

HOUSE BILL NO. 1492

Introduced by

Representatives Ista, Cory, Mitskog, Mock, O'Brien, Roers Jones, M. Ruby, Schauer,
Schneider

Senators Hogan, Kreun, Lee

1 A BILL for an Act to amend and reenact section 14-09-22 of the North Dakota Century Code,
2 relating to defining mental injury for the crime of child abuse; and to provide a penalty.

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

4 **SECTION 1. AMENDMENT.** Section 14-09-22 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **14-09-22. Abuse of child - Mandatory sentence - Penalty.**

- 7 1. Except as provided in subsection 2 or 3, a parent, adult family or household member,
8 guardian, or other custodian of any child, who willfully inflicts or allows to be inflicted
9 upon the child mental injury or bodily injury, substantial bodily injury, or serious bodily
10 injury as defined by section 12.1-01-04 is guilty of a class C felony except if the victim
11 of an offense under this section is under the age of six years in which case the offense
12 is a class B felony. ~~For purposes of this subsection, "mental injury" means an injury to~~
13 ~~the psychological capacity or emotional stability of a child as evidenced by an~~
14 ~~observable or substantial impairment in the child's ability to function within a normal~~
15 ~~range of performance and behavior with due regard to the child's culture. The term~~
16 ~~includes witnessing an act of domestic violence as defined in section~~
17 14-07.1-01 observable and substantial, nontransitory impairment to a child's mental or
18 psychological ability to function within a normal range of performance or behavior.
- 19 2. A person who provides care, supervision, education, or guidance for a child
20 unaccompanied by the child's parent, adult family or household member, guardian, or
21 custodian in exchange for money, goods, or other services and who while providing
22 such services commits an offense under this section is guilty of a class B felony. Any
23 such person who commits, allows to be committed, or conspires to commit, against

1 the child, a sex offense as defined in chapter 12.1-20 is subject to the penalties
2 provided in that chapter.

3 3. A person who commits an offense under this section is guilty of a class B felony if the
4 victim suffers permanent loss or impairment of the function of a bodily member or
5 organ, except if the victim of the offense is under the age of six years in which case
6 the offense is a class A felony.

7 4. A person who has pled guilty or nolo contendere to, or has been found guilty of an
8 offense under this section must be sentenced to a minimum of one year imprisonment.

9 5. For any person who pleads guilty or is convicted of an offense under this section, the
10 court shall include in the sentence an order for the person to complete a parental
11 capacity evaluation, mental health evaluation, and anger management assessment,
12 and to complete treatment recommendations as ordered by the court as a condition of
13 probation.