CRIMINAL CODE

CHAPTER 104

HOUSE BILL NO. 1251

(Representatives Delmore, Hawken, Kretschmar, Onstad)
(Senators Traynor, Trenbeath)

COMPUTER CRIMES AND CIVIL DAMAGES

AN ACT to amend and reenact section 12.1-06.1-08 of the North Dakota Century Code, relating to computer crimes; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-06.1-08 of the North Dakota Century Code is amended and reenacted as follows:

12.1-06.1-08. Computer fraud - Computer crime - Classification - Penalty.

1. A person commits computer fraud by gaining or attempting to gain access to, altering, damaging, modifying, copying, disclosing, taking possession of, or destroying any computer, computer system, computer network, or any part of ~~such~~ the computer, system, or network, without authorization, and with the intent to devise or execute any scheme or artifice to defraud, deceive, prevent the authorized use of, or control property or services by means of false or fraudulent pretenses, representations, or promises. A person who commits computer fraud is guilty of a class C felony.

2. A person commits computer crime by intentionally and either in excess of authorization given or without authorization gaining or attempting to gain access to, altering, damaging, modifying, copying, disclosing, taking possession of, introducing a computer contaminant into, destroying, or preventing the authorized use of any computer, computer system, or computer network, or any computer software, program, or data contained in ~~such~~ the computer, computer system, or computer network. A person who commits computer crime is guilty of a class A misdemeanor.

3. In addition to any other remedy available, the owner or lessee of a computer, computer system, computer network, or any part of the computer, computer system, or computer network may bring a civil action for damages, restitution, and attorney's fees for damages incurred as a result of the violation of this section.

Approved April 4, 2003
Filed April 7, 2003

CHAPTER 105

SENATE BILL NO. 2329

(Senators O'Connell, Bercier, Nelson)

DOMESTIC VIOLENCE OFFENDER MANDATED TREATMENT

AN ACT to create and enact a new section to chapter 12.1-17 of the North Dakota Century Code, relating to mandated treatment for domestic violence offenders; and to amend and reenact sections 12.1-17-01 and 14-07.1-06 of the North Dakota Century Code, relating to mandated treatment of domestic violence offenders and to the violation of a protection order.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-17-01 of the North Dakota Century Code is amended and reenacted as follows:

12.1-17-01. Simple assault.

1. A person is guilty of an offense if that person:

   a. Willfully causes bodily injury to another human being; or

   b. Negligently causes bodily injury to another human being by means of a firearm, destructive device, or other weapon, the use of which against a human being is likely to cause death or serious bodily injury.

2. The offense is:

   a. A class C felony when the victim is a peace officer or correctional institution employee acting in an official capacity, which the actor knows to be a fact, a person engaged in a judicial proceeding, or a member of a municipal or volunteer fire department or emergency medical services personnel unit or emergency department worker in the performance of the member's duties.

   b. A class B misdemeanor for the first offense when the victim is an actor's family or household member as defined in subsection 4 of section 14-07.1-01 and a class A misdemeanor for a second or subsequent offense when the victim is an actor's family or household member as defined in subsection 4 of section 14-07.1-01 and the actor has a prior conviction for simple assault involving the commission of domestic violence as defined in subsection 2 of section 14-07.1-01. For purposes of this subdivision, a prior conviction includes a conviction of simple assault in which a finding of domestic violence was made under a law or ordinance of another state which is equivalent to this subdivision.

   c. A class B misdemeanor except as provided in subdivision a or b.

~~3. The sentence for an offense against an actor's family or household member as defined in subsection 4 of section 14-07.1-01 must include an order to complete a domestic violence offender treatment program, unless the court makes written findings for the record explaining why such a sentence would be inappropriate.~~

SECTION 2. A new section to chapter 12.1-17 of the North Dakota Century Code is created and enacted as follows:

Mandated treatment of domestic violence offenders. The sentence for an offense under section 12.1-17-01, 12.1-17-01.1, 12.1-17-02, 12.1-17-03, 12.1-17-04, or 12.1-17-05 against an actor's family or household member, as defined in subsection 4 of section 14-07.1-01, must include an order to complete a domestic violence offender treatment program unless the court makes written findings for the record explaining why such an order would be inappropriate.

[54] **SECTION 3. AMENDMENT.** Section 14-07.1-06 of the North Dakota Century Code is amended and reenacted as follows:

14-07.1-06. Penalty for violation of a protection order. Whenever a protection order is granted under section 14-07.1-02 or 14-07.1-03 and the respondent or ~~person~~ individual to be restrained has been served a copy of the order, ~~a~~ the first violation of ~~the~~ any order is a class A misdemeanor and also constitutes contempt of court. A second or subsequent violation of ~~a~~ any protection order is a class C felony. Violation of a foreign protection order entitled to full faith and credit recognition under section 14-07.1-02.2 is a class A misdemeanor. A second or subsequent violation of such an order is a class C felony. For purposes of this section, "first violation" means the first time any order is violated and a second or subsequent violation of any protection order includes two or more violations of protection orders.

Approved March 26, 2003
Filed March 26, 2003

[54] Section 14-07.1-06 was also amended by section 1 of House Bill No. 1072, chapter 123.

CHAPTER 106

SENATE BILL NO. 2212

(Senators Dever, Brown, Mathern)
(Representatives Clark, Onstad, Pietsch)

CHILD ABUSE AND INDECENT EXPOSURE

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.

[55] **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.

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[55] Section 50-25.1-02 was also amended by section 1 of Senate Bill No. 2271, chapter 431.

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

Approved March 26, 2003
Filed March 26, 2003

CHAPTER 107

HOUSE BILL NO. 1215

(Representatives Dosch, Clark, Delmore, Kasper, Meier)
(Senator Dever)

FIRE ALARM TAMPERING PROHIBITED

AN ACT to create and enact a new section to chapter 12.1-21 of the North Dakota Century Code, relating to tampering with, disabling, or falsely sounding a fire alarm and tampering with or disabling fire suppression equipment; to provide a penalty; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 12.1-21 of the North Dakota Century Code is created and enacted as follows:

Tampering with, disabling, or falsely sounding a fire alarm - Tampering with or disabling fire suppression equipment.

1. A person may not tamper with, disable, or falsely sound an alarm signifying a fire in a hotel, motel, roominghouse, lodginghouse, or other place of public abode or in any other public place so as to endanger person or property. A person does not violate this subsection if that person sounds an alarm and has a reasonable belief there is a fire endangering person or property.

2. A person may not tamper with or disable fire suppression equipment in a hotel, motel, roominghouse, lodginghouse, or other place of abode or in any other public place so as to endanger person or property.

3. A violation of this section is a class B misdemeanor.

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

Approved March 27, 2003
Filed March 28, 2003

CHAPTER 108

SENATE BILL NO. 2269

(Senators Dever, Espegard)
(Representatives Delmore, Dosch, Wrangham)

THEFT DETECTION SHIELDING DEVICE OFFENSES

AN ACT to create and enact two new sections to chapter 12.1-23 of the North Dakota Century Code, relating to the unlawful manufacture, distribution, and use of theft detection shielding devices or deactivators; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Two new sections to chapter 12.1-23 of the North Dakota Century Code are created and enacted as follows:

Distribution and use of theft detection shielding devices.

1. A person is guilty of unlawful distribution of a theft detection shielding device if the person knowingly manufactures, sells, offers for sale, or distributes any laminated or coated bag or device peculiar to shielding and intended to shield merchandise from detection by an electronic or magnetic theft alarm sensor.

2. A person is guilty of unlawful possession of a theft detection shielding device if the person knowingly possesses any laminated or coated bag or device peculiar to and designed for shielding and intended to shield merchandise from detection by an electronic or magnetic theft alarm sensor, with the intent to commit theft.

3. A person is guilty of unlawful possession of a theft detection device deactivator or remover if the person knowingly possesses any tool or device designed to allow the deactivation or removal of any theft detection device from any merchandise without the permission of the merchant or person owning or holding the merchandise.

4. A person is guilty of unlawful deactivation or removal of a theft detection device if the person intentionally deactivates or removes the device from a product before purchase.

5. A person is guilty of unlawful distribution of a theft detection device deactivator or remover if the person knowingly manufactures, sells, offers for sale, or distributes any tool or device designed to allow the deactivation or removal of a theft detection device from merchandise without the permission of the merchant or person owning or holding the merchandise.

6. An offense under subsections 1 and 5 is a class C felony. An offense under subsections 2, 3, and 4 is a class A misdemeanor.

Detention of persons suspected of unlawful use or removal of theft detection devices - Reasonable cause.

1. The activation of an antishoplifting or inventory control device as a result of a person exiting the establishment or a protected area within the establishment constitutes reasonable cause for the detention of the person exiting by the owner or operator of the establishment or by an agent or employee of the owner or operator, provided sufficient notice has been posted to advise the patrons that the device is being utilized. Each detention must be made in a reasonable manner and only for a reasonable period of time sufficient for any inquiry into the circumstances surrounding the activation of the device or for the recovery of goods.

2. If the taking into custody and detention of the person by a law enforcement officer, security officer, merchant, or merchant's employee is done in compliance with the requirements of this section, the law enforcement officer, security officer, merchant, or merchant's employee may not be held criminally or civilly liable, including any liability for false arrest, false imprisonment, unlawful detention, malicious prosecution, intentional infliction of emotional distress, or defamation.

Approved March 21, 2003
Filed March 24, 2003

CHAPTER 109

SENATE BILL NO. 2268

(Senators Dever, Espegard)
(Representatives Delmore, Meier, Wrangham)

FRAUDULENT RECEIPT AND UPC LABEL USE

AN ACT to prohibit the fraudulent use of retail sales receipts and universal product code labels; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Fraudulent use of receipts and universal product code labels prohibited - Penalty. Except as otherwise provided in this section, any person who, with the intent to defraud a retailer, possesses, uses, utters, transfers, alters, counterfeits, or reproduces a retail sales receipt or a universal product code label is guilty of a class A misdemeanor. Any person who, with the intent to defraud a retailer, possesses fifteen or more fraudulent retail sales receipts or universal product code labels or who possesses a device the purpose of which is to manufacture fraudulent retail sales receipts or universal product code labels is guilty of a class C felony. For purposes of this section, "universal product code" means the twelve-digit identification number and bar code system developed by the uniform code council which is used to uniquely identify products.

Approved March 26, 2003
Filed March 26, 2003

CHAPTER 110

HOUSE BILL NO. 1301

(Representatives Dosch, Kingsbury, Price)
(Senator Dever)

BIDIS PROHIBITED

AN ACT to create and enact a new section to chapter 12.1-31 of the North Dakota Century Code, relating to the sale of bidis or beedies; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 12.1-31 of the North Dakota Century Code is created and enacted as follows:

Sale of bidis prohibited - Penalty. It is an infraction for any person to sell the tobacco product commonly referred to as bidis or beedies. For purposes of this section, "bidis" or "beedies" means a product containing tobacco which is wrapped in temburni leaf, also known as diospyros melanoxylon, or tendu leaf, also known as diospyros exculpra.

Approved April 7, 2003
Filed April 7, 2003

CHAPTER 111

SENATE BILL NO. 2211

(Senators Lyson, Nelson, Trenbeath)
(Representatives Grande, Herbel, Kingsbury)

ARMED OFFENDER MANDATORY PRISON TERMS

AN ACT to amend and reenact section 12.1-32-02.1 of the North Dakota Century Code, relating to mandatory prison terms for armed offenders; to provide a penalty; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-32-02.1 of the North Dakota Century Code is amended and reenacted as follows:

12.1-32-02.1. Mandatory prison terms for armed offenders. Notwithstanding any other provision of this title, a term of imprisonment must be imposed upon an offender and served without benefit of parole when, in the course of committing an offense, the offender inflicts or attempts to inflict bodily injury upon another, threatens or menaces another with imminent bodily injury with a dangerous weapon, explosive, destructive device, or firearm, or possesses or has within immediate reach and control a dangerous weapon, explosive, destructive device, or firearm while in the course of committing an offense under subsection 1 ~~or~~, 2, or, except for the simple possession of marijuana, 6 of section 19-03.1-23. This requirement applies only when possession of a dangerous weapon, explosive, destructive device, or firearm has been charged and admitted or found to be true in the manner provided by law, and must be imposed as follows:

1. If the offense for which the offender is convicted is a class A or class B felony, the court shall impose a minimum sentence of four years' imprisonment.

2. If the offense for which the offender is convicted is a class C felony, the court shall impose a minimum sentence of two years' imprisonment.

This section applies even when being armed is an element of the offense for which the offender is convicted.

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

Approved April 4, 2003
Filed April 4, 2003

CHAPTER 112

SENATE BILL NO. 2044

(Legislative Council)
(Judiciary A Committee)

INSUFFICIENT FUNDS CHECK RESTITUTION

AN ACT to amend and reenact subsection 2 of section 6-08-16, subdivision p of subsection 4 of section 12.1-32-07, and section 12.1-32-08 of the North Dakota Century Code, relating to the civil penalty for issuing a check or draft without sufficient funds and the collection of restitution for insufficient funds checks; and to provide for a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 6-08-16 of the North Dakota Century Code is amended and reenacted as follows:

2. The grade of an offense under this section may be determined by individual or aggregate totals of insufficient funds checks, drafts, electronic funds transfer authorizations, or orders. The person is also liable for collection fees or costs, not in excess of twenty-five dollars, which are recoverable by the holder, or its agent or representative, of the check, draft, electronic funds transfer authorization, or order. A collection agency shall reimburse the original holder of the check, draft, electronic funds transfer authorization, or order any additional charges assessed by the depository bank of the check, draft, electronic funds transfer authorization, or order not in excess of two dollars if recovered by the collection agency. ~~A~~ If the person does not pay the instrument in full and any collection fees or costs not in excess of twenty-five dollars within ten days from receipt of the notice of dishonor provided for in subsection 4, a civil penalty is also recoverable by civil action by the holder, or its agent or representative, of the check, draft, electronic funds transfer authorization, or order. The civil penalty consists of payment to the holder, or its agent or representative, of the instrument of the lesser of two hundred dollars or three times the amount of the instrument. The court may order an individual convicted under this section to undergo an evaluation by a licensed gaming, alcohol, or drug addiction counselor.

[56] **SECTION 2. AMENDMENT.** Subdivision p of subsection 4 of section 12.1-32-07 of the North Dakota Century Code is amended and reenacted as follows:

p. Reimburse the costs and expenses determined necessary for the defendant's adequate defense when counsel is appointed for the defendant. When reimbursement of indigent defense costs and expenses is imposed as a condition of probation, the court shall proceed as provided in subsection ~~3~~ 4 of section 12.1-32-08.

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[56] Section 12.1-32-07 was also amended by section 9 of House Bill No. 1183, chapter 138.

SECTION 3. AMENDMENT. Section 12.1-32-08 of the North Dakota Century Code is amended and reenacted as follows:

12.1-32-08. Hearing prior to ordering restitution, reparation, or reimbursement of indigent defense costs and expenses - Conditions - Collection of restitution for insufficient funds checks - Continuing appropriation.

1. Before imposing restitution or reparation as a sentence or condition of probation, the court shall hold a hearing on the matter with notice to the prosecuting attorney and to the defendant as to the nature and amount thereof. The court, when sentencing a person adjudged guilty of criminal activities that have resulted in pecuniary damages, in addition to any other sentence it may impose, shall order that the defendant make restitution to the victim or other recipient as determined by the court, unless the court states on the record, based upon the criteria in this subsection, the reason it does not order restitution or orders only partial restitution. In determining whether to order restitution, the court shall take into account:

   a. The reasonable damages sustained by the victim or victims of the criminal offense, which damages are limited to those directly related to the criminal offense and expenses actually incurred as a direct result of the defendant's criminal action. This can include an amount equal to the cost of necessary and related professional services and devices relating to physical, psychiatric, and psychological care. The defendant may be required as part of the sentence imposed by the court to pay the prescribed treatment costs for a victim of a sexual offense as defined in chapters 12.1-20 and 12.1-27.2.

   b. The ability of the defendant to restore the fruits of the criminal action or to pay monetary reparations, or to otherwise take action to restore the victim's property.

   c. The likelihood that attaching a condition relating to restitution or reparation will serve a valid rehabilitational purpose in the case of the particular offender considered.

   The court shall fix the amount of restitution or reparation, which may not exceed an amount the defendant can or will be able to pay, and shall fix the manner of performance of any condition or conditions of probation established pursuant to this subsection. The court shall order restitution be paid to the division of adult services for any benefits the division has paid or may pay under chapter 54-23.4 unless the court, on the record, directs otherwise. Any payments made pursuant to the order must be deducted from damages awarded in a civil action arising from the same incident. An order that a defendant make restitution or reparation as a sentence or condition of probation may, unless the court directs otherwise, be filed, transcribed, and enforced by the person entitled to the restitution or reparation or by the division of adult services in the same manner as civil judgments rendered by the courts of this state may be enforced.

2. When the restitution ordered by the court under subsection 1 is the result of a finding that the defendant issued a check or draft without

sufficient funds or without an account, the court shall impose as costs the greater of the sum of ten dollars or an amount equal to twenty-five percent of the amount of restitution ordered. The costs imposed under this subsection, however, may not exceed one thousand dollars. The state-employed clerks of district court shall remit the funds collected as costs under this subsection to the state treasurer for deposit in the restitution collection assistance fund. The funds deposited into the restitution collection assistance fund are appropriated to the judicial branch on a continuing basis for the purpose of defraying expenses incident to the collection of restitution, including operating expenses and the compensation of additional necessary personnel. The state's attorneys and county-employed clerks of district court shall remit the funds collected as costs under this subsection to the county treasurer to be deposited in the county general fund.

3. The court may order the defendant to perform reasonable assigned work as a condition of probation, which assigned work need not be related to the offense charged, but must not be solely for the benefit of a private individual other than the victim.

~~3.~~ 4. a. Under section 12.1-32-07, the court may order that the defendant reimburse indigent defense costs and expenses as a condition of probation. The court shall notify the defendant, the defendant's probation officer, and the prosecuting attorney of the amount of costs and expenses to be reimbursed and of the defendant's right to a hearing on the reimbursement amount. It is a rebuttable presumption that reasonable reimbursement of costs and expenses consists of seventy-five dollars per hour for appointed counsel services plus reasonable expenses. The reimbursement amount must include an application fee imposed under section 29-07-01.1 if the fee has not been paid before disposition of the case and the court has not waived payment of the fee. If the defendant requests a hearing within thirty days of receiving notice under this subdivision, the court shall schedule a hearing at which the basis for the amount to be reimbursed must be demonstrated. In determining the amount and method of reimbursement, the court shall consider the financial resources of the defendant and the nature of the burden that reimbursement of costs and expenses will impose.

b. A defendant who is required to reimburse indigent defense costs and expenses as a condition of probation and who is not willfully in default in that reimbursement may at any time petition the court that imposed the condition to waive reimbursement of all or any portion of the costs and expenses. If the court is satisfied that reimbursement of the amount due will impose undue hardship on the defendant or the defendant's immediate family, the court may waive reimbursement of all or any portion of the amount due or modify the method of payment.

c. If at any time the court finds that the defendant is able to reimburse costs and expenses and has willfully failed to do so, the court may continue, modify, or enlarge the conditions of probation or revoke probation as provided in subsection 6 or 7, as applicable, of section 12.1-32-07.

~~4.~~ 5. If the court finds that the defendant is unable to pay a fine, supervision fee, reimbursement for indigent defense costs and expenses, or restitution or reparations, the court may order the defendant to perform reasonable assigned work in lieu of all or part of a fine, a supervision fee, reimbursement for indigent defense costs and expenses, or restitution or reparations. The defendant may not perform reasonable assigned work in lieu of restitution or reparations unless the person entitled to restitution or reparations has consented in writing or on the record.

Approved April 8, 2003
Filed April 9, 2003

CHAPTER 113

HOUSE BILL NO. 1110

(Judiciary Committee)
(At the request of the Attorney General)

SEX OFFENDER REGISTRATION

AN ACT to amend and reenact subsections 3 and 7 of section 12.1-32-15 of the North Dakota Century Code, relating to sex offender registration.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 3 and 7 of section 12.1-32-15 of the North Dakota Century Code are amended and reenacted as follows:

3. If a court has not ordered an individual to register in this state, an individual who resides or is temporarily domiciled in this state shall register if the individual:

   a. Is incarcerated or is on probation or parole after July 31, 1995, for a crime against a child described in section 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 if the individual was not the parent of the victim, or as a sexual offender;

   b. Has pled guilty or nolo contendere to, or been found guilty of, an offense in a court of this state for which registration is mandatory under this section or another state or the federal government equivalent to those offenses set forth in this section ~~if the individual was ordered by a court or required to register as a sexual offender, or for a crime against a child in another state or by the federal government~~; or

   c. Has pled guilty or nolo contendere to, or has been found guilty of, a crime against a child or as a sexual offender for which registration is mandatory under this section if the conviction occurred after July 31, 1985.

7. Registration consists of a written statement signed by the individual, giving the information required by the attorney general, and the fingerprints and photograph of the individual. Within three days after registration, the registering law enforcement agency shall forward the statement, fingerprints, and photograph to the attorney general. If an individual required to register pursuant to this section has a change in name, school, or address, that individual shall inform in writing, within ten days, the law enforcement agency with whom that individual last registered of the individual's new name, school, ~~or~~ residence address, or employment address ~~if the individual is working in this state but not residing in this state~~. 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, school, or employment. Upon a change of address, the individual required to register shall also register within ten days at the

law enforcement agency having local jurisdiction of the new place of residence, school, or employment. A law enforcement agency that has previously registered an offender may omit the fingerprint portion of the registration if that agency has a set of fingerprints on file for that individual and is personally familiar with and can visually identify the offender. These provisions also apply in any other state that requires registration.

Approved March 13, 2003
Filed March 13, 2003

CHAPTER 114

HOUSE BILL NO. 1424

(Representatives Koppelman, F. Klein, Wald)
(Senators Christmann, Kilzer, Lindaas)

HUMAN CLONING PROHIBITED

AN ACT to prohibit human cloning; 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. "Fetus" means a living organism of the species homo sapiens from eight weeks' development until complete expulsion or extraction from a woman's body, or until removal from an artificial womb or other similar environment designed to nurture the development of such organism.

2. "Human cloning" means human asexual reproduction, accomplished by introducing the genetic material of a human somatic cell into a fertilized or unfertilized oocyte, the nucleus of which has been or will be removed or inactivated, to produce a living organism with a human or predominantly human genetic constitution.

3. "Human embryo" means a living organism of the species homo sapiens from the single-celled state to eight weeks' development.

4. "Human somatic cell" means a cell having a complete set of chromosomes obtained from a living or deceased human organism of the species homo sapiens at any stage of development.

5. "Oocyte" means a human female germ cell, also known as an egg.

SECTION 2. Human cloning - Prohibition - Penalty.

1. A person may not intentionally or knowingly:

   a. Perform or attempt to perform human cloning;

   b. Participate in performing or attempting to perform human cloning;

   c. Transfer or receive the product of a human cloning for any purpose; or

   d. Transfer or receive, in whole or in part, any oocyte, human embryo, human fetus, or human somatic cell, for the purpose of human cloning.

2. Nothing in subsection 1 restricts areas of scientific research not specifically prohibited, including in vitro fertilization, the administration of fertility enhancing drugs, or research in the use of nuclear transfer or other cloning techniques to produce molecules, deoxyribonucleic acid,

tissues, organs, plants, animals other than humans, or cells other than human embryos.

3. A person who violates subdivision a or b of subsection 1 is guilty of a class C felony. A person who violates subdivision c or d of subsection 1 is guilty of a class A misdemeanor.

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