

Fifty-ninth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1184

Introduced by

Representatives Ekstrom, Delmore, Hawken

Senators Fairfield, Hacker, J. Lee

1 A BILL for an Act to create and enact a new section to chapter 12.1-31 of the North Dakota
2 Century Code, relating to deceptive marriage practices; to amend and reenact subsection 1 of
3 section 23-07-07.5 and section 23-07.7-01 of the North Dakota Century Code, relating to
4 sexual offense medical testing; and to repeal section 12.1-20-10 of the North Dakota Century
5 Code, relating to unlawful cohabitation.

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

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

9 **Deceptive marriage practices.** An individual is guilty of a class B misdemeanor if the
10 individual cohabits with an individual of the opposite sex without being married to the other
11 individual and purports to be married to the other individual in order to obtain property, services,
12 or benefits by deception.

13 **SECTION 2. AMENDMENT.** Subsection 1 of section 23-07-07.5 of the North Dakota
14 Century Code is amended and reenacted as follows:

- 15 1. The following individuals must be examined or tested for the presence of
16 antibodies to or antigens of the human immunodeficiency virus:
- 17 a. Every individual convicted of a crime who is imprisoned for fifteen days or
18 more in a grade one or grade two jail, a regional correctional facility, or the
19 state penitentiary;
 - 20 b. Every individual, whether imprisoned or not, who is convicted of a sexual
21 offense under chapter 12.1-20, except for those convicted of violating
22 sections ~~12.1-20-10~~, 12.1-20-12.1; and 12.1-20-13; and
 - 23 c. Every individual, whether imprisoned or not, who is convicted of an offense
24 involving the use of a controlled substance, as defined in chapter 19-03.1,

1 and the offense involved the use of paraphernalia, including any type of
2 syringe or hypodermic needle, that creates an epidemiologically
3 demonstrated risk of transmission of the human immunodeficiency virus.

4 **SECTION 3. AMENDMENT.** Section 23-07.7-01 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **23-07.7-01. Court-ordered sexual offense medical testing.** The court may order any
7 defendant charged with a sex offense under chapter 12.1-20 and any alleged juvenile offender
8 with respect to whom a petition has been filed in a juvenile court alleging violation of chapter
9 12.1-20 to undergo medical testing to determine whether the defendant or alleged juvenile
10 offender has any sexually transmitted diseases, including a test for infection with the human
11 immunodeficiency virus or any other identified positive agent of acquired immunodeficiency
12 syndrome. The court may not order a defendant charged with violating section ~~12.1-20-10~~,
13 12.1-20-12.1; or 12.1-20-13 or an alleged juvenile offender with respect to when a petition has
14 been filed in a juvenile court alleging violation of section ~~12.1-20-10~~, 12.1-20-12.1; or
15 12.1-20-13 to undergo the testing authorized by this section. The court may order the testing
16 only if the court receives a petition from the alleged victim of the offense or from the
17 prosecuting attorney if the alleged victim has made a written request to the prosecuting
18 attorney to petition the court for an order authorized under this section. On receipt of a petition,
19 the court shall determine, without a hearing, if probable cause exists to believe that a possible
20 transfer of a sexually transmitted disease or human immunodeficiency virus took place between
21 the defendant or alleged juvenile offender and the alleged victim. If the court determines
22 probable cause exists, the court shall order the defendant or alleged juvenile offender to submit
23 to testing and that a copy of the test results be released to the defendant's or alleged juvenile
24 offender's physician and each requesting victim's physician. The physicians for the defendant
25 or alleged juvenile offender and requesting victim must be specifically named in the court order,
26 and the court order must be served on the physicians before any test.

27 **SECTION 4. REPEAL.** Section 12.1-20-10 of the North Dakota Century Code is
28 repealed.