

Fifty-fifth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1046

Introduced by

Legislative Council

(Criminal Justice Committee)

(Representatives Kretschmar, R. Kelsch, Mahoney, Kliniske, Brown)
(Senator Nalewaja)

1 A BILL for an Act to create and enact a new subsection to section 12.1-01-04 and a new
2 subsection to section 50-06-05.1 of the North Dakota Century Code, relating to the definition of
3 risk assessment and the authority of the department of human services to establish the method
4 of risk assessment; and to amend and reenact subsections 10 and 11 of section 12.1-32-02 of
5 the North Dakota Century Code, relating to risk assessments in certain presentence
6 investigations.

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

8 **SECTION 1.** A new subsection to section 12.1-01-04 of the 1995 Supplement to the
9 North Dakota Century Code is created and enacted as follows:

10 "Risk assessment" means a method that is approved by the department of human
11 services for the evaluation of the likelihood that a person who committed an
12 offense will commit another similar offense and which includes a clinical interview,
13 psychological testing, and verification through collateral information or
14 psychophysiological testing, or both.

15 **SECTION 2. AMENDMENT.** Subsections 10 and 11 of section 12.1-32-02 of the 1995
16 Supplement to the North Dakota Century Code are amended and reenacted as follows:

17 10. A court shall order a defendant to pay fifty dollars to the department of corrections
18 and rehabilitation at the time a presentence investigation is initiated to partially
19 defray the costs incurred by the department for the preparation of the presentence
20 report. If the presentence investigation includes a risk assessment, the court shall
21 order the defendant to pay an additional fifty dollars to the risk assessment
22 provider. The court may ~~also~~ order that any additional costs ~~incurred by the~~
23 ~~department~~ relating to the presentence investigation and report and the risk
24 assessment be paid by the defendant at a rate of payment up to the full costs of

conducting the investigation ~~and~~, preparing the report, and obtaining the risk assessment, as established by the department.

11. Before sentencing a defendant on a felony charge under section 12.1-20-03, 12.1-20-11, 12.1-27.2-02, 12.1-27.2-03, 12.1-27.2-04, or 12.1-27.2-05, a court shall order the department of corrections and rehabilitation to conduct a presentence investigation and to prepare a presentence report. A presentence investigation for a charge under section 12.1-20-03 must include a risk assessment. A court may order the inclusion of a risk assessment in any presentence investigation. In all felony or class A misdemeanor offenses, in which force, as defined in section 12.1-01-04, or threat of force is an element of the offense or in violation of section 12.1-22-02, or an attempt to commit the offenses, a court, unless a presentence investigation has been ordered, must receive a criminal record report before the sentencing of the defendant. Unless otherwise ordered by the court, the criminal record report must be conducted by the department of corrections and rehabilitation after consulting with the prosecuting attorney regarding the defendant's criminal record. The criminal record report must be in writing, filed with the court before sentencing, and made a part of the court's record of the sentencing proceeding.

SECTION 3. A new subsection to section 50-06-05.1 of the 1995 Supplement to the North Dakota Century Code is created and enacted as follows:

In consultation with the department of corrections and rehabilitation and the supreme court, to formulate standards that must be satisfied for a risk assessment under section 12.1-32-02.