

**FIRST ENGROSSMENT  
with Senate Amendments**

Fifty-ninth  
Legislative Assembly  
of North Dakota

**ENGROSSED HOUSE BILL NO. 1313**

Introduced by

Representatives Koppelman, DeKrey, Delmore

Senators Nelson, Traynor, Trenbeath

1 A BILL for an Act to create and enact a new subsection to section 12.1-20-01 of the North  
2 Dakota Century Code, relating to the age of a person engaging in sexual conduct with a minor;  
3 to amend and reenact sections 12.1-20-03, 12.1-20-03.1, and 12.1-32-06.1 of the North Dakota  
4 Century Code, relating to sentencing of sexual offenders; and to provide a penalty.

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

6 **SECTION 1.** A new subsection to section 12.1-20-01 of the North Dakota Century  
7 Code is created and enacted as follows:

8 When criminality depends on the victim being a minor, the actor is guilty of an offense  
9 only if the actor is at least four years older than the minor.

10 **SECTION 2. AMENDMENT.** Section 12.1-20-03 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12 **12.1-20-03. Gross sexual imposition - Penalty.**

13 1. A person who engages in a sexual act with another, or who causes another to  
14 engage in a sexual act, is guilty of an offense if:

15 a. ~~He~~ That person compels the victim to submit by force or by threat of imminent  
16 death, serious bodily injury, or kidnapping, to be inflicted on any human being;

17 b. That person or someone with that person's knowledge has substantially  
18 impaired the victim's power to appraise or control the victim's conduct by  
19 administering or employing without the victim's knowledge intoxicants, a  
20 controlled substance as defined in chapter 19-03.1, or other means with intent  
21 to prevent resistance;

22 c. ~~He~~ That person knows that the victim is unaware that a sexual act is being  
23 committed upon him or her;

24 d. The victim is less than fifteen years old; or

- 1 e. ~~He~~ That person knows or has reasonable cause to believe that the other  
2 person suffers from a mental disease or defect which renders him or her  
3 incapable of understanding the nature of his or her conduct.
- 4 2. A person who engages in sexual contact with another, or who causes another to  
5 engage in sexual contact, is guilty of an offense if:
- 6 a. The victim is less than fifteen years old; or
- 7 b. ~~He~~ That person compels the victim to submit by force or by threat of imminent  
8 death, serious bodily injury, or kidnapping, to be inflicted on any human being.
- 9 3. a. An offense under this section is a class A AA felony if in the course of the  
10 offense the actor inflicts serious bodily injury upon the victim ~~or~~, if ~~his~~ the  
11 actor's conduct violates subdivision a ~~or d~~ of subsection 1, or if the actor's  
12 conduct violates subdivision d of subsection 1 and the actor was more than  
13 five years older than the victim at the time of the offense.
- 14 b. An offense under this section is a class C felony if the actor's conduct violates  
15 subdivision d of subsection 1 or subdivision a of subsection 2, and the actor  
16 was at least four but not more than five years older than the victim at the time  
17 of the offense.
- 18 c. Otherwise the offense is a class ~~B~~ A felony.
- 19 4. If, as a result of injuries sustained during the course of an offense under this  
20 section, the victim dies, the offense is a class AA felony, for which the maximum  
21 penalty of life imprisonment without parole must be imposed.

22 **SECTION 3. AMENDMENT.** Section 12.1-20-03.1 of the North Dakota Century Code  
23 is amended and reenacted as follows:

24 **12.1-20-03.1. Continuous sexual abuse of a child.**

- 25 1. An individual in adult court is guilty of ~~a class A felony~~ an offense if the individual  
26 engages in any combination of three or more sexual acts or sexual contacts with a  
27 minor under the age of fifteen years during a period of three or more months. The  
28 offense is a class AA felony if the actor was more than five years older than the  
29 victim at the time of the offense. The offense is a class C felony if the actor was at  
30 least four but not more than five years older than the victim at the time of the  
31 offense. The court may not defer imposition of sentence, ~~nor may the court~~

1           ~~suspend any part of the specified sentence, either at the time of or after the~~  
2           ~~imposition of the sentence, unless the court first finds that the offense was the~~  
3           ~~defendant's first violation of this chapter and that extenuating or mitigating~~  
4           ~~circumstances exist which justify a suspension. The court shall announce the~~  
5           ~~circumstances that justify a suspension in open court when sentence is imposed~~  
6           ~~and recite these circumstances in the sentence or order suspending part of the~~  
7           ~~sentence.~~

8           2. If more than three sexual acts or contacts are alleged, a jury must unanimously  
9           agree that any combination of three or more acts or contacts occurred. The jury  
10          does not need to unanimously agree which three acts or contacts occurred.

11          3. No other felony offense under this chapter involving the same victim may be  
12          charged in the same proceeding with a charge under this section unless the other  
13          charged offense occurred outside the time period charged under this section or the  
14          other offense is charged in the alternative. A defendant may be charged with only  
15          one count under this section, but a separate count may be charged for each victim  
16          if more than one victim is involved.

17          **SECTION 4. AMENDMENT.** Section 12.1-32-06.1 of the North Dakota Century Code  
18 is amended and reenacted as follows:

19          **12.1-32-06.1. Length and termination of probation - Additional probation for**  
20 **violation of conditions - Penalty.**

21          1. Except as provided in this section, the length of the period of probation imposed in  
22          conjunction with a sentence to probation or a suspended execution or deferred  
23          imposition of sentence may not extend for more than five years for a felony and  
24          two years for a misdemeanor or infraction from the later of the date of:

- 25               a. The order imposing probation;  
26               b. The defendant's release from incarceration; or  
27               c. Termination of the defendant's parole.

28          2. If the defendant has pled or been found guilty of an offense for which the court  
29          imposes a sentence of restitution or reparation for damages resulting from the  
30          commission of the offense, the court may, following a restitution hearing pursuant

- 1 to section 12.1-32-08, impose an additional period of probation not to exceed five  
2 years.
- 3 3. If the defendant has pled or been found guilty of a felony sexual offense ~~against a~~  
4 ~~minor~~ in violation of ~~section 12.1-20-03, 12.1-20-03.1, 12.1-20-04, or 12.1-20-11~~  
5 chapter 12.1-20, the court shall impose a period of supervised probation of five  
6 years to be served after sentencing or incarceration. The court may impose an  
7 additional period of supervised probation not to exceed five years if the additional  
8 period of probation is in conjunction with a commitment to a sexual offender  
9 treatment or aftercare program. If the defendant has pled or been found guilty of a  
10 misdemeanor sexual offense ~~against a minor~~ in violation of ~~section 12.1-20-05,~~  
11 ~~12.1-20-06, or 12.1-20-07~~ chapter 12.1-20, the court may impose an additional  
12 period of probation not to exceed two years ~~if the additional period of probation is~~  
13 ~~in conjunction with a commitment to a sexual offender treatment or aftercare~~  
14 ~~program.~~ If the unserved portion of the defendant's maximum period of  
15 incarceration is less than one year, a violation of the probation imposed under this  
16 subsection is a class A misdemeanor.
- 17 4. If the defendant has pled or been found guilty of abandonment or nonsupport of  
18 spouse or children, the period of probation may be continued for as long as  
19 responsibility for support continues.
- 20 5. In felony cases, in consequence of violation of probation conditions, the court may  
21 impose an additional period of probation not to exceed five years. The additional  
22 period of probation may follow a period of incarceration if the defendant has not  
23 served the maximum period of incarceration available at the time of initial  
24 sentencing or deferment.
- 25 6. The court may terminate a period of probation and discharge the defendant at any  
26 time earlier than that provided in subsection 1 if warranted by the conduct of the  
27 defendant and the ends of justice.
- 28 7. Notwithstanding the fact that a sentence to probation subsequently can be  
29 modified or revoked, a judgment that includes such a sentence constitutes a final  
30 judgment for all other purposes.