

Sixty-sixth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1520

Introduced by

Representatives B. Koppelman, Devlin, Heinert, Klemin, K. Koppelman, Marschall, Mock,
Rohr

Senators Hogue, O. Larsen, D. Larson, Myrdal

1 A BILL for an Act to create and enact a new subdivision to subsection 1 of section 27-20-51 and
2 a new subsection to section 27-20-51 of the North Dakota Century Code, relating to inspection
3 of juvenile court records; and to amend and reenact sections 12.1-04-01 and 27-20-31,
4 subsection 3 of section 50-25.1-02, and section 50-25.1-05.3 of the North Dakota Century
5 Code, relating to assessing mental fitness and capacity, disposition of delinquent child, and
6 child sexual abuse assessment.

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

8 **SECTION 1. AMENDMENT.** Section 12.1-04-01 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **12.1-04-01. Juveniles.**

11 **Persons**

12 1. An individual under the age of seventeen years areis deemed incapable of commission
13 of an offense defined by the constitution or statutes of this state. The prosecution of
14 any personan individual as an adult is barred if the offense was committed while the
15 personindividual was less than fourteen years of age.

16 2. For purposes of assessing mental fitness and capacity under this chapter, a defendant
17 includes any individual ten years of age or older.

18 **SECTION 2. AMENDMENT.** Section 27-20-31 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **27-20-31. Disposition of delinquent child.**

21 1. If the child is found to be a delinquent child, the court shall articulate in detail in the
22 order of disposition any actions or steps necessary to ensure:

1 a. The child receives the treatment or rehabilitation the court deems most
2 appropriate;

3 b. Justice for the victim; and

4 c. Safety of the community.

5 2. If the child is found to be a delinquent child, the court may make any of the following
6 orders of disposition best suited to the child's treatment, rehabilitation, and welfare:

7 1. a. Any order authorized by section 27-20-30 for the disposition of a deprived child;

8 2. b. Placing the child on probation under the supervision of the director, probation
9 officer, or other appropriate officer of the court or the director of the county social
10 service board under conditions and limitations the court prescribes;

11 3. c. Ordering the child to pay a fine if the delinquent act committed by the child
12 constitutes manslaughter resulting from the operation of a motor vehicle in
13 violation of section 12.1-16-02; negligent homicide in violation of section
14 12.1-16-03; or driving or being in actual physical control of a vehicle in violation of
15 section 39-08-01, or an equivalent ordinance. The court may suspend the
16 imposition of a fine imposed pursuant to this subsection upon such terms and
17 conditions as the court may determine. Fines collected pursuant to this
18 subsection must be paid into the county treasury for disposition pursuant to
19 section 29-27-02.1;

20 4. d. Committing the child to the division of juvenile services or to another state
21 department to which commitment of delinquent or unruly children may be made.
22 When necessary, the commitment order may provide that the child initially be
23 placed in a secure facility;

24 5. e. Ordering the child to make monetary restitution to the victim of the offense or to
25 complete a specified number of hours of community service as determined by the
26 court, or both;

27 6. f. Ordering the periodic testing for the use of illicit drugs or alcohol pursuant to rules
28 or policies adopted by the supreme court; or

29 7. g. Ordering the child's participation in a juvenile drug court program.

30 3. If the child is found to be a delinquent child, is twelve years old or older, and the
31 delinquent act committed by the child constitutes gross sexual imposition in violation of

1 section 12.1-20-03 or sexual imposition in violation of section 12.1-20-04, the court
2 shall order the child be placed at the North Dakota youth correctional center or other
3 similar facility for a twenty-one day evaluation that must include a psychosexual
4 evaluation. The completed evaluation must be submitted to the court for further
5 disposition. After review of the completed evaluation, in addition to the orders of
6 disposition the court may make under subsection 2, the court shall include in the order
7 of disposition any actions or steps necessary to satisfy the requirements of
8 subsection 1.

9 4. The twenty-one day placement and psychosexual evaluation of the child required
10 under subsection 3 may satisfy any of the requirements of subsection 1.

11 **SECTION 3.** A new subdivision to subsection 1 of section 27-20-51 of the North Dakota
12 Century Code is created and enacted as follows:

13 A victim of the delinquent child or the victim's guardian. All records including
14 medical, educational, and school information must be redacted before inspection.

15 **SECTION 4.** A new subsection to section 27-20-51 of the North Dakota Century Code is
16 created and enacted as follows:

17 A person with access or authorization to inspect juvenile court files and records may
18 not share the information contained in the files and records with any other person not
19 authorized by law.

20 **SECTION 5. AMENDMENT.** Subsection 3 of section 50-25.1-02 of the North Dakota
21 Century Code is amended and reenacted as follows:

22 3. "Abused child" means an individual under the age of eighteen years who is suffering
23 from abuse as defined in section 14-09-22 caused by a person responsible for the
24 child's welfare and "sexually abused child" means an individual under the age of
25 eighteen years who is subjected by a person responsible for the child's welfare, or by
26 any individual, including a juvenile, who acts in violation of sections 12.1-20-01
27 through 12.1-20-07, sections 12.1-20-11 through 12.1-20-12.2, or chapter 12.1-27.2.

28 **SECTION 6. AMENDMENT.** Section 50-25.1-05.3 of the North Dakota Century Code is
29 amended and reenacted as follows:

50-25.1-05.3. Disposition of reports implicating a person not responsible for the child's health or welfare.

1. Upon determination by the department or the department's designee that a report made under this chapter implicates a person other than a person responsible for a child's welfare, the department ~~may~~shall refer the report to an appropriate law enforcement agency for investigation and disposition.

2. In addition to the provisions of section 50-25.1-05, if a report alleges a violation of a criminal statute involving sexual abuse committed by an individual under the age of eighteen, the department shall provide risk assessment, safety planning, and any appropriate evidence-based screening, referrals, and services to the abused child; alleged suspect; the parents, custodian, or other persons serving in loco parentis with respect to the child or the alleged suspect; and any other children under the same care.