

January 27, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

HOUSE BILL NO. 1351

Introduced by

Representatives Satrom, Christy, Ostlie, Schneider

Senators Clemens, Conley

1 A BILL for an Act to create and enact a new section to chapter 12.1-27.1 of the North Dakota
2 Century Code, relating to prohibiting sexually explicit deep fake videos and images; to amend
3 and reenact section 12.1-32-15 of the North Dakota Century Code, relating to sexual offenders
4 and registration requirements; and to provide a penalty.

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

6 **SECTION 1.** A new section to chapter 12.1-27.1 of the North Dakota Century Code is
7 created and enacted as follows:

8 **Sexually explicit deep fake videos or images prohibited - Penalty - ~~Affirmative~~**
9 **~~defense -- Civil action.~~**

10 1. As used in this section:

11 a. "Sexual performance" means any performance that includes sexual conduct.

12 b. "Sexually explicit deep fake video or image" means any video recording, motion-
13 picture film, electronic image, or photograph created with the intent to deceive,
14 which appears to depict a ~~minor~~ individual engaging in sexual conduct or a
15 sexual performance that did not occur in reality or that the ~~minor~~ individual did not
16 actually perform, and whose appearance in the video recording, motion-picture
17 film, electronic image, or photograph is a result of digitization.

18 2. It is a class A misdemeanor for a person to knowingly produce, possess, distribute,
19 promote, advertise, sell, exhibit, broadcast, or transmit a sexually explicit deep fake
20 video or image.

1 3. ~~It is an affirmative defense to a prosecution under this section that:~~

2 ~~a. The sexually explicit deep fake video or image has serious literary, artistic,~~
3 ~~political, or scientific value; or~~

4 ~~b. The sexually explicit deep fake video or image was presented for bona fide~~
5 ~~medical, scientific, educational, religious, governmental, judicial, or other~~
6 ~~appropriate purpose by or to a physician, psychologist, sociologist, scientist,~~
7 ~~teacher, person pursuing bona fide studies or research, librarian, member of the~~
8 ~~clergy, attorney, law enforcement officer, or a judge.~~

9 ~~4.~~ A depicted ~~minor~~ individual who is identifiable and who suffers harm from a person's
10 violation of this section has a cause of action against the person if the person
11 produced, possessed, distributed, promoted, advertised, sold, exhibited, broadcasted,
12 or transmitted the sexually explicit deep fake video or image for the purpose of sexual
13 arousal, sexual gratification, humiliation, degradation, or monetary or commercial gain.

14 a. The court may exclude or redact from all pleadings and documents filed in the
15 action other identifying characteristics of the plaintiff under rule 3.4 of the North
16 Dakota Rules of Court.

17 b. A plaintiff to whom subdivision a applies shall file with the court and serve on the
18 defendant a confidential information form that includes the excluded or redacted
19 plaintiff's name and other identifying characteristics.

20 c. The court may make further orders as necessary to protect the identity and
21 privacy of a plaintiff.

22 ~~5.4.~~ In an action under subsection 4, a prevailing plaintiff may recover:

23 a. The greater of:

24 (1) Economic and noneconomic damages proximately caused by the
25 defendant's violation of this section, including damages for emotional
26 distress whether or not accompanied by other damages; or

27 (2) Statutory damages not to exceed ten thousand dollars against each
28 defendant found liable under this section;

29 b. An amount equal to any monetary gain made by the defendant from the
30 distribution, promotion, advertising, sale, exhibition, broadcasting, or transmission
31 of the sexually explicit deep fake video or image; and

1 c. Exemplary damages.

2 ~~6.5.~~ In an action under subsection 4, the court may award a prevailing plaintiff:

3 a. Reasonable attorney's fees and costs; and

4 b. Other remedies available by law, including injunctive relief.

5 ~~7.6.~~ This chapter does not affect or preclude any other right or remedy available under
6 federal law or a law of this state other than this section.

7 **SECTION 2. AMENDMENT.** Section 12.1-32-15 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **12.1-32-15. Offenders against children and sexual offenders - Sexually violent**
10 **predators - Registration requirement - Penalty.**

11 1. As used in this section:

12 a. "A crime against a child" means a violation of chapter 12.1-16, section
13 12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04,
14 subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01,
15 12.1-18-02, 12.1-18-05, chapter 12.1-29, or section 14-09-22, subsection 3 of
16 section 12.1-41-02, subsection 3 of section 12.1-41-03, or an equivalent offense
17 from another court in the United States, a tribal court, or court of another country,
18 in which the victim is a minor or is otherwise of the age required for the act to be
19 a crime or an attempt or conspiracy to commit these offenses.

20 b. "Department" means the department of corrections and rehabilitation.

21 c. "Homeless" means an individual who is physically present in this state, but is
22 living in a park, under a bridge, on the streets, in a vehicle or camper, or is
23 otherwise without a traditional dwelling, and also one who resides in this state but
24 does not maintain a permanent address. The term does not include individuals
25 who are temporarily domiciled or individuals residing in public or private shelters
26 that provide temporary living accommodations.

27 d. "Mental abnormality" means a congenital or acquired condition of an individual
28 that affects the emotional or volitional capacity of the individual in a manner that
29 predisposes that individual to the commission of criminal sexual acts to a degree
30 that makes the individual a menace to the health and safety of other individuals.

- 1 e. "Predatory" means an act directed at a stranger or at an individual with whom a
2 relationship has been established or promoted for the primary purpose of
3 victimization.
- 4 f. "Reside" means to live permanently or be situated for a considerable time in a
5 home or a particular place.
- 6 g. "Sexual offender" means a person who has pled guilty to or been found guilty,
7 including juvenile delinquent adjudications, of a violation of section 12.1-20-03,
8 12.1-20-03.1, 12.1-20-04, 12.1-20-05, 12.1-20-05.1, 12.1-20-06, 12.1-20-06.1,
9 12.1-20-07 except for subdivision a of subsection 1, 12.1-20-11, 12.1-20-12.1,
10 12.1-20-12.2, 12.1-20-12.3 except for subdivision a of subsection 1 and
11 subdivision b of subsection 1 if the offense involves only a demand for money,
12 section 1 of this Act, chapter 12.1-27.2, subsection 2 of section 12.1-22-03.1,
13 subdivision b of subsection 1 of section 12.1-41-02, section 12.1-41-04,
14 12.1-41-05, or 12.1-41-06, or an equivalent offense from another court in the
15 United States, a tribal court, or court of another country, or an attempt or
16 conspiracy to commit these offenses.
- 17 h. "Sexually dangerous individual" means an individual who meets the definition
18 specified in section 25-03.3-01.
- 19 i. "Temporarily domiciled" means staying or being physically present in this state for
20 more than thirty days in a calendar year or at a location for longer than ten
21 consecutive days, attending school for longer than ten days, or maintaining
22 employment in the jurisdiction for longer than ten days, regardless of the state of
23 the residence.
- 24 2. The court shall impose, in addition to any penalty provided by law, a requirement that
25 the individual register, within three days of coming into a county in which the individual
26 resides, is homeless, or within the period identified in this section that the individual
27 becomes temporarily domiciled. The individual must register with the chief of police of
28 the city of the individual's place of residence, or the sheriff of the county if the
29 individual resides in an area other than a city. A homeless individual shall register
30 every three days with the sheriff or chief of police of the jurisdiction in which the

1 individual is physically present. The court shall require an individual to register by
2 stating this requirement on the court records, if that individual:

- 3 a. Has pled guilty or nolo contendere to, or been found guilty as a felonious sexual
4 offender or an attempted felonious sexual offender, including juvenile delinquent
5 adjudications of equivalent offenses unless the offense is listed in subdivision c.
6 b. Has pled guilty or nolo contendere to, or been found guilty as a sexual offender
7 for, a misdemeanor or attempted misdemeanor. The court may deviate from
8 requiring an individual to register if the court first finds the individual is no more
9 than three years older than the victim if the victim is a minor, the individual has
10 not previously been convicted as a sexual offender or of a crime against a child,
11 and the individual did not exhibit mental abnormality or predatory conduct in the
12 commission of the offense.
13 c. Is a juvenile found delinquent under subdivision d of subsection 1 of section
14 12.1-20-03, subdivision a of subsection 2 of section 12.1-20-03, or as a sexual
15 offender for a misdemeanor. The court may deviate from requiring the juvenile to
16 register if the court first finds the juvenile has not previously been convicted as a
17 sexual offender or for a crime against a child, and the juvenile did not exhibit
18 mental abnormality or predatory conduct in the commission of the offense.
19 d. Has pled guilty or nolo contendere to, or been found guilty of, a crime against a
20 child or an attempted crime against a child, including juvenile delinquent
21 adjudications of equivalent offenses. Except if the offense is described in section
22 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 and the person is not the parent
23 of the victim, the court may deviate from requiring an individual to register if the
24 court first finds the individual has not previously been convicted as a sexual
25 offender or for a crime against a child, and the individual did not exhibit mental
26 abnormality or predatory conduct in the commission of the offense.
27 e. Has pled guilty or nolo contendere, been found guilty, or been adjudicated
28 delinquent of any crime against another individual which is not otherwise
29 specified in this section if the court determines that registration is warranted by
30 the nature of the crime and therefore orders registration for the individual. If the

- 1 court orders an individual to register as an offender under this section, the
2 individual shall comply with all of the registration requirements in this chapter.
- 3 3. If a court has not ordered an individual to register in this state, an individual who
4 resides, is homeless, or is temporarily domiciled in this state shall register if the
5 individual:
- 6 a. Is incarcerated or is on probation or parole after July 31, 1995, for a crime
7 against a child described in section 12.1-29-02, or section 12.1-18-01 or
8 12.1-18-02 if the individual was not the parent of the victim, or as a sexual
9 offender;
- 10 b. Has pled guilty or nolo contendere to, or been adjudicated for or found guilty of,
11 an offense in a court of this state for which registration is mandatory under this
12 section or an offense from another court in the United States, a tribal court, or
13 court of another country equivalent to those offenses set forth in this section; or
- 14 c. Has pled guilty or nolo contendere to, or has been found guilty of, a crime against
15 a child or as a sexual offender for which registration is mandatory under this
16 section if the conviction occurred after July 31, 1985.
- 17 4. In its consideration of mental abnormality or predatory conduct, the court shall
18 consider the age of the offender, the age of the victim, the difference in ages of the
19 victim and offender, the circumstances and motive of the crime, the relationship of the
20 victim and offender, and the mental state of the offender. The court may order an
21 offender to be evaluated by a qualified counselor, psychologist, or physician before
22 sentencing. Except as provided under subdivision e of subsection 2, the court shall
23 state on the record in open court its affirmative finding for not requiring an offender to
24 register.
- 25 5. When an individual is required to register under this section, the official in charge of a
26 facility or institution where the individual required to register is confined, or the
27 department, shall, before the discharge, parole, or release of that individual, inform the
28 individual of the duty to register pursuant to this section. The official or the department
29 shall require the individual to read and sign a form as required by the attorney general,
30 stating that the duty of the individual to register has been explained to that individual.
31 The official in charge of the place of confinement, or the department, shall obtain the

1 address where the individual expects to reside, attend school, or work upon discharge,
2 parole, or release and shall report the address to the attorney general. The official in
3 charge of the place of confinement, or the department, shall give three copies of the
4 form to the individual and shall send three copies to the attorney general no later than
5 forty-five days before the scheduled release of that individual. The attorney general
6 shall forward one copy to the law enforcement agency having jurisdiction where the
7 individual expects to reside, attend school, or work upon discharge, parole, or release,
8 one copy to the prosecutor who prosecuted the individual, and one copy to the court in
9 which the individual was prosecuted. All forms must be transmitted and received by
10 the law enforcement agency, prosecutor, and court thirty days before the discharge,
11 parole, or release of the individual.

12 6. An individual who is required to register pursuant to this section who is released on
13 probation or discharged upon payment of a fine must, before the release or discharge,
14 be informed of the duty to register under this section by the court in which that
15 individual is convicted. The court shall require the individual to read and sign a form as
16 required by the attorney general, stating that the duty of the individual to register under
17 this section has been explained to that individual. The court shall obtain the address
18 where the individual expects to reside, attend school, or work upon release or
19 discharge and shall report the address to the attorney general within three days. The
20 court shall give one copy of the form to the individual and shall send two copies to the
21 attorney general. The attorney general shall forward one copy to the appropriate law
22 enforcement agency having jurisdiction where the individual expects to reside, attend
23 school, or work upon discharge, parole, or release.

24 7. Registration consists of a written or electronic statement signed by the individual,
25 giving the information required by the attorney general, and the biometric data and
26 photograph of the individual. An individual who is not required to provide a sample of
27 blood and other body fluids under section 31-13-03 or by the individual's state or court
28 of conviction or adjudication shall submit a sample of blood and other body fluids for
29 inclusion in a centralized database of DNA identification records under section
30 31-13-05. The collection, submission, testing and analysis of, and records produced
31 from, samples of blood and other body fluids, are subject to chapter 31-13. Evidence

1 of the DNA profile comparison is admissible in accordance with section 31-13-02. A
2 report of the DNA analysis certified by the state crime laboratory is admissible in
3 accordance with section 31-13-05. A district court shall order an individual who refuses
4 to submit a sample of blood or other body fluids for registration purposes to show
5 cause at a specified time and place why the individual should not be required to
6 submit the sample required under this subsection. Within three days after registration,
7 the registering law enforcement agency shall forward the statement, biometric data,
8 and photograph to the attorney general and shall submit the sample of the individual's
9 blood and body fluids to the state crime laboratory. If an individual required to register
10 under this section has a change in vehicle or computer online identity, the individual
11 shall register, within three days after the change, with the law enforcement agency
12 having local jurisdiction of the individual's place of residence of the individual's new
13 vehicle or computer online identity. If an individual required to register pursuant to this
14 section has a change in name, school, or residence or employment address, that
15 individual shall register, at least ten days before the change, with the law enforcement
16 agency having local jurisdiction of the individual's place of residence of the individual's
17 new name, school, residence address, or employment address. A change in school or
18 employment address includes the termination of school or employment for which an
19 individual required to register under this section, the individual shall register within
20 three days of the termination with the law enforcement agency having local jurisdiction
21 of the individual's place of residence. The law enforcement agency, within three days
22 after receipt of the information, shall forward it to the attorney general. The attorney
23 general shall forward the appropriate registration data to the law enforcement agency
24 having local jurisdiction of the new place of residence, school, or employment. Upon a
25 change of address, the individual required to register also shall register within three
26 days at the law enforcement agency having local jurisdiction of the new place of
27 residence. If an individual required to register in North Dakota, including in a tribal
28 registry, resides in another state or on tribal lands, that individual shall register
29 employment and school addresses and any changes in required registration
30 information with the law enforcement agency having local jurisdiction over the school
31 or employment address. The individual registering under this section shall periodically

1 confirm the information required under this subsection in a manner and at an interval
2 determined by the attorney general. A law enforcement agency that has previously
3 registered an offender may omit the biometric data portion of the registration if that
4 agency has a set of biometric data on file for that individual and is personally familiar
5 with and can visually identify the offender. These provisions also apply in any other
6 state that requires registration.

7 8. An individual required to register under this section shall comply with the registration
8 requirement for the longer of the following periods:

- 9 a. A period of fifteen years after the date of sentence or order deferring or
10 suspending sentence upon a plea or finding of guilt or after release from
11 incarceration, whichever is later;
- 12 b. A period of twenty-five years after the date of sentence or order deferring or
13 suspending sentence upon a plea or finding of guilt or after release from
14 incarceration, whichever is later, if the offender is assigned a moderate risk by the
15 attorney general as provided in subsection 12; or
- 16 c. For the life of the individual, if that individual:
- 17 (1) On two or more occasions has pled guilty or nolo contendere to, or been
18 found guilty of a crime against a child or as a sexual offender. If all qualifying
19 offenses are misdemeanors, this lifetime provision does not apply unless a
20 qualifying offense was committed after August 1, 1999;
- 21 (2) Pleads guilty or nolo contendere to, or is found guilty of, an offense
22 committed after August 1, 1999, which is described in subdivision a of
23 subsection 1 of section 12.1-20-03, section 12.1-20-03.1, or subdivision d of
24 subsection 1 of section 12.1-20-03 if the person is an adult and the victim is
25 under age twelve, or section 12.1-18-01 if that individual is an adult other
26 than a parent of the victim, or an equivalent offense from another court in
27 the United States, a tribal court, or court of another country; or
- 28 (3) Is assigned a high risk by the attorney general as provided in subsection 12.

29 9. An individual required to register under this section who violates this section is guilty of
30 a class C felony. The failure of a homeless individual to register as required in
31 subsections 2 and 3 is prima facie evidence of a violation of this section. The clerk of

1 court shall forward all warrants issued for a violation of this section to the county
2 sheriff, who shall enter all such warrants into the national crime information center
3 wanted person file. A court may not relieve an individual, other than a juvenile, who
4 violates this section from serving a term of at least ninety days in jail and completing
5 probation of one year.

6 10. When an individual is released on parole or probation and is required to register
7 pursuant to this section, but fails to do so within the time prescribed, the court shall
8 order the probation, or the parole board shall order the parole, of the individual
9 revoked.

10 11. If an individual required to register pursuant to this section is temporarily sent outside
11 the facility or institution where that individual is confined under conviction or sentence,
12 the local law enforcement agency having jurisdiction over the place where that
13 individual is being sent must be notified within a reasonable time period before that
14 individual is released from the facility or institution. This subsection does not apply to
15 any individual temporarily released under guard from the facility or institution in which
16 that individual is confined.

17 12. The attorney general, with the assistance of the department and the juvenile courts,
18 shall develop guidelines for the risk assessment of sexual offenders who are required
19 to register, with a low-risk, moderate-risk, or high-risk level being assigned to each
20 offender as follows:

21 a. The department shall conduct a risk assessment of sexual offenders who are
22 incarcerated in institutions under the control of the department and sexual
23 offenders who are on supervised probation. The department, in a timely manner,
24 shall provide the attorney general any information, including the offender's level
25 of risk and supporting documentation, concerning individuals required to be
26 registered under this section who are about to be released or placed into the
27 community.

28 b. The attorney general shall conduct a risk assessment of sexual offenders who
29 are not under the custody or supervision of the department. The attorney general
30 may adopt a law enforcement agency's previous assignment of risk level for an

- 1 individual if the assessment was conducted in a manner substantially similar to
2 the guidelines developed under this subsection.
- 3 c. The juvenile courts or the agency having legal custody of a juvenile shall conduct
4 a risk assessment of juvenile sexual offenders who are required to register under
5 this section. The juvenile courts or the agency having legal custody of a juvenile
6 shall provide the attorney general any information, including the offender's level
7 of risk and supporting documentation, concerning juveniles required to register
8 and who are about to be released or placed into the community.
- 9 d. The attorney general shall notify the offender of the risk level assigned to that
10 offender. An offender may request a review of that determination with the attorney
11 general's sexual offender risk assessment committee and may present any
12 information that the offender believes may lower the assigned risk level.
- 13 13. An individual assessed as a high-risk sexual offender in accordance with
14 subsection 12, may not reside within five hundred feet [152.4 meters] of a public or
15 nonpublic preschool or elementary, middle, or high school.
- 16 14. Relevant and necessary conviction and registration information must be disclosed to
17 the public by a law enforcement agency if the individual is a moderate or high risk and
18 the agency determines that disclosure of the conviction and registration information is
19 necessary for public protection. The attorney general shall develop guidelines for
20 public disclosure of offender registration information. Public disclosure may include
21 internet access if the offender:
- 22 a. Is required to register for a lifetime under subsection 8;
23 b. Has been determined to be a high risk to the public by the department, the
24 attorney general, or the courts, according to guidelines developed by those
25 agencies; or
26 c. Has been determined to be a high risk to the public by an agency of another state
27 or the federal government.
- 28 If the offender has been determined to be a moderate risk, public disclosure must
29 include, at a minimum, notification of the offense to the victim registered under chapter
30 12.1-34 and to any agency, civic organization, or group of persons who have
31 characteristics similar to those of a victim of the offender. Upon request, law

- 1 enforcement agencies may release conviction and registration information regarding
2 low-risk, moderate-risk, or high-risk offenders.
- 3 15. A state officer, law enforcement agency, or public school district or governing body of a
4 nonpublic school or any appointee, officer, or employee of those entities is not subject
5 to civil or criminal liability for making risk determinations, allowing a sexual offender to
6 attend a school function under section 12.1-20-25, or for disclosing or for failing to
7 disclose information as permitted by this section.
- 8 16. If a juvenile is adjudicated delinquent and required or ordered to register as a sexual
9 offender or as an offender against a child under this section, the juvenile shall comply
10 with the registration requirements in this section. Notwithstanding any other provision
11 of law, a law enforcement agency shall register a juvenile offender in the same manner
12 as adult offenders and may release any relevant and necessary information on file to
13 other law enforcement agencies, the department of health and human services, or the
14 public if disclosure is necessary to protect public health or safety. The law enforcement
15 agency shall release any relevant and necessary information on file to the
16 superintendent or principal of the school the juvenile attends. The school
17 administration shall notify others in similar positions if the juvenile transfers to another
18 learning institution in or outside the state.
- 19 17. If an individual has been required to register as a sexual offender or an offender
20 against a child under section 12.1-32-15 or former section 27-20-52.1 before August 1,
21 1999, the individual may petition the court to be removed from the offender list if
22 registration is no longer mandatory for that individual. In considering the petition, the
23 court shall comply with the requirements of this section.
- 24 18. A sexual offender who is currently assigned a moderate or high-risk level by the
25 attorney general may not use a state park of this state as a residence or residential
26 address to comply with the registration requirements of this section. Before arriving at
27 a state park for overnight lodging or camping, a sexual offender who is assigned a
28 moderate or high-risk level by the attorney general shall notify a parks and recreation
29 department law enforcement officer at the state park where the sexual offender will be
30 staying.

- 1 19. When an individual who is required to register pursuant to this section plans to travel
2 outside of the United States, at least twenty-one days before the intended travel, the
3 individual shall inform the agency with which the individual last registered the
4 individual's residence address the details of the intended travel. Upon receipt of the
5 information from the registering law enforcement agency, the attorney general shall
6 report the travel to the United States marshal service.