

HOUSE BILL NO. 1424

Introduced by

Representatives Mahoney, Carlisle

Senators Lyson, O'Connell, Traynor

1 A BILL for an Act to amend and reenact section 12.1-32-15 of the North Dakota Century Code,
2 relating to the registration of sexual offenders and offenders against children.

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

4 **SECTION 1. AMENDMENT.** Section 12.1-32-15 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **12.1-32-15. Offenders against children and sexual offenders - Sexually violent**
7 **predators - Registration requirement - Penalty.**

8 1. As used in this section:

9 a. "A crime against a child" means a violation of chapter 12.1-16, 12.1-17,
10 12.1-18, or 12.1-29, or an equivalent ordinance, in which the victim is a minor
11 or is otherwise of the age required for the act to be a crime or an attempt to
12 commit these offenses.

13 b. "Department" means the department of corrections and rehabilitation.

14 c. ~~"Mental abnormality" means a congenital or acquired condition of an~~
15 ~~individual that affects the emotional or volitional capacity of the individual in a~~
16 ~~manner that predisposes that individual to the commission of criminal sexual~~
17 ~~acts to a degree that makes the individual a menace to the health and safety~~
18 ~~of other individuals.~~

19 d. ~~"Predatory" means an act directed at a stranger, or at an individual with whom~~
20 ~~a relationship has been established or promoted for the primary purpose of~~
21 ~~victimization.~~

22 e. ~~"Qualified board" means two or more experts in the field of behavior and~~
23 ~~treatment of sexual offenders as determined by the department of human~~
24 ~~services.~~

- 1 f. "Sexual offender" means a person who has pled guilty to or been found guilty
2 of a violation of section 12.1-20-03, 12.1-20-03.1, 12.1-20-04, 12.1-20-05,
3 12.1-20-06, 12.1-20-07, 12.1-20-11, chapter 12.1-27.2, or subsection 2 of
4 section 12.1-22-03.1, or an equivalent ordinance, or an attempt to commit
5 these offenses.
- 6 g. ~~"Sexually violent predator" means a sexual offender who suffers from a~~
7 ~~mental abnormality or personality disorder that makes that offender likely to~~
8 ~~engage in predatory sexually violent offenses.~~
- 9 d. "Temporarily domiciled" means staying or being physically present at a
10 location for longer than ten days, or maintaining employment in the jurisdiction
11 for longer than ten days, regardless of the state of residence.
- 12 2. ~~After a person has pled guilty or been found guilty as a sexual offender, the court~~
13 ~~shall determine upon the motion of the state's attorney and after receiving a report~~
14 ~~from the qualified board if that person is a sexually violent predator. The court may~~
15 ~~order the defendant to undergo an evaluation to enable the qualified board to make~~
16 ~~an appropriate determination.~~
- 17 3. After a person has pled guilty to or been found guilty of a crime against a child or
18 an attempted crime against a child, or after a person has pled guilty or been found
19 guilty as a sexual offender, the court shall impose, in addition to any penalty
20 provided by law, a requirement that the person register, within ten days of coming
21 into a county in which the person resides or is temporarily domiciled, with the chief
22 of police of the city or the sheriff of the county if the person resides or is employed
23 in an area other than a city. The court shall require a person to register by stating
24 this requirement on the court records. A person must also register if that person:
25 a. Is incarcerated or is on probation or parole on August 1, 1995, for a crime
26 against a child or as a sexual offender;
27 b. Has pled guilty or nolo contendere to, or been found guilty of, an offense in a
28 court of another state or the federal government equivalent to those offenses
29 set forth in subdivisions a and c of subsection 1; or
30 c. Has pled guilty to or been found guilty of a crime against a child or as a sexual
31 offender within ten years prior to August 1, 1995.

- 1 4- 3. When a person is required to register under this section, the official in charge of a
2 facility or institution where the person required to register is confined, or the
3 department, shall, before the discharge, parole, or release of that person, inform
4 the person of the duty to register pursuant to this section. The official or the
5 department shall require the person to read and sign a form as required by the
6 attorney general, stating that the duty of the person to register has been explained
7 to that person. The official in charge of the place of confinement, or the
8 department, shall obtain the address where the person expects to reside or work
9 upon discharge, parole, or release and shall report the address to the attorney
10 general. The official in charge of the place of confinement, or the department, shall
11 give ~~one copy~~ three copies of the form to the person and shall send ~~four~~ three
12 copies to the attorney general no later than forty-five days before the scheduled
13 release of that person. The attorney general shall forward one copy to the law
14 enforcement agency having jurisdiction where the person expects to reside or work
15 upon discharge, parole, or release, one copy to the prosecutor who prosecuted the
16 person, and one copy to the court in which the person was prosecuted. All forms
17 must be transmitted and received by the law enforcement agency, prosecutor, and
18 court thirty days before the discharge, parole, or release of the person.
- 19 5- 4. A person who is required to register pursuant to this section who is released on
20 probation or discharged upon payment of a fine must, before the release or
21 discharge, be informed of that person's duty to register under this section by the
22 court in which that person is convicted. The court shall require the person to read
23 and sign a form as required by the attorney general, stating that the duty of the
24 person to register under this section has been explained to that person. The court
25 shall obtain the address where the person expects to reside or work upon release
26 or discharge and shall report the address to the attorney general within three days.
27 The court shall give one copy of the form to the person and shall send two copies
28 to the attorney general. The attorney general shall forward one copy to the
29 appropriate law enforcement agency having jurisdiction where the person expects
30 to reside or work upon discharge, parole, or release.

1 6- 5. Registration consists of a written statement signed by the person, giving the
2 information required by the attorney general, and the fingerprints and photograph
3 of the person. Within three days after registration, the registering law enforcement
4 agency shall forward the statement, fingerprints, and photograph to the attorney
5 general. If a person required to register pursuant to this section has a change in
6 name ~~or~~, address, or employment address if working in this state but residing
7 elsewhere, that person shall inform in writing, within ten days, the law enforcement
8 agency with whom that person last registered of the person's new name or
9 address. The law enforcement agency, within three days after receipt of the
10 information, shall forward it to the attorney general. The attorney general shall
11 forward the appropriate registration data to the law enforcement agency having
12 local jurisdiction of the new place of residence or employment. Upon a change of
13 address, the person required to register shall also register within ten days at the
14 law enforcement agency having local jurisdiction of the new place of residence or
15 employment. A law enforcement agency that has previously registered an offender
16 may omit the fingerprint portion of the registration if that agency has a set of
17 fingerprints on file for that individual and is personally familiar with and can visually
18 identify the offender. These provisions also apply in any other state that requires
19 registration.

20 7- 6. A person required to register under this section shall comply with the registration
21 requirement for the longer of the following periods:
22 a. A period of ten years after the date of sentence or order deferring or
23 suspending sentence upon a plea or finding of guilt or after release from
24 incarceration, whichever is later; or
25 b. ~~Until a court determination is made that the person no longer is a sexually~~
26 ~~violent predator. The sexually violent predator may petition no more than~~
27 ~~once a year for a court determination on the status of being a sexually violent~~
28 ~~predator. The court must receive a report from the qualified board before~~
29 ~~making the determination.~~ For the life of the person, if that person:

1 (1) On two or more occasions has pled guilty or nolo contendere to, or
2 been found guilty of, an offense described in subsection 1 or
3 subdivision b of subsection 2;

4 (3) Pleads guilty or is found guilty of a violation of section 12.1-20-03 and
5 the offense is a class A felony occurring after July 31, 1999; or

6 (3) Has ever been civilly committed as a sexually dangerous individual
7 pursuant to chapter 25-03.3, or under the laws of another state.

8 ~~8-~~ 7. A person required to register under this section who violates this section is guilty of
9 a class A misdemeanor. A court may not relieve a person who willfully violates this
10 section from serving a term of at least ninety days in jail and completing probation
11 of one year. A person who violates this section who previously has pled guilty or
12 been found guilty of violating this section is guilty of a class C felony.

13 ~~9-~~ 8. When a person is released on parole or probation and is required to register
14 pursuant to this section, but fails to do so within the time prescribed, the court shall
15 order the probation, or the parole board shall order the parole, of the person
16 revoked. The statements, photographs, and fingerprints required by this section
17 are open to inspection by the public.

18 ~~40-~~ 9. If a person required to register pursuant to this section is temporarily sent outside
19 the facility or institution where that person is confined under conviction or sentence,
20 the local law enforcement agency having jurisdiction over the place where that
21 person is being sent must be notified within a reasonable time period before that
22 person is released from the facility or institution. This subsection does not apply to
23 any person temporarily released under guard from the facility or institution in which
24 that person is confined.

25 ~~44-~~ 10. Relevant and necessary registration information shall be disclosed to the public by
26 a law enforcement agency if the agency determines that the individual registered
27 under this section is a public risk and disclosure of the registration information is
28 necessary for public protection. The department, in a timely manner, shall provide
29 law enforcement agencies any information the department determines is relevant
30 concerning individuals required to be registered under this section who are about
31 to be released or placed into the community. ~~A law~~ Law enforcement agency, ~~its~~

1 agencies, state officials, and ~~its~~ their employees and appointees are not subject to
2 civil or criminal liability for making risk determinations or for disclosing or for failing
3 to disclose information as permitted by this section. Nonregistration information
4 concerning an offender required to register under this section consisting of the
5 name of the offender, the last known address of the offender, the offense or
6 offenses as defined in subsection 1 to which the offender pled guilty or of which the
7 offender was found guilty, the date of the judgment or order imposing a sentence
8 or probation and the court entering the judgment or order, the sentence or
9 probation imposed upon the offender, and any disposition, if known, of a sentence
10 or probation may be disclosed to the public. The attorney general shall compile
11 nonregistration information concerning offenders required to register under this
12 section from criminal history record information maintained pursuant to chapter
13 12-60 or from an agency or department of another state or the federal government
14 and shall provide the information upon request at no cost.