

Fifty-eighth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2212

Introduced by

Senators Dever, Brown, Mathern

Representatives Clark, Onstad, Pietsch

1 A BILL for an Act to amend and reenact section 12.1-20-08, subsection 1 of section
2 12.1-20-12.1, subsection 8 of section 27-20-02, subsection 2 of section 50-25.1-02, and section
3 50-25.1-03.1 of the North Dakota Century Code, relating to the crimes of fornication and
4 indecent exposure, definition of deprived child, and child abuse and neglect reporting
5 requirements; to provide a penalty; and to declare an emergency.

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

7 **SECTION 1. AMENDMENT.** Section 12.1-20-08 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **12.1-20-08. Fornication.** ~~A person~~ An individual is guilty of a class A misdemeanor if
10 ~~he~~ the individual engages in a sexual act in a public place. A minor engaging in a sexual act is
11 guilty of a class B misdemeanor, unless that sexual act was committed against the minor in
12 violation of sections 12.1-20-01 through 12.1-20-07.

13 **SECTION 2. AMENDMENT.** Subsection 1 of section 12.1-20-12.1 of the North Dakota
14 Century Code is amended and reenacted as follows:

- 15 1. A person, with intent to arouse, appeal to, or gratify that person's lust, passions, or
16 sexual desires, is guilty of a class A misdemeanor if that person:
- 17 a. Masturbates in a public place or in the presence of a minor; or
 - 18 b. Exposes one's penis, vulva, or anus in a public place or to a minor in a public
19 or private place.

20 **SECTION 3. AMENDMENT.** Subsection 8 of section 27-20-02 of the North Dakota
21 Century Code is amended and reenacted as follows:

- 22 8. "Deprived child" means a child who:
- 23 a. Is without proper parental care or control, subsistence, education as required
24 by law, or other care or control necessary for the child's physical, mental, or

- 1 emotional health, or morals, and the deprivation is not due primarily to the
2 lack of financial means of the child's parents, guardian, or other custodian;
- 3 b. Has been placed for care or adoption in violation of law;
- 4 c. Has been abandoned by the child's parents, guardian, or other custodian;
- 5 d. Is without proper parental care, control, or education as required by law, or
6 other care and control necessary for the child's well-being because of the
7 physical, mental, emotional, or other illness or disability of the child's parent or
8 parents, and that such lack of care is not due to a willful act of commission or
9 act of omission by the child's parents, and care is requested by a parent; or
- 10 e. Is in need of treatment and whose parents, guardian, or other custodian have
11 refused to participate in treatment as ordered by the juvenile court.
- 12 f. Was subject to prenatal exposure to chronic and severe use of alcohol or any
13 controlled substance as defined in chapter 19-03.1 in a manner not lawfully
14 prescribed by a practitioner; or
- 15 g. Is present in an environment subjecting the child to exposure to a controlled
16 substance, chemical substance, or drug paraphernalia as prohibited by
17 section 19-03.1-22.2.

18 **SECTION 4. AMENDMENT.** Subsection 2 of section 50-25.1-02 of the North Dakota
19 Century Code is amended and reenacted as follows:

- 20 2. "Abused child" means an individual under the age of eighteen years who is
21 suffering from serious physical harm or traumatic abuse caused by other than
22 accidental means by a person responsible for the child's welfare, or who is
23 suffering from or was subjected to any act involving that individual in violation of
24 sections 12.1-20-01 through 12.1-20-087.

25 **SECTION 5. AMENDMENT.** Section 50-25.1-03.1 of the North Dakota Century Code
26 is amended and reenacted as follows:

- 27 **50-25.1-03.1. Photographs and x-rays - X-rays - Medical tests.** Any person or
28 official required to report under this chapter may cause to be taken color photographs of the
29 areas of trauma visible on a child who is the subject of a report and, if indicated by medical
30 consultation, cause to be performed a ~~radiological examination~~ imaging studies, laboratory
31 tests, colposcopies, and other medical tests of the child without the consent of the child's

1 parents or guardian. All photographs and other visual images taken pursuant to this section
2 must be taken by law enforcement officials, physicians, or medical facility professionals upon
3 the request of any person or official required to report under this chapter. Photographs and
4 ~~x-rays taken~~ visual images, or copies of them, must be sent to the department or the
5 department's designee at the time the initial report of child abuse or neglect is made or as soon
6 thereafter as possible. Imaging studies or copies of the studies and copies of results of other
7 tests conducted under this section must be provided to the department or the department's
8 designee upon request.

9 **SECTION 6. EMERGENCY.** This Act is declared to be an emergency measure.