has previously registered an offender
9 may omit the fingerprint portion of the registration if that agency has a set of
10 fingerprints on file for that individual and is personally familiar with and can visually
11 identify the offender. These provisions also apply in any other state that requires
12 registration.

- 13 8. An individual required to register under this section shall comply with the
14 registration requirement for the longer of the following periods:
- 15 a. A period of ~~ten~~ fifteen years after the date of sentence or order deferring or
16 suspending sentence upon a plea or finding of guilt or after release from
17 incarceration, whichever is later; ~~or~~
- 18 b. A period of twenty-five years after the date of sentence or order deferring or
19 suspending sentence upon a plea or finding of guilt or after release from
20 incarceration, whichever is later, if the offender is assigned a moderate risk by
21 the attorney general as provided in subsection 12; or
- 22 c. For the life of the individual, if that individual:
- 23 (1) On two or more occasions has pled guilty or nolo contendere to, or
24 been found guilty of a crime against a child or as a sexual offender, ~~or~~
25 ~~an equivalent offense of another state or the federal government.~~ If all
26 qualifying offenses are misdemeanors, this lifetime provision does not
27 apply unless a qualifying offense was committed after August 1, 1999;
- 28 (2) Pleads guilty or nolo contendere to, or is found guilty of, an offense
29 committed after August 1, 1999, which is described in subdivision a of
30 subsection 1 of section 12.1-20-03, section 12.1-20-03.1, or
31 subdivision d of subsection 1 of section 12.1-20-03 if the person is an

- 1 adult and the victim is under age twelve, or section 12.1-18-01 if that
2 individual is an adult other than a parent of the victim, or an equivalent
3 offense ~~of another state or the federal government~~ from another court
4 in the United States, a tribal court, or court of another country; or
5 (3) ~~Has been civilly committed as a sexually dangerous individual under~~
6 ~~chapter 25-03.3, under the laws of another state, or by the federal~~
7 ~~government~~ Is assigned a high risk by the attorney general as provided
8 in subsection 12.
9 9. An individual required to register under this section who violates this section is
10 guilty of a class ~~A misdemeanor~~ C felony. A court may not relieve an individual,
11 other than a juvenile, who violates this section from serving a term of at least
12 ninety days in jail and completing probation of one year. ~~An individual who~~
13 ~~violates this section who previously has pled guilty or been found guilty of violating~~
14 ~~this section is guilty of a class C felony.~~