

Sixty-first
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1416

Introduced by

Representatives Dahl, Delmore, Klemin

Senators Freborg, Holmberg, Nelson

1 A BILL for an Act to create and enact sections 12-60-08.1 and 29-05-11.1 of the North Dakota
2 Century Code, relating to the power of the attorney general to issue administrative subpoenas
3 for bureau investigations and the duty of criminal justice agencies to enter warrants into the
4 central warrant information system; and to amend and reenact subsections 1, 2, 3, 9, and 12 of
5 section 12.1-32-15 of the North Dakota Century Code, relating to registration requirements for
6 sexual offenders and offenders against children.

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

8 **SECTION 1.** Section 12-60-08.1 of the North Dakota Century Code is created and
9 enacted as follows:

10 **12-60-08.1. Power of the attorney general to issue subpoenas in bureau**
11 **investigations.** The attorney general may issue an administrative subpoena compelling the
12 recipient to provide records or information to an agent of the bureau of criminal investigation in
13 any criminal matter being investigated by the bureau.

14 **SECTION 2. AMENDMENT.** Subsections 1, 2, 3, 9, and 12 of section 12.1-32-15 of
15 the North Dakota Century Code are amended and reenacted as follows:

16 1. As used in this section:
17 a. "A crime against a child" means a violation of chapter 12.1-16, section
18 12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04,
19 subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01,
20 12.1-18-02, 12.1-18-05, chapter 12.1-29, or subdivision a of subsection 1 or
21 subsection 2 of section 14-09-22, or an equivalent offense from another court
22 in the United States, a tribal court, or court of another country, in which the
23 victim is a minor or is otherwise of the age required for the act to be a crime
24 or an attempt or conspiracy to commit these offenses.

- 1 b. "Department" means the department of corrections and rehabilitation.
- 2 c. "Mental abnormality" means a congenital or acquired condition of an
- 3 individual that affects the emotional or volitional capacity of the individual in a
- 4 manner that predisposes that individual to the commission of criminal sexual
- 5 acts to a degree that makes the individual a menace to the health and safety
- 6 of other individuals.
- 7 d. "Predatory" means an act directed at a stranger or at an individual with whom
- 8 a relationship has been established or promoted for the primary purpose of
- 9 victimization.
- 10 e. "Sexual offender" means a person who has pled guilty to or been found guilty,
- 11 including juvenile delinquent adjudications, of a violation of section
- 12 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,
- 13 12.1-20-07 except for subdivision a, 12.1-20-11, 12.1-20-12.1, or
- 14 12.1-20-12.2, chapter 12.1-27.2, or subsection 2 of section 12.1-22-03.1, or
- 15 an equivalent offense from another court in the United States, a tribal court, or
- 16 court of another country, or an attempt or conspiracy to commit these
- 17 offenses.
- 18 f. "Sexually dangerous individual" means an individual who meets the definition
- 19 specified in section 25-03.3-01.
- 20 g. "Temporarily domiciled" means staying or being physically present in this
- 21 state for more than thirty days in a calendar year or at a location for longer
- 22 than ten consecutive days, attending school for longer than ten days, or
- 23 maintaining employment in the jurisdiction for longer than ten days,
- 24 regardless of the state of the residence.
- 25 2. The court shall impose, in addition to any penalty provided by law, a requirement
- 26 that the individual register, within three days of coming into a county in which the
- 27 individual resides or ~~is~~ within the period identified in this section that the individual
- 28 becomes temporarily domiciled. The individual must register with the chief of
- 29 police of the city or the sheriff of the county if the individual resides, attends school,
- 30 or is employed in an area other than a city. The court shall require an individual to
- 31 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 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 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 crime against a child or an attempted 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 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

1 determines that registration is warranted by the nature of the crime and
2 therefore orders registration for the individual. If the court orders an individual
3 to register as an offender under this section, the individual shall comply with
4 all of the registration requirements in this chapter.

- 5 3. If a court has not ordered an individual to register in this state, an individual who
6 resides or is temporarily domiciled in this state shall register if the individual:
- 7 a. Is incarcerated or is on probation or parole after July 31, 1995, for a crime
8 against a child described in section 12.1-29-02, or section 12.1-18-01 or
9 12.1-18-02 if the individual was not the parent of the victim, or as a sexual
10 offender;
- 11 b. Has pled guilty or nolo contendere to, or been adjudicated for or found guilty
12 of, an offense in a court of this state for which registration is mandatory under
13 this section or an offense from another court in the United States, a tribal
14 court, or court of another country equivalent to those offenses set forth in this
15 section; or
- 16 c. Has pled guilty or nolo contendere to, or has been found guilty of, a crime
17 against a child or as a sexual offender for which registration is mandatory
18 under this section if the conviction occurred after July 31, 1985.
- 19 9. An individual required to register under this section who violates this section is
20 guilty of a class C felony. The clerk of court shall forward all warrants issued for a
21 violation of this section to the county sheriff, who shall enter all such warrants into
22 the national crime information center wanted person file. A court may not relieve
23 an individual, other than a juvenile, who violates this section from serving a term of
24 at least ninety days in jail and completing probation of one year.
- 25 12. The attorney general, with the assistance of the department and the juvenile
26 courts, shall develop guidelines for the risk assessment of sexual offenders who
27 are required to register, with a low-risk, moderate-risk, or high-risk level being
28 assigned to each offender as follows:
- 29 a. The department shall conduct a risk assessment of sexual offenders who are
30 incarcerated in institutions under the control of the department and sexual
31 offenders who are on supervised probation. The department, in a timely

manner, shall provide the attorney general any information, including the offender's level of risk and supporting documentation, concerning individuals required to be registered under this section who are about to be released or placed into the community.

- b. The attorney general shall conduct a risk assessment of sexual offenders who are not under the custody or supervision of the department. The attorney general may adopt a law enforcement agency's previous assignment of risk level for an individual if the assessment was conducted in a manner substantially similar to the guidelines developed under this subsection.
- c. The juvenile courts or the agency having legal custody of a juvenile shall conduct a risk assessment of juvenile sex offenders who are required to register under this section. The juvenile courts or the agency having legal custody of a juvenile shall provide the attorney general any information, including the offender's level of risk and supporting documentation, concerning juveniles required to register and who are about to be released or placed into the community.
- d. ~~The agency responsible for conducting the risk assessment~~ attorney general shall notify the offender ~~as to the level of~~ the risk level assigned to that offender. An offender may request a review of that determination with the ~~appropriate agency~~ attorney general's sexual offender risk assessment committee and may present any information that the offender believes may lower the assigned risk level.

SECTION 3. Section 29-05-11.1 of the North Dakota Century Code is created and enacted as follows:

29-05-11.1. Duty of peace officer to enter warrant. A peace officer who receives a warrant for the arrest of a fugitive and does not execute the warrant shall enter the warrant in the central warrant information system. A warrant of arrest for the failure to pay a fine or fee may be entered at the discretion of the peace officer. A criminal justice agency may specify whether the agency will extradite from outside the county or state and the county or state from which the agency will extradite.