

Sixty-second  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO. 1410**

Introduced by

Representatives Weisz, DeKrey

Senator J. Lee

1 A BILL for an Act to amend and reenact section 12.1-35-04 and subsection 1 of section  
2 31-04-04.1 of the North Dakota Century Code, relating to limitations on interviews with children  
3 in cases involving physical or sexual abuse.

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

5 **SECTION 1. AMENDMENT.** Section 12.1-35-04 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **12.1-35-04. Limits on interviews and testimony.**

- 8 1. The prosecuting attorney, the court, and appropriate law enforcement personnel, to  
9 the extent possible, shall protect the victim or witness from the psychological damage  
10 of repeated or lengthy interview, testimony, or discovery proceedings while preserving  
11 the rights of the public, the victim, and the person charged with the violation.
- 12 2. In cases involving the direct or threatened physical or sexual abuse of a child, if the  
13 victim is interviewed by the prosecuting attorney, the court, or appropriate law  
14 enforcement personnel, the interview must be video recorded and the parent or a  
15 representative of the parent must be allowed to be physically present at the interview.

16 **SECTION 2. AMENDMENT.** Subsection 1 of section 31-04-04.1 of the North Dakota  
17 Century Code is amended and reenacted as follows:

- 18 1. ~~In~~Subject to the limitations of section 12.1-35-04, in any prosecution for a violation of  
19 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, or  
20 12.1-20-11 in which the victim is less than fifteen years of age, the oral statement of  
21 the child victim may be recorded before trial and, subject to subsection 2, is admissible  
22 as evidence in any court proceeding regarding the offense if the following conditions  
23 are satisfied:

- 1           a.    The court determines there is reasonable cause to believe that the child victim
- 2                would experience serious emotional trauma as a result of in-court participation in
- 3                the proceeding;
- 4           b.    The accused must be given reasonable written notice of the time and place for
- 5                taking the videotaped statement;
- 6           c.    The accused must be afforded the opportunity to hear and view the testimony
- 7                from outside the presence of the child by means of a two-way mirror or other
- 8                similar method that will ensure that the child cannot hear or see the accused;
- 9           d.    The accused must have the opportunity to communicate orally with counsel by
- 10               electronic means while the videotaped statement is being made; and
- 11           e.    All questioning must be done by the prosecutor or counsel for the defendant
- 12                unless the defendant is an attorney pro se. An attorney pro se must conduct all
- 13                questioning from outside the presence of the child. Upon request of any of the
- 14                parties or upon the determination of the court that it would be appropriate, the
- 15                court may appoint a person who is qualified as an expert and who has dealt with
- 16                the child in a therapeutic setting to aid the court throughout proceedings
- 17                conducted under this section and the court may appoint a guardian ad litem to
- 18                protect the interests of the child.