

**Sixtieth Legislative Assembly of North Dakota
In Regular Session Commencing Wednesday, January 3, 2007**

SENATE BILL NO. 2138
(Senators Potter, Hacker, Nelson)
(Representatives Delmore, Ekstrom, N. Johnson)

AN ACT to create and enact a new section to chapter 12.1-31 of the North Dakota Century Code, relating to false representation of marital status; to amend and reenact subsection 1 of section 23-07-07.5 and section 23-07.7-01 of the North Dakota Century Code, relating to sexual offense medical testing; to repeal section 12.1-20-10 of the North Dakota Century Code, relating to an individual's living arrangements; 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:

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

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

1. The following individuals must be examined or tested for the presence of antibodies to or antigens of the human immunodeficiency virus:
 - a. Every individual convicted of a crime who is imprisoned for fifteen days or more in a grade one or grade two jail, a regional correctional facility, or the state penitentiary;
 - b. Every individual, whether imprisoned or not, who is convicted of a sexual offense under chapter 12.1-20, except for those convicted of violating sections ~~12.1-20-10~~, 12.1-20-12.1, and 12.1-20-13; and
 - c. Every individual, whether imprisoned or not, who is convicted of an offense involving the use of a controlled substance, as defined in chapter 19-03.1, and the offense involved the use of paraphernalia, including any type of syringe or hypodermic needle, that creates an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus.

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

23-07.7-01. Court-ordered sexual offense medical testing. The court may order any defendant charged with a sex offense under chapter 12.1-20 and any alleged juvenile offender with respect to whom a petition has been filed in a juvenile court alleging violation of chapter 12.1-20 to undergo medical testing to determine whether the defendant or alleged juvenile offender has any sexually transmitted diseases, including a test for infection with the human immunodeficiency virus or any other identified positive agent of acquired immunodeficiency syndrome. The court may not order a defendant charged with violating section ~~12.1-20-10~~, 12.1-20-12.1, or 12.1-20-13 or an alleged juvenile offender with respect to whom a petition has been filed in a juvenile court alleging violation of section ~~12.1-20-10~~, 12.1-20-12.1, or 12.1-20-13 to undergo the testing authorized by this section. The court may order the testing only if the court receives a petition from the alleged victim of the offense or from

the prosecuting attorney if the alleged victim has made a written request to the prosecuting attorney to petition the court for an order authorized under this section. On receipt of a petition, the court shall determine, without a hearing, if probable cause exists to believe that a possible transfer of a sexually transmitted disease or human immunodeficiency virus took place between the defendant or alleged juvenile offender and the alleged victim. If the court determines probable cause exists, the court shall order the defendant or alleged juvenile offender to submit to testing and that a copy of the test results be released to the defendant's or alleged juvenile offender's physician and each requesting victim's physician. The physicians for the defendant or alleged juvenile offender and requesting victim must be specifically named in the court order, and the court order must be served on the physicians before any test.

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

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 Sixtieth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2138.

Senate Vote: Yeas 35 Nays 10 Absent 2

House Vote: Yeas 48 Nays 41 Absent 5

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2007.

Approved at _____ M. on _____, 2007.

Governor

Filed in this office this _____ day of _____, 2007,
at _____ o'clock _____ M.

Secretary of State