# Sixty-fifth Legislative Assembly of North Dakota
# In Regular Session Commencing Tuesday, January 3, 2017

HOUSE BILL NO. 1195
(Representatives Klemin, Maragos, Schneider)
(Senators Hogue, D. Larson, Mathern)

AN ACT to create and enact a new section to chapter 12.1-32 of the North Dakota Century Code, relating to imprisonment of minors; to amend and reenact subsection 4 of section 12.1-20-03 of the North Dakota Century Code, relating to gross sexual imposition; and to provide a penalty.

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

**SECTION 1. AMENDMENT.** Subsection 4 of section 12.1-20-03 of the North Dakota Century Code is amended and reenacted as follows:

4. If, as a result of injuries sustained during the course of an offense under this section, the victim dies, the offense is a class AA felony, for which the maximum penalty of life imprisonment without parole must be imposed unless the defendant was a juvenile at the time of the offense.

**SECTION 2.** A new section to chapter 12.1-32 of the North Dakota Century Code is created and enacted as follows:

**Juveniles - Sentencing - Reduction.**

1. Notwithstanding any other provision of law, a court may reduce a term of imprisonment imposed upon a defendant convicted as an adult for an offense committed and completed before the defendant was eighteen years of age if:

   a. The defendant has served at least twenty years in custody for the offense;

   b. The defendant filed a motion for reduction in sentence; and

   c. The court has considered the factors provided in this section and determined the defendant is not a danger to the safety of any other individual, and the interests of justice warrant a sentence modification.

2. A defendant whose sentence is reduced under this section must be ordered to serve a period of supervised release of at least five years upon release from imprisonment. The conditions of supervised release and any modification or revocation of the term of supervised release must be in accordance with this chapter.

3. When determining whether to reduce a term of imprisonment under this section, the court shall consider:

   a. The factors provided in section 12.1-32-04, including the nature of the offense;

   b. The age of the defendant at the time of the offense;

   c. A report and recommendation from the department of corrections and rehabilitation, including information relating to the defendant's ability to comply with the rules of the institution and whether the defendant completed any educational, vocational, or other prison programming;

   d. A report and recommendation from the state's attorney for any county in which the defendant was prosecuted;

e. Whether the defendant has demonstrated maturity, rehabilitation, and a fitness to re-enter society sufficient to justify a sentence reduction;

f. A statement by a victim or a family member of a victim who was impacted by the actions of the defendant;

g. A report of a physical, mental, or psychiatric examination of the defendant conducted by a licensed health care professional;

h. The defendant's family and community circumstances at the time of the offense, including any history of abuse, trauma, or involvement in the child welfare system;

i. The role of the defendant in the offense and whether an adult also was involved in the offense;

j. The diminished culpability of juveniles compared to adults and the level of maturity and failure to appreciate the risks and consequences; and

k. Any additional information the court determines relevant.

4. A defendant may make a second motion for a reduction in sentence under this section no earlier than five years after the initial motion for reduction.

5. A defendant may make a final motion for a reduction in sentence no earlier than five years after the order for a second motion was filed.

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| Speaker of the House | President of the Senate |
| Chief Clerk of the House | Secretary of the Senate |

This certifies that the within bill originated in the House of Representatives of the Sixty-fifth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1195.

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| House Vote: | Yeas 87 | Nays 0 | Absent 7 |
| Senate Vote: | Yeas 46 | Nays 0 | Absent 1 |

Chief Clerk of the House

Received by the Governor at _____M. on _____, 2017.

Approved at _____M. on _____, 2017.

Governor

Filed in this office this _____day of _____, 2017,

at _____ o'clock _____M.

Secretary of State