

# CRIMINAL CODE

## CHAPTER 121

SENATE BILL NO. 2430  
(Senators Maxson, Stenehjem)  
(Representatives Schneider, D. Olsen)

### CRIMINAL DEFENDANT PSYCHOLOGICAL REPORT

AN ACT to amend and reenact sections 12.1-04-06, 12.1-04-07, 12.1-04-08, and subsection 3 of section 25-04-05.1 of the North Dakota Century Code, relating to the temporary detention of a criminal defendant, psychiatric reports, suspension or dismissal of criminal proceedings, and transfer of developmentally disabled persons; and to repeal section 25-04-07 of the North Dakota Century Code, relating to developmentally disabled defendants.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-04-06 of the North Dakota Century Code is amended and reenacted as follows:

12.1-04-06. Examination - Temporary commitment. Whenever there is reason to doubt the defendant's fitness to proceed, the court may order the defendant to undergo detention of the defendant for the purpose of an examination by a licensed psychiatrist and may order him committed to or a licensed psychologist. The detention must be in the least restrictive appropriate setting, including the state hospital, the developmental center at Grafton, or other suitable facility for a reasonable period, not to exceed thirty days, for such examination. In lieu of detention, the court may allow the defendant to remain in the defendant's present residential setting or other suitable residential setting for the purpose of evaluation by a human service center or other suitable facility or personnel, subject to any reasonable limitation the court may impose. The court, by subsequent order and for good cause shown, may extend the period of commitment detention for a period not to exceed thirty additional days. While the defendant is committed detained, his the defendant's legal counsel, family, and others necessary to assist in his the defendant's case shall have reasonable opportunity to examine and confer with him the defendant.

SECTION 2. AMENDMENT. Section 12.1-04-07 of the North Dakota Century Code is amended and reenacted as follows:

12.1-04-07. Psychiatric report Report - Hearing when contested.

1. The report of the examining psychiatrists shall or psychologists must be given in writing to the court, who within three days of expiration of the period of commitment. The court shall cause copies to be delivered to the prosecutor and counsel for the defendant.

2. The report must include:

- a. The identity of the individuals interviewed and records and other information considered.
  - b. Procedures, tests, and techniques utilized in the assessment.
  - c. The date and time of the examination of the defendant, and the identity of each individual present during the examination.
  - d. The relevant information obtained, other information not obtained which the examiner believes may be relevant, and the findings made.
  - e. An opinion as to whether the defendant is fit to proceed or is unable to effectively communicate with counsel and whether the defendant will attain fitness to proceed or ability to effectively communicate with counsel in the foreseeable future.
3. If the findings of the report are contested, the court shall hold a hearing prior to deciding the issue whether the defendant currently lacks fitness to proceed or currently lacks ability to effectively communicate with counsel and whether the defendant will attain fitness to proceed or ability to effectively communicate with counsel in the foreseeable future. Upon hearing, the prosecution and defense shall have the right to summon and cross-examine the persons responsible for the report and to offer evidence upon the issues.

SECTION 3. AMENDMENT. Section 12.1-04-08 of the North Dakota Century Code is amended and reenacted as follows:

12.1-04-08. Suspension or dismissal of proceedings - Commitment-Prosecution or dismissal Referral for services.

1. If the court determines based upon a preponderance of the evidence that the defendant currently lacks fitness to proceed or to effectively communicate with counsel but that the defendant may attain fitness to proceed or effectively communicate with counsel in the foreseeable future, the proceedings against him shall the defendant must be suspended, except as provided in section 12.1-04-09, and the court shall commit him to the custody of the superintendent of the state hospital or the state school. However, the defendant cannot be held more than the reasonable period of time necessary to determine whether there is a substantial probability that he will attain fitness to proceed in the foreseeable future. Continued commitment of the defendant must be justified by progress toward fitness to proceed. The entire period of such commitment shall not exceed the maximum period for which the defendant could be sentenced and in no event shall exceed three years. When the court determines, after a hearing if a hearing is requested, that the defendant has regained fitness to proceed or to effectively communicate with counsel, the proceeding shall must be resumed. If prosecution of the defendant has not resumed prior to the expiration of the maximum period for which the defendant could be committed sentenced, or it is obvious determined by the court, after a hearing if a hearing is requested, that the defendant will not regain fitness to proceed or to effectively communicate with counsel, the charges against him shall the defendant must be

dismissed and the defendant shall be subject to laws governing civil commitment of persons suffering from mental disease or defect. The court may at any time make a referral for other appropriate services, treatment, or civil commitment.

2. If the court determines based upon a preponderance of the evidence that the defendant currently lacks fitness to proceed and that the defendant will not attain fitness to proceed in the foreseeable future, the proceedings must be dismissed. The court may at any time make a referral for other appropriate services, treatment, or civil commitment.
3. Other appropriate services or treatment include:
  - a. Determination of incapacity, by a county court with appropriate jurisdiction following petition by the state's attorney, for the appointment of a guardian or conservator pursuant to chapter 30.1-28 or 30.1-29;
  - b. Civil commitment of the person pursuant to chapter 25-03.1; or
  - c. Treatment of the person by a human service center or other appropriate public or private provider.
4. The custodian, guardian, or other person charged with the control of the defendant may take an appeal from the court's order in the manner provided by law. The procedure provided in this section is not exclusive, but is in addition to any other procedure for the commitment of individuals to the developmental center at Grafton, state hospital, or other state facility.

SECTION 4. AMENDMENT. Subsection 3 of section 25-04-05.1 of the North Dakota Century Code is amended and reenacted as follows:

3. The superintendent may authorize the temporary release of any resident to the custody of the resident's parent or guardian of the person, or to another person designated by the parent or such guardian. In the absence of such authorization any parent or guardian of the person of any resident may formally request, in writing, the resident's temporary release. The release must be granted at the earliest reasonable opportunity, but not more than thirty days after receipt of a written application. If a release is, or would be, effected contrary to the advice of the superintendent based on a recent comprehensive evaluation of the individual, the superintendent shall so advise the parent or such guardian in writing. if in the opinion of the superintendent the health, safety, welfare, or morals of the resident or society are seriously endangered by release, the superintendent shall so advise the department of human services, which may thereupon apply to the proper county court to have such adult resident adjudged a defective delinquent in the manner provided in section 25-04-07, or in the case of a minor, the department of human services may apply to the proper juvenile court to have such minor declared a ward of the court.

\* SECTION 5. REPEAL. Section 25-04-07 of the North Dakota Century Code is repealed.

Approved April 3, 1991  
Filed April 4, 1991

\* NOTE: Section 25-04-07 was amended by section 7 of House Bill No. 1410, chapter 294.

## CHAPTER 122

HOUSE BILL NO. 1245  
(Representatives Henegar, Carlisle)  
(Senator Evanson)

### HARBORING RUNAWAY MINOR

AN ACT to create and enact a new section to chapter 12.1-08 of the North Dakota Century Code, relating to harboring a runaway minor; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 12.1-08 of the North Dakota Century Code is created and enacted as follows:

Harboring a runaway minor - Penalty. A person who willfully harbors a runaway minor with knowledge that the child is being sought by a law enforcement authority is guilty of a class A misdemeanor. This section does not apply to a person who provides temporary sanctuary, not exceeding seventy-two hours, to a runaway minor who is seeking refuge from a physically, sexually, or mentally abusive person. For the purposes of this section, a "runaway minor" is an unemancipated minor who is voluntarily absent from the minor's home without the consent of a minor's parent entitled to legal custody of the minor or legal guardian with the intention of evading the direction or control of the parent or guardian. This section does not apply to persons providing temporary sanctuary to minors accompanied by a parent or legal guardian in a domestic violence shelter or safe home.

Approved March 27, 1991  
Filed March 28, 1991

## CHAPTER 123

SENATE BILL NO. 2332  
(Senators Marks, Nelson, Krauter)  
(Representatives Gorder, Schindler, Huether)

### ASSISTING IN SUICIDE

AN ACT to prohibit the assisting of suicide and to provide for actions against any person assisting in the commission of a suicide; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Assisting the commission of suicide - Causing death by suicide - Penalties.

1. Any person who intentionally or knowingly aids, abets, facilitates, solicits, or incites another person to commit suicide, or who provides to, delivers to, procures for, or prescribes for another person any drug or instrument with knowledge that the other person intends to attempt to commit suicide with the drug or instrument is guilty of a class C felony.
2. Any person who, through deception, coercion, or duress, willfully causes the death of another person by suicide is guilty of a class AA felony.

SECTION 2. Injunctive relief.

1. A claim for relief for an injunction may be maintained against any person who has attempted or will attempt to violate subsection 1 of section 1 of this Act by any person who is entitled to inherit from the person who would commit suicide or who is the spouse, parent, child, sibling, or health care provider of such person.
2. Any public official with jurisdiction to prosecute or enforce the laws of this state may maintain a claim for relief for an injunction against any present or future violation or attempted violation of subsection 1 of section 1 of this Act.

SECTION 3. Construction. This Act does not preclude the use of medications or procedures necessary to relieve a person's pain or discomfort if the use of the medications or procedures is not intentionally or knowingly prescribed or administered to cause the death of that person. In addition, this Act does not preclude the withholding or withdrawal of life-prolonging treatment pursuant to state or federal law.

Approved April 5, 1991  
Filed April 8, 1991

## CHAPTER 124

SENATE BILL NO. 2440  
(Senators Holmberg, Traynor)  
(Representatives Scherber, Svedjan)

### SEXUAL OFFENDER REGISTRATION

AN ACT to provide for the registration of a sexual offender's address upon release from incarceration; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Definitions. As used in this Act, unless the context otherwise requires.

1. "Department" means the department of corrections and rehabilitation.
2. "Sexual offender" means a person who has been convicted of a violation of section 12.1-20-03, 12.1-20-04, 12.1-20-05, 12.1-20-06, 12.1-20-07, or 12.1-20-11.

SECTION 2. Release of sexual offender from place of confinement - Duties of official in charge. A sexual offender who is released from the custody of the department or a correctional facility must be informed in writing prior to release of the offender's duty to register the address at which the offender expects to reside upon release. The official in charge of the place of confinement shall obtain the address and report the address to the department or the correctional facility. The department or correctional facility shall inform the appropriate law enforcement agency having local jurisdiction where the person expects to reside.

SECTION 3. Duty to register. A sexual offender shall register, within fourteen days of coming into a county in which the offender resides or is temporarily domiciled, with the chief of police of the city or the sheriff of the county if the offender resides in an area other than a city.

SECTION 4. Change of address - Duty to inform. If a sexual offender required to register under this Act changes residence, the offender shall give written notification, within ten days, of the new address to the law enforcement agency with whom the offender last registered. The law enforcement agency, within three days after receipt of the information, shall forward the information to the department and the local law enforcement agency having jurisdiction over the new place of residence.

SECTION 5. Duration of registration. A sexual offender convicted of a violation of section 12.1-20-05 or 12.1-20-07 shall comply with the registration requirement for a period of five years after conviction if not imprisoned during that period. If a sexual offender convicted of a violation of section 12.1-20-05 or 12.1-20-07 was imprisoned during the initial five-year period, the offender shall comply with the registration requirement

for a period of five years after release from incarceration. All other sex offenders required to register under this Act shall comply with the registration requirement for a period of ten years after conviction if not imprisoned during that period. Unless otherwise provided for in this chapter, if a sexual offender required to register under this Act is imprisoned during the initial ten-year period, the offender shall comply with the registration requirement for a period of ten years after release from incarceration. Unless otherwise provided for in this chapter, a sexual offender's duty to register under this Act terminates upon the expiration of ten years from the date of initial registration unless, during the ten-year period, the sexual offender is again required to register under this Act.

**SECTION 6. Penalty.** A sexual offender who fails to register under this Act is guilty of a class A misdemeanor.

Approved April 2, 1991  
Filed April 4, 1991

## CHAPTER 125

HOUSE BILL NO. 1338  
(Representatives D. Olsen, Kolbo, A. Olson)  
(Senators Nalewaja, Nething, Tennefos)

### ANIMAL FACILITIES

AN ACT relating to damage or destruction of animal research facilities; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Definitions. In this Act, unless the context otherwise requires:

1. "Animal" means any living organism that is used in food, fur, or fiber production, agriculture, research, testing, or education. The term does not include a human being, plant, or bacteria.
2. "Animal facility" means any vehicle, building, structure, research facility, premises, or defined area where an animal is kept, handled, housed, exhibited, bred, or offered for sale.
3. "Deprive" means to:
  - a. Withhold an animal or other property from the owner permanently or for so extended a period of time that a major portion of the value or enjoyment of the animal or property is lost to the owner;
  - b. Restore the animal or property only upon payment of a reward or other compensation; or
  - c. Dispose of an animal or other property in a manner that makes recovery of the animal or property by the owner unlikely.
4. "Effective consent" includes consent by a person legally authorized to act for the owner. Consent is not effective if:
  - a. Induced by force or threat;
  - b. Given by a person the offender knows is not legally authorized to act for the owner; or
  - c. Given by a person who by reason of age, mental disease or defect, or influence of drugs or alcohol is known by the offender to be unable to make a reasonable decision.
5. "Owner" means a person who has title to the property, possession of the property, or a greater right to possession of the property than the actor.



6. "Possession" means actual care, custody, control, or management.
7. "Research facility" means any place at which any scientific test, experiment, or investigation involving the use of any living animal is carried out, conducted, or attempted.

SECTION 2. Animal facility - Damage or destruction. No person without the effective consent of the owner may:

1. Intentionally damage or destroy an animal facility, an animal or property in or on the animal facility, or any enterprise conducted at the animal facility.
2. Acquire or otherwise exercise control over an animal facility or an animal or other property from an animal facility with the intent to deprive the owner and to damage the enterprise conducted at the facility.
3. Enter an animal facility, not then open to the public, with intent to commit an act prohibited by this section.
4. Enter an animal facility and remain concealed, with intent to commit an act prohibited by this section.
5. Enter an animal facility and commit or attempt to commit an act prohibited by this section.
6. Enter an animal facility and use or attempt to use a camera, video recorder, or any other video or audio recording equipment.
7. Intentionally turn out or release any animal in or on an animal facility.

This section does not apply to lawful activities of a governmental agency carrying out its duties under law.

SECTION 3. Entry forbidden - Notice. No person may without the effective consent of the owner, and with the intent to damage the enterprise conducted at the animal facility, enter or remain on an animal facility, if the person had notice that the entry was forbidden or received notice to depart but failed to do so. Notice includes communication by the owner or someone with apparent authority to act for the owner, fencing or other enclosures designed to exclude intruders or to contain animals, or a sign posted on the property or at the entrance to the animal facility indicating that entry is forbidden.

SECTION 4. Penalty. A person who violates subsection 1 of section 2 is guilty of a class B felony if there is damage of ten thousand dollars or more, a class C felony if there is damage of at least five hundred dollars but less than ten thousand dollars, and a class A misdemeanor if there is damage of less than five hundred dollars. A person who violates subsections 2 through 5 or 7 of section 2 is guilty of a class C felony. A person who violates subsection 6 of section 2 is guilty of a class B misdemeanor.

SECTION 5. Civil action. A person who has been damaged by reason of violation of this Act may bring an action in the district court against the

person causing the damage to recover an amount equal to three times all actual and consequential damages, and court costs and reasonable attorney fees.

This Act does not affect any other rights of a person who has been damaged by reason of violation of this Act.

Approved April 8, 1991  
Filed April 8, 1991

## CHAPTER 126

SENATE BILL NO. 2433  
(Senators Marks, Wogsland)  
(Representatives Hanson, Williams, Henegar)

## POSTING OF LAND

AN ACT to amend and reenact subsection 3 of section 12.1-22-03 and section 20.1-01-17 of the North Dakota Century Code, relating to criminal trespass posting requirements and posting requirements to prohibit hunting.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

\* SECTION 1. AMENDMENT. Subsection 3 of section 12.1-22-03 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. A person is guilty of a class B misdemeanor if, knowing that ~~he~~ that person is not licensed or privileged to do so, ~~he~~ that person enters or remains in any place as to which notice against trespass is given by actual communication to the actor by the person in charge of the premises or other authorized person or by posting in a manner reasonably likely to come to the attention of intruders. The name of the person posting the premises must appear on each sign in legible characters.

SECTION 2. AMENDMENT. Section 20.1-01-17 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

20.1-01-17. Posting of lands by owner or tenant to prohibit hunting - How posted - Signs defaced. Only the owner or tenant of any land may post it by placing signs alongside the public highway or the land giving notice that no hunting is permitted on the land. The name ~~and address~~ of the person posting the land ~~shall~~ must appear on each sign in legible characters. The signs ~~shall must~~ be readable from the outside of the land and ~~shall must~~ be placed conspicuously not more than eight hundred eighty yards [804.68 meters] apart. As to land entirely enclosed by a fence or other enclosure, posting of ~~such~~ signs at or on all gates through ~~such the~~ fence or enclosure ~~shall be construed to be~~ constitutes a posting of all ~~such~~ the enclosed land. No person ~~shall may~~ in any manner deface, take down, or destroy posting signs.

Approved April 3, 1991  
Filed April 4, 1991

\* NOTE: Subsection 3 of section 12.1-22-03 was also amended by section 1 of House Bill No. 1034, chapter 127.

## CHAPTER 127

HOUSE BILL NO. 1034  
(Legislative Council)  
(Interim Game and Fish Committee)

## HUNTING ON POSTED LAND

AN ACT to amend and reenact subsections 3 and 4 of section 12.1-22-03 and sections 20.1-01-18 and 20.1-01-26 of the North Dakota Century Code, relating to the penalty for being on property and hunting on posted land.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

\* SECTION 1. AMENDMENT. Subsections 3 and 4 of section 12.1-22-03 of the 1989 Supplement to the North Dakota Century Code are amended and reenacted as follows:

3. A person is guilty of a class B misdemeanor if, knowing that he that person is not licensed or privileged to do so, he that person enters or remains in any place as to which notice against trespass is given by actual communication to the actor by the person in charge of the premises or other authorized person or by posting in a manner reasonably likely to come to the attention of intruders. A person who violates this subsection is guilty of a class A misdemeanor for the second or subsequent offense within a two-year period.
4. A person is guilty of a class B misdemeanor if that person remains upon the property of another after being requested to leave the property by a duly authorized person. A person who violates this subsection is guilty of a class A misdemeanor for the second or subsequent offense within a two-year period.

SECTION 2. AMENDMENT. Section 20.1-01-18 of the North Dakota Century Code is amended and reenacted as follows:

20.1-01-18. Hunting on posted land and trapping on private land without permission unlawful - Penalty. No person ~~shall~~ may hunt or pursue game, or enter for those purposes, upon legally posted land belonging to another without first obtaining the permission of the person legally entitled to grant the same. No person ~~shall~~ may enter upon privately owned land for the purpose of trapping protected fur-bearing animals without first gaining the written permission of the owner or operator of ~~such~~ that land. A person who violates this section is guilty of a class B misdemeanor for the first offense and a class A misdemeanor for a subsequent offense within a two-year period.

\*\* SECTION 3. AMENDMENT. Section 20.1-01-26 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

\* NOTE: Subsection 3 of section 12.1-22-03 was also amended by section 1 of Senate Bill No. 2433, chapter 126.

\*\* NOTE: Section 20.1-01-26 was also amended by section 6 of Senate Bill No. 2050, chapter 231.

20.1-01-26. Suspension of hunting, trapping, or fishing privileges - Surrender and return of license. In addition to the penalty provided upon conviction under this title, the court may suspend the defendant's hunting, trapping, or fishing privileges for up to ~~two~~ three years. The court may not suspend the defendant's privileges for a noncriminal violation if the defendant has not been convicted for a violation of this title in the last three years. Upon conviction for a violation of section 20.1-01-18, the court shall suspend the defendant's hunting, fishing, and trapping privileges for a period of at least ~~six months~~ one year, two years for the second conviction, and three years for the third or subsequent conviction. At the time of the suspension, the court shall determine whether the defendant must successfully complete the hunter education course provided for in section 20.1-03-01.1, as prescribed by the proper state or provincial natural resources or wildlife management agency, before the defendant may purchase a new or obtain the return of a valid hunting license.

Upon imposition of ~~such~~ the suspension, the court shall take any hunting, trapping, or fishing license or permit held by the defendant and forward it, together with a certified copy of the suspension order, to the commissioner. Except as otherwise provided in this section, upon expiration of the suspension, the commissioner shall return the person's license or permit if it is still valid. No person may purchase, or attempt to purchase, a hunting, trapping, or fishing license or permit during a suspension period. If the court so ordered, no person who has had a hunting license suspended may purchase or attempt to purchase a hunting license nor may the commissioner return a valid hunting license until the person has successfully completed the course provided for in section 20.1-03-01.1 and as prescribed by the proper state or provincial natural resources or wildlife management agency. A certificate of completion for a similar course issued by any other state or province of Canada is sufficient to meet this requirement. The person shall file proof of that completion with the court.

For the purpose of this section, the term "conviction" includes an admission or adjudication of a noncriminal violation.

Approved March 11, 1991  
Filed March 11, 1991

## CHAPTER 128

HOUSE BILL NO. 1513  
(Representatives Wald, Wentz, Kerzman)  
(Senator Evanson)

### OBSCENITY ENHANCED PENALTIES

AN ACT to create and enact a new subsection to section 12.1-27.1-01 and a new section to chapter 12.1-27.2 of the North Dakota Century Code, relating to enhanced penalties for obscenity offenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 12.1-27.1-01 of the 1989 Supplement to the North Dakota Century Code is created and enacted as follows:

- a. In addition to the penalty provided in subsection 1, 2, or 3, any person who violates subsection 1, 2, or 3 in the course of a commercial or for-profit activity or transaction in which the offender had or shared ownership, control, managerial responsibility, or a financial interest other than wages is subject to the following penalty:
  - (1) For an individual, a fine not to exceed ten thousand dollars; or
  - (2) For a corporation, association, partnership, or other legal entity, a fine not to exceed twenty-five thousand dollars.
- b. In addition to the penalty provided in subsection 1, 2, or 3, the court shall impose the following penalty upon the conviction of a person or entity described in subdivision a for a second or subsequent offense under subsection 1, 2, or 3:
  - (1) For an individual, a fine not to exceed fifty thousand dollars; or
  - (2) For a corporation, association, partnership, or other legal entity, a fine not to exceed one hundred thousand dollars.

SECTION 2. A new section to chapter 12.1-27.2 of the North Dakota Century Code is created and enacted as follows:

Sexual performance by a minor - Enhanced penalties.

1. Notwithstanding the provisions of sections 12.1-32-01 and 12.1-32-01.1 relating to fines, a person who commits an offense under this chapter and who acts in the course of a commercial or

for-profit activity or transaction in which the offender had or shared ownership, control, managerial responsibility, or a financial interest other than wages is subject to the following penalty:

- a. For an individual, a fine not to exceed ten thousand dollars; or
  - b. For a corporation, association, partnership, or other legal entity, a fine not to exceed twenty-five thousand dollars.
2. Notwithstanding the provisions of sections 12.1-32-01 and 12.1-32-01.1 relating to fines, the court shall impose the following fine upon the conviction of a person or entity described in subsection 1 for a second or subsequent offense under this chapter:
- a. For an individual, a fine not to exceed fifty thousand dollars; or
  - b. For a corporation, association, partnership, or other legal entity, a fine not to exceed one hundred thousand dollars.

Approved March 27, 1991  
Filed March 28, 1991

## CHAPTER 129

SENATE BILL NO. 2560  
(Maxson, Marks, Peterson)

**GAMBLING AND GAMING FINANCIAL STATEMENTS**

AN ACT to create and enact a new section to chapter 53-06.1 of the North Dakota Century Code, relating to a requirement of a certified financial statement from certain charitable gaming organizations; to amend and reenact subsections 1 and 2 of section 12.1-28-02 of the North Dakota Century Code, relating to the penalty for illegal gambling; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 1 and 2 of section 12.1-28-02 of the 1989 Supplement to the North Dakota Century Code are amended and reenacted as follows:

1. It ~~shall be~~ is an infraction to engage in gambling on private premises where the total amount wagered by an individual player exceeds twenty-five dollars per individual hand, game, or event.
2. It ~~shall be~~ is a class A misdemeanor to:
  - a. Sell, purchase, receive, or transfer a chance to participate in a lottery; or
  - b. Disseminate information about a lottery with intent to encourage participation in it; or
  - c. Engage in gambling on private premises where the total amount wagered by an individual player exceeds five hundred dollars per individual hand, game, or event.

SECTION 2. A new section to chapter 53-06.1 of the North Dakota Century Code is created and enacted as follows:

Financial statements. Every eligible organization receiving gaming gross proceeds of two hundred thousand dollars or more in the organization's annual accounting period shall file with the attorney general on or before the fifteenth day of the fifth month following the end of the accounting period a financial statement and a copy of the internal revenue service's form 990 titled return of organization exempt from income tax required to be filed under section 501(c) of the Internal Revenue Code. The financial statement must at least include a schedule of the sources of total revenue, total expenses, listing of the names of nongaming and gaming employees who received any form of compensation amounting to thirty thousand dollars or more during the accounting period, including specific sources of the compensation paid to each employee, and any information as required by the attorney general.

Approved April 5, 1991  
Filed April 8, 1991



## CHAPTER 130

HOUSE BILL NO. 1046  
(Legislative Council)  
(Interim Jobs Development Commission)

### SUNDAY BUSINESS OPENING

AN ACT to provide for the establishment of a North Dakota rural area development corporation to administer a rural development revolving loan fund; to create and enact a new section to chapter 12.1-30 and a new section to chapter 34-06 of the North Dakota Century Code, relating to business leases or agreements and an employee day of rest; to amend and reenact sections 12.1-30-01 and 12.1-30-02 of the North Dakota Century Code, relating to the conduct of business on Sundays; to provide a penalty; to provide a contingent appropriation; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Definitions. As used in sections 1 through 3 of this Act, unless the context otherwise requires:

1. "Board of directors" means the board of directors of the equity development corporation as established under chapter 10-30.3.
2. "Corporation" means the equity development corporation established under chapter 10-30.3.
3. "Primary sector business" means an individual, corporation, partnership, or association which through a process employing knowledge and labor adds value to a product or service produced for resale.
4. "Region" means the area delineated by executive order of the governor under section 54-40.1-02.
5. "Rural area" means any area in the state that is not within five miles [8.05 kilometers] of any city with a population of more than eight thousand.

SECTION 2. Economic development commission to act in advisory capacity. The economic development commission shall act in an advisory capacity to the board of directors of the equity development corporation for purposes of sections 1 through 3 of this Act, and shall:

1. Advise the board of directors regarding the regional rural revolving loan fund established by section 3 of this Act;
2. Establish guidelines for fund matching requirements, eligibility criteria, financing terms and conditions, solicitation and review

of applications for assistance, and determination of projects to be funded under section 3 of this Act;

3. Develop priorities for projects and activities relating to the development of rural areas; and
4. Coordinate the rural area development plans and programs of the various regions of the state and encourage the collocation of assistance programs for rural areas in each region.

**SECTION 3. Regional rural development revolving loan fund - Appropriation.** There is established in the Bank of North Dakota a regional rural development revolving loan fund to be administered by the board of directors. All moneys transferred to the regional rural development revolving loan fund, interest on moneys in the fund, and payments to the fund of principal and interest on loans made by the fund are hereby appropriated to the corporation for the purpose of providing technical assistance, research and development assistance, and loans or equity or debt financing on a matching basis to new or expanding primary sector businesses in rural areas. The funds available under this section must be allocated equally for the benefit of each region.

**SECTION 4. AMENDMENT.** Section 12.1-30-01 of the North Dakota Century Code is amended and reenacted as follows:

**12.1-30-01. Business or labor on Sunday - Exemptions - Classification of offenses.**

1. Except as otherwise provided in sections 12.1-30-02 and 12.1-30-03, it is a class B misdemeanor for any person between the hours of twelve midnight and twelve noon on Sunday to do any of the following activities:
  - a. Engage in or conduct business or labor for profit in the usual manner and location.
  - b. Operate a place of business open to the public.
  - c. Authorize or direct that person's employees or agents to take action prohibited under this section.
2. The prohibition in subsection 1 does not apply to a person who in good faith observes a day other than Sunday as the Sabbath, if that person refrains from engaging in or conducting business or labor for profit and closes the place of business to the public between the hours of twelve midnight and twelve noon on the day observed as the Sabbath.
3. The attorney general, a state's attorney, a mayor, a city manager, or a city attorney may petition a district court, for the district where a violation is occurring, to enjoin a violation of this section.

**SECTION 5. AMENDMENT.** Section 12.1-30-02 of the North Dakota Century Code is amended and reenacted as follows:

12.1-30-02. Items prohibited from sale or rental on Sunday. Except for items sold at hobby shows, craft shows, fairs, exhibits, occasional rummage sales including garage sales or other sales for which a sales tax permit is not required, and tourist attractions that derive at least fifty percent of their annual gross sales from seasonal or tourist customers, the sale or rental of any of the following items between the hours of twelve midnight and twelve noon on Sunday is prohibited:

1. Clothing other than work gloves and infant supplies.
2. Clothing accessories.
3. Wearing apparel other than that sold to a transient traveler under emergency conditions.
4. Footwear.
5. Headwear.
6. Home, business, office, or outdoor furniture.
7. Kitchenware.
8. Kitchen utensils.
9. China.
10. Home appliances.
11. Stoves.
12. Refrigerators.
13. Air conditioners.
14. Electric fans.
15. Radios.
16. Television sets.
17. Washing machines.
18. Dryers.
19. Cameras.
20. Hardware other than emergency plumbing, heating, cooling, or electrical repair or replacement parts and equipment.
21. Tools other than manually driven hand tools.
22. Jewelry.
23. Precious or semiprecious stones.
24. Silverware.

25. Watches.
26. Clocks.
27. Luggage.
28. Motor vehicles other than the daily rental of vehicles by businesses whose sole activity is automobile rental.
29. Musical instruments.
30. The sale of aural or video recordings, records, or tapes. Rental of these items is permitted.
31. Toys other than those customarily sold as novelties or souvenirs.
32. Mattresses.
33. Bed coverings.
34. Household linens.
35. Floor coverings.
36. Lamps.
37. Draperies.
38. Blinds.
39. Curtains.
40. Mirrors.
41. Cloth piece goods.
42. Lawnmowers.
43. Sporting or recreational goods other than those sold or rented on the premises where sports or recreational activities are conducted.
44. Paint and building and lumber supplies.

SECTION 6. A new section to chapter 12.1-30 of the North Dakota Century Code is created and enacted as follows:

Retail business leases or agreements - Penalty. A retail business may not be required to be open on Sunday as a part of a lease agreement, franchise agreement, or any other contractual arrangement. A violation of this section is a class A misdemeanor.

SECTION 7. A new section to chapter 34-06 of the North Dakota Century Code is created and enacted as follows:

One day of rest in seven - Penalty.

1. An employer may not require an employee to work seven consecutive days in a business that sells merchandise at retail. An employer may not deny an employee at least one period of twenty-four consecutive hours of time off for rest or worship in each seven-day period. The time off must be in addition to the regular periods of rest allowed during each day worked. An employer shall accommodate the religious beliefs and practices of an employee unless the employer can demonstrate that to do so would constitute an undue hardship on the conduct of the employer's business. However, if an employee requests time off to attend one regular worship service a week, an employer may not require the employee to work during that period unless:
  - a. Honoring the employee's request would cause the employer substantial economic burdens or would require the imposition of significant burdens on other employees required to work in place of the Sabbath observer; or
  - b. The employer has made a reasonable effort to accommodate the employee's request.
2. A violation of this section is a class B misdemeanor. It is an affirmative defense to prosecution under this section that the employee volunteered for work on the seventh consecutive day and the employee executed a written statement so stating. The statement must also contain a provision, signed by the employer or the employer's agent, that the employer did not require such work.

SECTION 8. APPROPRIATION. There is hereby appropriated, subject to the availability of state general fund revenues as provided in section 9 of this Act, out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$9,500,000 which shall be transferred by the state treasurer to the regional rural development revolving loan fund to carry out the purposes of sections 1 through 3 of this Act, for the biennium beginning July 1, 1991, and ending June 30, 1993.

SECTION 9. CONTINGENT APPROPRIATION. The amount appropriated in section 8 of this Act is available only upon determination by the director of the office of management and budget that estimated general fund revenues for the biennium ending June 30, 1993, are greater than the estimates that were made at the close of the fifty-second legislative assembly. The director of the office of management and budget shall make estimates every six months during the biennium on or before June thirtieth and December thirty-first of each year. The amount that is appropriated under section 8 of this Act is limited to the amount in excess of \$11,000,000 over the amount estimated by the fifty-second legislative assembly, up to a total of \$9,500,000. If the balance in the general fund at the end of the biennium ending June 30, 1993, is \$11,000,000 or more above the estimate made by the fifty-second legislative assembly, the amount in excess of \$11,000,000, up to a total of \$9,500,000, is appropriated for the purposes of section 8 of this Act. The provisions of section 54-44.1-11 do not apply to any appropriation that is based upon the actual ending balance. For purposes of this section, the estimate at the close of the fifty-second legislative assembly may not include the tax revenues generated as a result of this Act. The director of the office of management and budget shall inform the equity development corporation of the appropriation available to it under this Act.

SECTION 10. EMERGENCY. This Act is declared to be an emergency measure.

Approved February 6, 1991  
Filed February 6, 1991

## CHAPTER 131

HOUSE BILL NO. 1610  
(Representatives Martinson, Whalen, Timm)  
(Senators Bowman, Krebsbach, Maxson)  
(Approved by the Committee on Delayed Bills)

### SUNDAY BUSINESS OPENING APPLICATION

AN ACT to create and enact a new subsection to section 12.1-30-03 of the North Dakota Century Code and a new subsection to the new section to chapter 34-06 of the North Dakota Century Code as created by section 7 of House Bill No. 1046, as approved by the fifty-second legislative assembly, relating to businesses allowed to operate on Sunday; to amend and reenact subsections 32 and 33 of section 12.1-30-03 of the North Dakota Century Code, relating to businesses allowed to operate on Sunday and days of rest; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 32 and 33 of section 12.1-30-03 of the 1989 Supplement to the North Dakota Century Code are amended and reenacted as follows:

32. ~~From April first through June fifteenth, floral~~ Floral nurseries for the sale of bedding plants and nursery stock.
33. ~~From November twentieth through December twenty-fourth, Christmas tree stands.~~

SECTION 2. A new subsection to section 12.1-30-03 of the 1989 Supplement to the North Dakota Century Code is created and enacted as follows:

Credit approval services, lodging and travel reservation services, and, notwithstanding section 12.1-30-02, telemarketing of goods and services.

SECTION 3. A new subsection to the new section to chapter 34-06 of the North Dakota Century Code as created by section 7 of House Bill No. 1046, as approved by the fifty-second legislative assembly, is created and enacted as follows:

This section applies only to an employer in a business that sells merchandise at retail.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 2, 1991  
Filed April 4, 1991

## CHAPTER 132

HOUSE BILL NO. 1133  
(Committee on Judiciary)  
(At the request of the Attorney General)

### CHEMICAL VAPOR INHALATION

AN ACT to prohibit the inhalation of vapors of certain volatile chemicals; to provide a penalty; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Volatile chemicals - Inhalation of vapors prohibited - Definitions - Penalty. A person is guilty of a class B misdemeanor if that person intentionally inhales the vapors of a volatile chemical in a manner designed to affect the person's central nervous system; to create or induce a condition of intoxication, hallucination, or elation; or to distort, disturb, or change the person's eyesight, thinking processes, balance, or coordination. This section does not apply to inhalations specifically prescribed for medical, dental, or optometric treatment purposes or to controlled substances described in chapter 19-03.1. For the purposes of this section, "volatile chemical" includes the following chemicals or their isomers:

1. Acetone.
2. Aliphatic hydrocarbons.
3. Amyl nitrite.
4. Butyl nitrite.
5. Carbon tetrachloride.
6. Chlorinated hydrocarbons.
7. Chlorofluorocarbons.
8. Chloroform.
9. Cyclohexane.
10. Diethyl ether.
11. Ethyl acetate.
12. Glycol ether inter solvent.
13. Glycol ether solvent.
14. Hexane.

15. Ketone solvent.
16. Methanol.
17. Methyl cellosolve acetate.
18. Methyl ethyl ketone.
19. Methyl isobutyl ketone.
20. Petroleum distillate.
21. Toluene.
22. Trichloroethane.
23. Trichloroethylene.
24. Xylol or xylene.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 7, 1991  
Filed March 7, 1991



## CHAPTER 133

SENATE BILL NO. 2548  
(Senators Goetz, Robinson)  
(Representatives Ritter, Wald)

### CRIMINAL REWARD REPAYMENT

AN ACT to create and enact a new section to chapter 12.1-32 of the North Dakota Century Code, relating to repayment of rewards by convicted offenders; and to amend and reenact subsection 2 of section 54-12-14 and section 62.1-05-01 of the North Dakota Century Code, relating to repayment of rewards from the forfeiture of assets.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 12.1-32 of the North Dakota Century Code is created and enacted as follows:

Repayment of rewards paid by crimestoppers programs - Duties of attorney general - Qualified local programs - Disbursement of moneys collected.

1. After a defendant has been convicted of a felony, the court may order the defendant to repay all or part of any reward paid by a qualified local program. In determining whether the defendant must repay the reward or part of the reward, the court shall consider:
  - a. The ability of the defendant to make the payments, including any financial hardship that payment may cause to the defendant's dependents.
  - b. Whether the information that was reported to the qualified local program substantially contributed to the defendant being charged with the offense. To the extent allowed by law, the court shall respect the confidentiality of the records of the qualified local program.
2. "A qualified local program" means a program approved by the attorney general to receive repayment of rewards. The attorney general shall consider the organization, continuity, leadership, community support, and general conduct of the program to determine whether the repayments will be spent to further crime prevention purposes of the program. The attorney general also shall determine that the qualified local program provides rewards to persons who report information concerning criminal activity and whether that information substantially leads to defendants being charged with felonies.
3. If the court determines that a defendant is capable of repaying all or any part of a reward paid by a qualified local program, the judgment must include a statement of the amount owed, the identity

of the qualified local program, and a schedule, if any, of payments to be made by the defendant. The clerk of court may establish an account within which to deposit repayments of rewards and at least quarterly shall pay over to each qualified local program the sums that have been collected for the benefit of that program.

4. A judgment that includes a repayment of reward, either alone or in conjunction with section 29-26-22, may be docketed and thereafter constitutes a lien upon the real estate of the defendant in the same manner as a judgment for money rendered in a civil action.

\* SECTION 2. AMENDMENT. Subsection 2 of section 54-12-14 of the North Dakota Century Code is amended and reenacted as follows:

2. For repayment of rewards to qualified local programs approved under section 1 of this Act, if the information that was reported to the qualified local program substantially contributed to forfeiture of the asset, and for paying, at the discretion of the attorney general, awards rewards for other information or assistance leading to a forfeiture under section 19-03.1-36.

SECTION 3. AMENDMENT. Section 62.1-05-01 of the North Dakota Century Code is amended and reenacted as follows:

62.1-05-01. Possession and sale of machine guns, automatic rifles, silencers, and bombs - Penalty - Forfeiture. No person may purchase, sell, have, or possess a machine gun, fully automatic rifle, silencer, or bomb loaded with explosives or poisonous or dangerous gases, or any other federally licensed firearm or dangerous weapon unless that person has complied with the National Firearms Act [26 U.S.C. 5801-5872].

Any federal licensee who purchases, sells, has, or possesses a machine gun, submachine gun, fully automatic rifle, silencer, or bomb loaded with explosives or poisonous or dangerous gases or any other federally licensed firearm or dangerous weapon those items for the licensee's protection or for sale must forward a copy of the licensee's federal license along with the required weapons transfer form to the licensee's local county sheriff and to the chief of the bureau of criminal investigation within five days of the receipt of those forms.

A person who violates this section is guilty of a class C felony. Upon arrest of that person the firearm or dangerous weapon must be seized ~~and upon~~. Upon conviction of the person and motion, to the court in which the conviction occurred, the firearm or dangerous weapon must be forfeited to the jurisdiction in which the arrest was made ~~and the~~. The firearm or dangerous weapon may be, ~~pursuant to court order~~, sold at public auction, retained for use, or destroyed pursuant to the court's order. If a qualified local program as defined under section 1 of this Act has paid a reward for information that resulted in forfeiture of the item and the item has been sold, the jurisdiction shall after payment of expenses for forfeiture and sale repay the qualified local program for the reward that it has paid.

Approved April 3, 1991  
Filed April 4, 1991

\* NOTE: Section 54-12-14 was also amended by section 1 of House Bill No. 1156, chapter 581, and by section 9 of Senate Bill No. 2073, chapter 600.

## CHAPTER 134

SENATE BILL NO. 2186  
(Committee on Judiciary)

(At the request of the Department of Corrections and Rehabilitation)

### PROBATION SUPERVISION COSTS

AN ACT to create and enact a new subdivision to subsection 3 of section 12.1-32-07 of the North Dakota Century Code, relating to the financial obligations involved when paying a probation supervision cost; and to amend and reenact subsection 1 of section 12.1-32-07 of the North Dakota Century Code, relating to the supervision and management of a probationer.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 12.1-32-07 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. When the court imposes probation upon conviction for a felony, the court shall place the defendant under the supervision and management of the pardon board department of corrections and rehabilitation. In all other cases, the court may place the defendant under the supervision and management of the pardon board department of corrections and rehabilitation or other responsible party selected by the court.

SECTION 2. A new subdivision to subsection 3 of section 12.1-32-07 of the 1989 Supplement to the North Dakota Century Code is created and enacted as follows:

Pay a probation supervision cost, if doing so will not materially interfere with other financial obligations.

Approved March 11, 1991  
Filed March 11, 1991

## CHAPTER 135

SENATE BILL NO. 2137  
(Committee on Judiciary)

(At the request of the Department of Corrections and Rehabilitation)

### PROBATIONER RECORDS AND CONTROL

AN ACT to amend and reenact subsection 1 of section 12.1-32-07.2 and section 12.1-32-07.3 of the North Dakota Century Code, relating to the records and filing of papers of a person placed on probation and when a probationer is deemed an escapee or fugitive.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 12.1-32-07.2 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. Whenever the court orders that a person convicted of a felony is to be placed on probation, the clerk of the court in which the order is entered immediately shall make full copies of the judgment or order of the court with the conditions of probation and shall certify the same to the clerk of the pardon board director of parole and probation of the department of corrections and rehabilitation. Upon the disposition of any criminal case, the clerk of court shall transmit to the pardon board department of corrections and rehabilitation statistical data, in accordance with rules adopted by the board department, regarding all defendants whether found guilty or discharged.

SECTION 2. AMENDMENT. Section 12.1-32-07.3 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

12.1-32-07.3. When probationer deemed escapee and fugitive from justice. A probationer is considered an escapee and a fugitive from justice if the probationer leaves the jurisdiction before the expiration of the probationary period without permission of the court or the pardon board department of corrections and rehabilitation.

Approved March 11, 1991  
Filed March 11, 1991

## CHAPTER 136

SENATE BILL NO. 2574  
(Robinson, Graba, Freborg, Thane)  
(Approved by the Committee on Delayed Bills)

### OFFENSE AGAINST CHILDREN REGISTRATION

AN ACT relating to the registration of persons convicted of offenses against children; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Crimes against children - Registration requirement - Penalty.

1. As used in this section, "a crime against a child" means a violation of chapter 12.1-16, 12.1-17, 12.1-18, 12.1-20, 12.1-27.2, or 12.1-29 in which the victim is a minor or is otherwise of the age required for the act to be a crime.
2. After a person has been convicted of a crime against a child or an attempted crime against a child, the court may impose, in addition to any other penalty provided by law, a requirement that the person register, within thirty days of coming into a county in which the person resides or is temporarily domiciled, with the chief of police of the city or the sheriff of the county if the person resides in an area other than a city. The court may not require a person to register unless the court states this fact on the court records.
3. If the court has imposed a requirement for registration under this section, the official in charge of a facility or institution where the person required to register is confined shall, before the discharge, parole, or release of that person, inform the person of the duty to register pursuant to this section. The official shall require the person to read and sign a form as required by the attorney general, stating that the duty of the person to register has been explained to that person. The official in charge of the place of confinement shall obtain the address where the person expects to reside upon discharge, parole, or release and shall report the address to the attorney general. The official in charge of the place of confinement shall give one copy of the form to the person and shall send four copies to the attorney general no later than forty-five days before the scheduled release of that person. The attorney general shall forward one copy to the law enforcement agency having jurisdiction where the person expects to reside upon discharge, parole, or release, one copy to the prosecutor who prosecuted the person, and one copy to the court in which the person was prosecuted. All forms must be transmitted and received by the law enforcement agency, prosecutor, and court thirty days before the discharge, parole, or release of the person.

4. A person who is required to register pursuant to this section who is released on probation or discharged upon payment of a fine must, before the release or discharge, be informed of that person's duty to register under this section by the court in which that person is convicted. The court shall require the person to read and sign a form as required by the attorney general, stating that the duty of the person to register under this section has been explained to that person. The court shall obtain the address where the person expects to reside upon release or discharge and shall report the address to the attorney general within three days. The court shall give one copy of the form to the person and shall send two copies to the attorney general. The attorney general shall forward one copy to the appropriate law enforcement agency having jurisdiction where the person expects to reside upon discharge, parole, or release.
5. Registration consists of a written statement signed by the person, giving the information required by the attorney general, and the fingerprints and photograph of the person. Within three days after registration, the registering law enforcement agency shall forward the statement, fingerprints, and photograph to the attorney general. If a person required to register pursuant to this section has a change in address, that person shall inform in writing, within ten days, the law enforcement agency with whom that person last registered of the person's new address. The law enforcement agency, within three days after receipt of the information, shall forward it to the attorney general. The attorney general shall forward the appropriate registration data to the law enforcement agency having local jurisdiction of the new place of residence.
6. A person required to register under this section shall comply with the registration requirement for a period of ten years after conviction or after release from incarceration, whichever is later, except that for violations of section 12.1-17-01, 12.1-17-02, 12.1-17-05, 12.1-17-06, 12.1-17-07, 12.1-18-03, 12.1-20-05, or 12.1-20-07, the person shall comply with the registration requirement for a period of five years after conviction or after release from incarceration, whichever is later.
7. A person required to register under this section who violates this section is guilty of a class A misdemeanor. A court may not relieve a person who willfully violates this section from serving a term of at least ninety days in jail and completing probation of one year.
8. When a person is released on parole or probation and is required to register pursuant to this section, but fails to do so within the time prescribed, the court shall order the parole or probation of the person revoked. The statements, photographs, and fingerprints required by this section are not open to inspection by the public or by any person other than a regularly employed law enforcement officer.
9. If a person required to register pursuant to this section is temporarily sent outside the facility or institution where that person is confined under conviction or sentence, the local law enforcement agency having jurisdiction over the place where that

person is being sent must be notified within a reasonable time period before that person is released from the facility or institution. This subsection does not apply to any person temporarily released under guard from the facility or institution in which that person is confined.

Approved April 5, 1991

Filed April 8, 1991