

**Fifty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 7, 2003**

SENATE BILL NO. 2212
(Senators Dever, Brown, Mathern)
(Representatives Clark, Onstad, Pietsch)

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

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

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

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

8. "Deprived child" means a child who:
 - a. Is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for the child's physical, mental, or emotional health, or morals, and the deprivation is not due primarily to the lack of financial means of the child's parents, guardian, or other custodian;
 - b. Has been placed for care or adoption in violation of law;
 - c. Has been abandoned by the child's parents, guardian, or other custodian;
 - d. Is without proper parental care, control, or education as required by law, or other care and control necessary for the child's well-being because of the physical, mental, emotional, or other illness or disability of the child's parent or parents, and that such lack of care is not due to a willful act of commission or act of omission by the child's parents, and care is requested by a parent; ~~or~~
 - e. Is in need of treatment and whose parents, guardian, or other custodian have refused to participate in treatment as ordered by the juvenile court; ~~;~~

- f. Was subject to prenatal exposure to chronic and severe use of alcohol or any controlled substance as defined in chapter 19-03.1 in a manner not lawfully prescribed by a practitioner; or
- g. Is present in an environment subjecting the child to exposure to a controlled substance, chemical substance, or drug paraphernalia as prohibited by section 19-03.1-22.2.

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

- 2. "Abused child" means an individual under the age of eighteen years who is suffering from serious physical harm or traumatic abuse caused by other than accidental means by a person responsible for the child's welfare, or who is suffering from or was subjected to any act ~~involving that individual~~ in violation of sections 12.1-20-01 through ~~12.1-20-08~~ 12.1-20-07.

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

50-25.1-03.1. Photographs and ~~x-rays~~ - X-rays - Medical tests. Any person or official required to report under this chapter may cause to be taken color photographs of the areas of trauma visible on a child who is the subject of a report and, if indicated by medical consultation, cause to be performed ~~a radiological examination~~ imaging studies, laboratory tests, colposcopies, and other medical tests of the child without the consent of the child's parents or guardian. All photographs and other visual images taken pursuant to this section must be taken by law enforcement officials, physicians, or medical facility professionals upon the request of any person or official required to report under this chapter. Photographs and ~~x-rays taken~~ visual images, or copies of them, must be sent to the department or the department's designee at the time the initial report of child abuse or neglect is made or as soon thereafter as possible. Imaging studies or copies of the studies and copies of results of other tests conducted under this section must be provided to the department or the department's designee upon request.

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

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-eighth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2212 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 46 Nays 0 Absent 1

President of the Senate

Secretary of the Senate

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 94 Nays 0 Absent 0

Speaker of the House

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2003.

Approved at _____ M. on _____, 2003.

Governor

Filed in this office this _____ day of _____, 2003,

at ___ o'clock _____ M.

Secretary of State