

Sixtieth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2138

Introduced by

Senators Potter, Hacker, Nelson

Representatives Delmore, Ekstrom, N. Johnson

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 false representation of marital status; to amend and reenact
3 subsection 1 of section 23-07-07.5 and section 23-07.7-01 of the North Dakota Century Code,
4 relating to sexual offense medical testing; to repeal section 12.1-20-10 of the North Dakota
5 Century Code, relating to an individual's living arrangements; and to provide a penalty.

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 **False representation of marital status.** An individual is guilty of a class B
10 misdemeanor if the individual lives openly and notoriously with an individual of the opposite sex
11 as a married couple without being married to the other individual and falsely represents the
12 couple's status as being married to each other.

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

1 c. Every individual, whether imprisoned or not, who is convicted of an offense
2 involving the use of a controlled substance, as defined in chapter 19-03.1,
3 and the offense involved the use of paraphernalia, including any type of
4 syringe or hypodermic needle, that creates an epidemiologically
5 demonstrated risk of transmission of the human immunodeficiency virus.

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

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

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