

**FIRST ENGROSSMENT
with Senate Amendments
ENGROSSED HOUSE BILL NO. 1195**

Introduced by

Representatives Klemin, Maragos, Schneider

Senators Hogue, D. Larson, Mathern

1 A BILL for an Act to create and enact a new section to chapter 12.1-32 of the North Dakota
2 Century Code, relating to imprisonment of minors; to amend and reenact subsection 4 of
3 section 12.1-20-03, relating to gross sexual imposition; and to provide a penalty.

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

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

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

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

13 **Juveniles - Sentencing - Reduction.**

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

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

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

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

22 2. A defendant whose sentence is reduced under this section must be ordered to serve a
23 period of supervised release of at least five years upon release from imprisonment.

- 1 The conditions of supervised release and any modification or revocation of the term of
2 supervised release must be in accordance with this chapter.
- 3 3. When determining whether to reduce a term of imprisonment under this section, the
4 court shall consider:
- 5 a. The factors provided in section 12.1-32-04, including the nature of the offense;
6 b. The age of the defendant at the time of the offense;
7 c. A report and recommendation from the department of corrections and
8 rehabilitation, including information relating to the defendant's ability to comply
9 with the rules of the institution and whether the defendant completed any
10 educational, vocational, or other prison programming;
11 d. A report and recommendation from the state's attorney for any county in which
12 the defendant was prosecuted;
13 e. Whether the defendant has demonstrated maturity, rehabilitation, and a fitness to
14 re-enter society sufficient to justify a sentence reduction;
15 f. A statement by a victim or a family member of a victim who was impacted by the
16 actions of the defendant;
17 g. A report of a physical, mental, or psychiatric examination of the defendant
18 conducted by a licensed health care professional;
19 h. The defendant's family and community circumstances at the time of the offense,
20 including any history of abuse, trauma, or involvement in the child welfare
21 system;
22 i. The role of the defendant in the offense and whether an adult also was involved
23 in the offense;
24 j. The diminished culpability of juveniles compared to adults and the level of
25 maturity and failure to appreciate the risks and consequences; and
26 k. Any additional information the court determines relevant.
- 27 4. A defendant may make a second motion for a reduction in sentence under this section
28 no earlier than five years after the initial motion for reduction.
- 29 5. A defendant may make a final motion for a reduction in sentence no earlier than five
30 years after the order for a second motion was filed.