

**FIRST ENGROSSMENT**

**ENGROSSED SENATE BILL NO. 2037**

Introduced by

Legislative Management

(Juvenile Justice Committee)

1 A BILL for an Act to create and enact three new sections to chapter 27-20.4 of the North Dakota  
2 Century Code, relating to juvenile court petitions, fitness to proceed in juvenile court  
3 proceedings, and collateral consequences the juvenile court may order; to amend and reenact  
4 sections 12.1-04.1-01, 12.1-04.1-20, and 12.1-17-01.2, subsection 2 of section 12.1-17-07.2,  
5 section 12.1-20-01, subsections 2 and 6 of section 12.1-31-03, sections 12.1-32-15 and  
6 15.1-09-33.4, subsection 3 of section 27-20.2-09, subsection 5 of section 27-20.4-11,  
7 subsection 1 of section 27-20.4-18, subsection 1 of section 27-20.4-20, and section 62.1-02-01  
8 of the North Dakota Century Code, relating to lack of criminal responsibility, court jurisdiction,  
9 distribution of intimate images without consent, domestic violence, criminality of a child  
10 regarding sex offenses, sale and use of tobacco by an individual under the age of twenty-one,  
11 child registration requirements, restitution, probation of a delinquent child, extracurricular  
12 activities for students, and persons not allowed to possess a firearm; to repeal sections  
13 27-20.4-12, 27-20.4-13, and 27-20.4-19 of the North Dakota Century Code, relating to  
14 delinquency; and to provide a penalty.

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

16 **SECTION 1. AMENDMENT.** Section 12.1-04.1-01 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18 **12.1-04.1-01. Standard for lack of criminal responsibility.**

19 1. An individual is not criminally responsible for criminal conduct if, as a result of mental  
20 disease or defect existing at the time the conduct occurs:

- 1           a.    The individual lacks substantial capacity to comprehend the harmful nature or
- 2                    consequences of the conduct, or the conduct is the result of a loss or serious
- 3                    distortion of the individual's capacity to recognize reality; and
- 4           b.    It is an essential element of the crime charged that the individual act willfully.
- 5        2.    For purposes of this chapter, repeated criminal or similar antisocial conduct, or
- 6                    impairment of mental condition caused primarily by voluntary use of alcoholic
- 7                    beverages or controlled substances immediately before or contemporaneously with
- 8                    the alleged offense, does not constitute in itself mental illness or defect at the time of
- 9                    the alleged offense. Evidence of the conduct or impairment may be probative in
- 10                   conjunction with other evidence to establish mental illness or defect.
- 11        3.    An individual ten years of age or older may be assessed for criminal responsibility
- 12                   under this chapter.

13        **SECTION 2. AMENDMENT.** Section 12.1-04.1-20 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15        **12.1-04.1-20. Jurisdiction of court.**

- 16        1.    Unless earlier discharged by order of the court pursuant to section 12.1-04.1-22,
- 17                    12.1-04.1-24, or 12.1-04.1-25, an individual found not guilty by reason of lack of
- 18                    criminal responsibility is subject to the jurisdiction of the court for a period equal to the
- 19                    maximum term of imprisonment that could have been imposed for the most serious
- 20                    crime of which the individual was charged but found not guilty by reason of lack of
- 21                    criminal responsibility. In a juvenile proceeding, a child not adjudicated by reason of
- 22                    lack of criminal responsibility is subject to the jurisdiction of the court for one year.
- 23        2.    Upon expiration of its jurisdiction under this chapter or earlier discharge by its order,
- 24                    the court may order that a proceeding for involuntary commitment be initiated pursuant
- 25                    to chapter 25-03.1. In a juvenile proceeding, the court may order an investigation into
- 26                    whether a child in need of protection proceedings should be initiated.

27        **SECTION 3. AMENDMENT.** Section 12.1-17-01.2 of the North Dakota Century Code is  
28 amended and reenacted as follows:

29        **12.1-17-01.2. Domestic violence.**

- 30        1.    For purposes of this section "family or household member" means family or household
- 31                    member as defined in section 14-07.1-01.

- 1       2. A person is guilty of an offense if that person willfully causes:
  - 2           a. Bodily injury to the actor's family or household member;
  - 3           b. Substantial bodily injury to the actor's family or household member; or
  - 4           c. Serious bodily injury to the actor's family or household member.
- 5       3. The offense is:
  - 6           a. A class B misdemeanor for the first offense under subdivision a of subsection 2  
7                 and a class A misdemeanor for a second or subsequent offense under this  
8                 section or sections 12.1-17-01, 12.1-17-01.1, or 12.1-17-02 involving the  
9                 commission of domestic violence, as defined in section 14-07.1-01. For purposes  
10                of this subdivision, a prior conviction includes a conviction of any assault offense  
11                in which a finding of domestic violence was made under a law or ordinance of  
12                another state which is equivalent to this section.
  - 13           b. A class A misdemeanor for an offense under subdivision b of subsection 2 and a  
14                class C felony for an offense under subdivision c of subsection 2.
  - 15           c. A class B felony for an offense under subdivision b or c of subsection 2 if the  
16                victim is under twelve years of age.
- 17       4. A person charged with an offense under this section must be prosecuted in district  
18        court.
- 19       5. This section does not apply to an individual under the age of eighteen unless the:
  - 20           a. Victim is or was in a dating relationship with the individual; or
  - 21           b. Individual has a child in common with the victim.

22       **SECTION 4. AMENDMENT.** Subsection 2 of section 12.1-17-07.2 of the North Dakota  
23 Century Code is amended and reenacted as follows:

- 24       2. A person commits the offense of distribution of intimate images if the person knowingly  
25        or intentionally distributes to any third party any intimate image of an individual  
26        ~~eighteen years of age or older~~, if:
  - 27           a. The person knows that the depicted individual has not given consent to the  
28                person to distribute the intimate image;
  - 29           b. The intimate image was created by or provided to the person under  
30                circumstances in which the individual has a reasonable expectation of privacy;  
31                and

- 1           c. Actual emotional distress or harm is caused to the individual as a result of the  
2           distribution under this section.

3           **SECTION 5. AMENDMENT.** Section 12.1-20-01 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5           **12.1-20-01. General provisions.**

6           In sections 12.1-20-03 through 12.1-20-08:

- 7           1. When ~~the criminality of conduct~~ depends on a child's child being below the age of  
8           fifteen, it is no defense that the actor did not know the child's age, or reasonably  
9           believed the child to be older than fourteen.
- 10          2. When criminality depends on the victim being a minor, it is an affirmative defense that  
11          the actor reasonably believed the victim to be an adult.
- 12          3. When criminality depends on the victim being a minor fifteen years of age or older, the  
13          actor is guilty of an offense only if the actor is at least three years older than the minor.
- 14          4. When criminality depends on the victim being below the age of fifteen, and the actor is  
15          a minor, the actor is guilty of an offense only if the actor is at least three years older  
16          than the victim.

17          **SECTION 6. AMENDMENT.** Subsection 2 of section 12.1-31-03 of the North Dakota  
18 Century Code is amended and reenacted as follows:

- 19          2. It is a noncriminal offense for an individual ~~under twenty-one~~ eighteen to twenty years  
20          of age, and an infraction for an individual fourteen to seventeen years of age, to  
21          purchase, possess, smoke, or use cigarettes, cigars, cigarette papers, snuff, tobacco  
22          in any other form in which it may be utilized for smoking or chewing, electronic  
23          smoking devices, or alternative nicotine products. However, an individual under  
24          twenty-one years of age may purchase and possess tobacco, electronic smoking  
25          devices, or alternative nicotine products as part of a compliance survey program when  
26          acting with the permission of the individual's parent or guardian and while acting under  
27          the supervision of any law enforcement authority. A state agency, city, county, board of  
28          health, tobacco, electronic smoking devices, or alternative nicotine products retailer, or  
29          association of tobacco, electronic smoking devices, or alternative nicotine products  
30          retailers may also conduct compliance surveys, after coordination with the appropriate  
31          local law enforcement authority.

1       **SECTION 7. AMENDMENT.** Subsection 6 of section 12.1-31-03 of the North Dakota  
2 Century Code is amended and reenacted as follows:

3       6. An individual fourteen years of age or older but under eighteen years of age found to  
4 have violated subsection 2 or 4 ~~must pay a fee of twenty-five dollars~~has committed an  
5 infraction and must be sent to juvenile court. An individual eighteen years of age or  
6 older found to have violated subsection 2 or 4 must pay a fee of twenty-five dollars.

7       a. Any individual who has been cited for a violation of subsection 2 or 4 may appear  
8 before a court of competent jurisdiction and pay the fee by the time scheduled for  
9 a hearing, or if bond has been posted, may forfeit the bond by not appearing at  
10 the scheduled time. An individual appearing at the time scheduled in the citation  
11 may make a statement in explanation of that individual's action and the judge  
12 may waive, reduce, or suspend the fee or bond, or both. If the individual cited  
13 follows the procedures of this subdivision, that individual has admitted the  
14 violation and has waived the right to a hearing on the issue of commission of the  
15 violation. The bond required to secure appearance before the court must be  
16 identical to the fee. This subdivision does not allow a citing officer to receive the  
17 fee or bond.

18       b. If an individual cited for a violation of subsection 2 or 4 does not choose to follow  
19 the procedures provided under subdivision a, that individual may request a  
20 hearing on the issue of the commission of the violation cited. The hearing must  
21 be held at the time scheduled in the citation or at some future time, not to exceed  
22 ninety days later, set at that first appearance. At the time of a request for a  
23 hearing on the issue on commission of the violation, the individual cited shall  
24 deposit with the court an appearance bond equal to the fee for the violation cited.

25       c. The failure to post bond or to pay an assessed fee is punishable as a contempt of  
26 court, except an individual may not be imprisoned for the contempt.

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

29       **12.1-32-15. Offenders against children and sexual offenders - Sexually violent**  
30 **predators - Registration requirement - Penalty.**

31       1. As used in this section:

- 1           a. "A crime against a child" means a violation of chapter 12.1-16, section  
2           12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04,  
3           subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01,  
4           12.1-18-02, 12.1-18-05, chapter 12.1-29, or section 14-09-22, subsection 3 of  
5           section 12.1-41-02, subsection 3 of section 12.1-41-03, or an equivalent offense  
6           from another court in the United States, a tribal court, or court of another country,  
7           in which the victim is a minor or is otherwise of the age required for the act to be  
8           a crime or an attempt or conspiracy to commit these offenses.
- 9           b. "Department" means the department of corrections and rehabilitation.
- 10          c. "Homeless" means an individual who is physically present in this state, but is  
11          living in a park, under a bridge, on the streets, in a vehicle or camper, or is  
12          otherwise without a traditional dwelling, and also one who resides in this state but  
13          does not maintain a permanent address. The term does not include individuals  
14          who are temporarily domiciled or individuals residing in public or private shelters  
15          that provide temporary living accommodations.
- 16          d. "Mental abnormality" means a congenital or acquired condition of an individual  
17          that affects the emotional or volitional capacity of the individual in a manner that  
18          predisposes that individual to the commission of criminal sexual acts to a degree  
19          that makes the individual a menace to the health and safety of other individuals.
- 20          e. "Predatory" means an act directed at a stranger or at an individual with whom a  
21          relationship has been established or promoted for the primary purpose of  
22          victimization.
- 23          f. "Reside" means to live permanently or be situated for a considerable time in a  
24          home or a particular place.
- 25          g. "Sexual offender" means a person who has pled guilty to or been found guilty,  
26          including juvenile delinquent adjudications, of a violation of section 12.1-20-03,  
27          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,  
28          12.1-20-07 except for subdivision a of subsection 1, 12.1-20-11, 12.1-20-12.1,  
29          12.1-20-12.2, 12.1-20-12.3 except for subdivision a of subsection 1 and  
30          subdivision b of subsection 1 if the offense involves only a demand for money,  
31          chapter 12.1-27.2, ~~subsection 2 of section 12.1-22-03.1~~, subdivision b of

1 subsection 1 of section 12.1-41-02, section 12.1-41-04, 12.1-41-05, or  
2 12.1-41-06, or an equivalent offense from another court in the United States, a  
3 tribal court, or court of another country, or an attempt or conspiracy to commit  
4 these offenses.

5 h. "Sexually dangerous individual" means an individual who meets the definition  
6 specified in section 25-03.3-01.

7 i. "Temporarily domiciled" means staying or being physically present in this state for  
8 more than thirty days in a calendar year or at a location for longer than ten  
9 consecutive days, attending school for longer than ten days, or maintaining  
10 employment in the jurisdiction for longer than ten days, regardless of the state of  
11 the residence.

12 2. The court shall impose, in addition to any penalty provided by law, a requirement that  
13 the individual register, within three days of coming into a county in which the individual  
14 resides, is homeless, or within the period identified in this section that the individual  
15 becomes temporarily domiciled. The individual must register with the chief of police of  
16 the city of the individual's place of residence, or the sheriff of the county if the  
17 individual resides in an area other than a city. A homeless individual shall register  
18 every three days with the sheriff or chief of police of the jurisdiction in which the  
19 individual is physically present. The court shall require an individual to register by  
20 stating this requirement on the court records, if that individual:

21 a. Has pled guilty or nolo contendere to, or been found guilty as a felonious sexual  
22 offender or an attempted felonious sexual offender, ~~including juvenile delinquent~~  
23 ~~adjudications of equivalent offenses unless the offense is listed in subdivision e.~~

24 b. Has pled guilty or nolo contendere to, or been found guilty as a sexual offender  
25 for, a misdemeanor or attempted misdemeanor. The court may deviate from  
26 requiring an individual to register if the court first finds the individual is no more  
27 than three years older than the victim if the victim is a minor, the individual has  
28 not previously been convicted as a sexual offender or of a crime against a child,  
29 and the individual did not exhibit mental abnormality or predatory conduct in the  
30 commission of the offense.

- 1           c. ~~Is a juvenile found delinquent under subdivision d of subsection 1 of section~~  
2           ~~12.1-20-03, subdivision a of subsection 2 of section 12.1-20-03, or as a sexual~~  
3           ~~offender for a misdemeanor. The court may deviate from requiring the juvenile to~~  
4           ~~register if the court first finds the juvenile has not previously been convicted as a~~  
5           ~~sexual offender or for a crime against a child, and the juvenile did not exhibit~~  
6           ~~mental abnormality or predatory conduct in the commission of the offense.~~
- 7           d. Has pled guilty or nolo contendere to, or been found guilty of, a crime against a  
8           child or an attempted crime against a child, ~~including juvenile delinquent~~  
9           ~~adjudications of equivalent offenses.~~ Except if the offense is described in section  
10           12.1-29-02, or section 12.1-18-01 or 12.1-18-02 and the person is not the parent  
11           of the victim, the court may deviate from requiring an individual to register if the  
12           court first finds the individual has not previously been convicted as a sexual  
13           offender or for a crime against a child, and the individual did not exhibit mental  
14           abnormality or predatory conduct in the commission of the offense.
- 15           e.d. Has pled guilty or nolo contendere, or been found guilty, ~~or been adjudicated~~  
16           ~~delinquent~~ of any crime against another individual which is not otherwise  
17           specified in this section if the court determines that registration is warranted by  
18           the nature of the crime and therefore orders registration for the individual. If the  
19           court orders an individual to register as an offender under this section, the  
20           individual shall comply with all of the registration requirements in this chapter.
- 21           e. Is a child who has been adjudicated delinquent of an offense which would classify  
22           the child as a sexual offender, the prosecutor requested the court to consider  
23           sexual offender registration, and the court determines the child:
- 24           (1) Exhibited a mental abnormality or predatory conduct in the commission of  
25           the offense; or
- 26           (2) Previously has been adjudicated as a sexual offender.
- 27           3. If a court has not ordered an individual to register in this state, an individual who  
28           resides, is homeless, or is temporarily domiciled in this state shall register if the  
29           individual:
- 30           a. Is incarcerated or is on probation or parole after July 31, 1995, for a crime  
31           against a child described in section 12.1-29-02, or section 12.1-18-01 or



- 1                   12.1-18-02 if the individual was not the parent of the victim, or as a sexual  
2                   offender;
- 3                   b.   Has pled guilty or nolo contendere to, ~~or been adjudicated for or found guilty of,~~  
4                   an offense in a court of this state for which registration is mandatory under this  
5                   section or an offense from another court in the United States, a tribal court, or  
6                   court of another country equivalent to those offenses set forth in this section; or
- 7                   c.   Has pled guilty or nolo contendere to, or has been found guilty of, a crime against  
8                   a child or as a sexual offender for which registration is mandatory under this  
9                   section if the conviction occurred after July 31, 1985.
- 10                  4.   In its consideration of mental abnormality or predatory conduct, the court shall  
11                  consider the age of the offender, the age of the victim, the difference in ages of the  
12                  victim and offender, the circumstances and motive of the crime, the relationship of the  
13                  victim and offender, and the mental state of the offender. The court may order an  
14                  offender to be evaluated by a qualified counselor, psychologist, or physician before  
15                  sentencing. Except as provided under subdivision ed of subsection 2, the court shall  
16                  state on the record in open court its affirmative finding for not requiring an offender to  
17                  register.
- 18                  5.   When an individual is required to register under this section, the official in charge of a  
19                  facility or institution where the individual required to register is confined, or the  
20                  department, shall, before the discharge, parole, or release of that individual, inform the  
21                  individual of the duty to register pursuant to this section. The official or the department  
22                  shall require the individual to read and sign a form as required by the attorney general,  
23                  stating that the duty of the individual to register has been explained to that individual.  
24                  The official in charge of the place of confinement, or the department, shall obtain the  
25                  address where the individual expects to reside, attend school, or work upon discharge,  
26                  parole, or release and shall report the address to the attorney general. The official in  
27                  charge of the place of confinement, or the department, shall give three copies of the  
28                  form to the individual and shall send three copies to the attorney general no later than  
29                  forty-five days before the scheduled release of that individual. The attorney general  
30                  shall forward one copy to the law enforcement agency having jurisdiction where the  
31                  individual expects to reside, attend school, or work upon discharge, parole, or release,

1           one copy to the prosecutor who prosecuted the individual, and one copy to the court in  
2           which the individual was prosecuted. All forms must be transmitted and received by  
3           the law enforcement agency, prosecutor, and court thirty days before the discharge,  
4           parole, or release of the individual.

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

17          7. Registration consists of a written or electronic statement signed by the individual,  
18          giving the information required by the attorney general, and the biometric data and  
19          photograph of the individual. An individual who is not required to provide a sample of  
20          blood and other body fluids under section 31-13-03 or by the individual's state or court  
21          of conviction or adjudication shall submit a sample of blood and other body fluids for  
22          inclusion in a centralized database of DNA identification records under section  
23          31-13-05. The collection, submission, testing and analysis of, and records produced  
24          from, samples of blood and other body fluids, are subject to chapter 31-13. Evidence  
25          of the DNA profile comparison is admissible in accordance with section 31-13-02. A  
26          report of the DNA analysis certified by the state crime laboratory is admissible in  
27          accordance with section 31-13-05. A district court shall order an individual who refuses  
28          to submit a sample of blood or other body fluids for registration purposes to show  
29          cause at a specified time and place why the individual should not be required to  
30          submit the sample required under this subsection. Within three days after registration,  
31          the registering law enforcement agency shall forward the statement, biometric data,

1 and photograph to the attorney general and shall submit the sample of the individual's  
2 blood and body fluids to the state crime laboratory. If an individual required to register  
3 under this section has a change in vehicle or computer online identity, the individual  
4 shall register, within three days after the change, with the law enforcement agency  
5 having local jurisdiction of the individual's place of residence of the individual's new  
6 vehicle or computer online identity. If an individual required to register pursuant to this  
7 section has a change in name, school, or residence or employment address, that  
8 individual shall register, at least ten days before the change, with the law enforcement  
9 agency having local jurisdiction of the individual's place of residence of the individual's  
10 new name, school, residence address, or employment address. A change in school or  
11 employment address includes the termination of school or employment for which an  
12 individual required to register under this section, the individual shall register within  
13 three days of the termination with the law enforcement agency having local jurisdiction  
14 of the individual's place of residence. The law enforcement agency, within three days  
15 after receipt of the information, shall forward it to the attorney general. The attorney  
16 general shall forward the appropriate registration data to the law enforcement agency  
17 having local jurisdiction of the new place of residence, school, or employment. Upon a  
18 change of address, the individual required to register also shall register within three  
19 days at the law enforcement agency having local jurisdiction of the new place of  
20 residence. If an individual required to register in North Dakota, including in a tribal  
21 registry, resides in another state or on tribal lands, that individual shall register  
22 employment and school addresses and any changes in required registration  
23 information with the law enforcement agency having local jurisdiction over the school  
24 or employment address. The individual registering under this section shall periodically  
25 confirm the information required under this subsection in a manner and at an interval  
26 determined by the attorney general. A law enforcement agency that has previously  
27 registered an offender may omit the biometric data portion of the registration if that  
28 agency has a set of biometric data on file for that individual and is personally familiar  
29 with and can visually identify the offender. These provisions also apply in any other  
30 state that requires registration.

- 1           8. An individual required to register under this section shall comply with the registration  
2 requirement for the longer of the following periods:
- 3           a. A period of fifteen years after the date of sentence or order deferring or  
4 suspending sentence upon a plea or finding of guilt or after release from  
5 incarceration, whichever is later;
- 6           b. A period of twenty-five years after the date of sentence or order deferring or  
7 suspending sentence upon a plea or finding of guilt or after release from  
8 incarceration, whichever is later, if the offender is assigned a moderate risk by the  
9 attorney general as provided in subsection 12; or
- 10          c. For the life of the individual, if that individual:
- 11           (1) On two or more occasions has pled guilty or nolo contendere to, or been  
12 found guilty of a crime against a child or as a sexual offender. If all qualifying  
13 offenses are misdemeanors, this lifetime provision does not apply unless a  
14 qualifying offense was committed after August 1, 1999;
- 15           (2) Pleads guilty or nolo contendere to, or is found guilty of, an offense  
16 committed after August 1, 1999, which is described in subdivision a of  
17 subsection 1 of section 12.1-20-03, section 12.1-20-03.1, or subdivision d of  
18 subsection 1 of section 12.1-20-03 if the person is an adult and the victim is  
19 under age twelve, or section 12.1-18-01 if that individual is an adult other  
20 than a parent of the victim, or an equivalent offense from another court in  
21 the United States, a tribal court, or court of another country; or
- 22           (3) Is assigned a high risk by the attorney general as provided in subsection 12.
- 23          9. An individual required to register under this section who violates this section is guilty of  
24 a class C felony. The failure of a homeless individual to register as required in  
25 subsections 2 and 3 is prima facie evidence of a violation of this section. The clerk of  
26 court shall forward all warrants issued for a violation of this section to the county  
27 sheriff, who shall enter all such warrants into the national crime information center  
28 wanted person file. A court may not relieve an individual, other than a juvenile, who  
29 violates this section from serving a term of at least ninety days in jail and completing  
30 probation of one year.

- 1       10. When an individual is released on parole or probation and is required to register  
2           pursuant to this section, but fails to do so within the time prescribed, the court shall  
3           order the probation, or the parole board shall order the parole, of the individual  
4           revoked.
- 5       11. If an individual required to register pursuant to this section is temporarily sent outside  
6           the facility or institution where that individual is confined under conviction or sentence,  
7           the local law enforcement agency having jurisdiction over the place where that  
8           individual is being sent must be notified within a reasonable time period before that  
9           individual is released from the facility or institution. This subsection does not apply to  
10          any individual temporarily released under guard from the facility or institution in which  
11          that individual is confined.
- 12      12. The attorney general, with the assistance of the department and the juvenile courts,  
13          shall develop guidelines for the risk assessment of sexual offenders who are required  
14          to register, with a low-risk, moderate-risk, or high-risk level being assigned to each  
15          offender as follows:
- 16          a. The department shall conduct a risk assessment of sexual offenders who are  
17              incarcerated in institutions under the control of the department and sexual  
18              offenders who are on supervised probation. The department, in a timely manner,  
19              shall provide the attorney general any information, including the offender's level  
20              of risk and supporting documentation, concerning individuals required to be  
21              registered under this section who are about to be released or placed into the  
22              community.
- 23          b. The attorney general shall conduct a risk assessment of sexual offenders who  
24              are not under the custody or supervision of the department. The attorney general  
25              may adopt a law enforcement agency's previous assignment of risk level for an  
26              individual if the assessment was conducted in a manner substantially similar to  
27              the guidelines developed under this subsection.
- 28          c. The juvenile courts or the agency having legal custody of a juvenile shall conduct  
29              a risk assessment of juvenile sexual offenders who are required to register under  
30              this section. The juvenile courts or the agency having legal custody of a juvenile  
31              shall provide the attorney general any information, including the offender's level

1 of risk and supporting documentation, concerning juveniles required to register  
2 and who are about to be released or placed into the community.  
3 d. The attorney general shall notify the offender of the risk level assigned to that  
4 offender. An offender may request a review of that determination with the attorney  
5 general's sexual offender risk assessment committee and may present any  
6 information that the offender believes may lower the assigned risk level.

7 13. An individual assessed as a high-risk sexual offender in accordance with  
8 subsection 12, may not reside within five hundred feet [152.4 meters] of a public or  
9 nonpublic preschool or elementary, middle, or high school.

10 14. Relevant and necessary conviction and registration information must be disclosed to  
11 the public by a law enforcement agency if the individual is a moderate or high risk and  
12 the agency determines that disclosure of the conviction and registration information is  
13 necessary for public protection. The attorney general shall develop guidelines for  
14 public disclosure of offender registration information. Public disclosure may include  
15 internet access if the offender:

- 16 a. Is required to register for a lifetime under subsection 8;  
17 b. Has been determined to be a high risk to the public by the department, the  
18 attorney general, or the courts, according to guidelines developed by those  
19 agencies; or  
20 c. Has been determined to be a high risk to the public by an agency of another state  
21 or the federal government.

22 If the offender has been determined to be a moderate risk, public disclosure must  
23 include, at a minimum, notification of the offense to the victim registered under chapter  
24 12.1-34 and to any agency, civic organization, or group of persons who have  
25 characteristics similar to those of a victim of the offender. Upon request, law  
26 enforcement agencies may release conviction and registration information regarding  
27 low-risk, moderate-risk, or high-risk offenders.

28 15. A state officer, law enforcement agency, or public school district or governing body of a  
29 nonpublic school or any appointee, officer, or employee of those entities is not subject  
30 to civil or criminal liability for making risk determinations, allowing a sexual offender to

- 1 attend a school function under section 12.1-20-25, or for disclosing or for failing to  
2 disclose information as permitted by this section.
- 3 16. If a juvenile is adjudicated delinquent and required or ordered to register as a sexual  
4 offender or as an offender against a child under this section, the juvenile shall comply  
5 with the registration requirements in this section. Notwithstanding any other provision  
6 of law, a law enforcement agency shall register a juvenile offender in the same manner  
7 as adult offenders and may release any relevant and necessary information on file to  
8 other law enforcement agencies, the department of health and human services, or the  
9 public if disclosure is necessary to protect public health or safety. The law enforcement  
10 agency shall release any relevant and necessary information on file to the  
11 superintendent or principal of the school the juvenile attends. The school  
12 administration shall notify others in similar positions if the juvenile transfers to another  
13 learning institution in or outside the state.
- 14 17. If an individual has been required to register as a sexual offender or an offender  
15 against a child under section 12.1-32-15 or former section 27-20-52.1 before August 1,  
16 1999, the individual may petition the court to be removed from the offender list if  
17 registration is no longer mandatory for that individual. In considering the petition, the  
18 court shall comply with the requirements of this section.
- 19 18. A sexual offender who is currently assigned a moderate or high-risk level by the  
20 attorney general may not use a state park of this state as a residence or residential  
21 address to comply with the registration requirements of this section. Before arriving at  
22 a state park for overnight lodging or camping, a sexual offender who is assigned a  
23 moderate or high-risk level by the attorney general shall notify a parks and recreation  
24 department law enforcement officer at the state park where the sexual offender will be  
25 staying.
- 26 19. When an individual who is required to register pursuant to this section plans to travel  
27 outside of the United States, at least twenty-one days before the intended travel, the  
28 individual shall inform the agency with which the individual last registered the  
29 individual's residence address the details of the intended travel. Upon receipt of the  
30 information from the registering law enforcement agency, the attorney general shall  
31 report the travel to the United States marshal service.

1       **SECTION 9. AMENDMENT.** Section 15.1-09-33.4 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **15.1-09-33.4. Student misconduct - Prohibition against participation in extracurricular**  
4 **activities.**

5       1. The board of a school district ~~shall~~may prohibit a student from participating in any  
6 extracurricular activity if:

7       a. The student has pled guilty to or been convicted of a criminal offense and  
8 sentenced under section 12.1-32-02.1 or pled guilty or been convicted of an  
9 offense specified in subsection 1 of section 12.1-32-09.1;

10       b. The student has:

11       (1) An order prohibiting contact issued against the student at the request of  
12 another student or employee of the school under section 12.1-31.2-02;

13       (2) A disorderly conduct restraining order issued against the student at the  
14 request of another student or employee of the school under section  
15 12.1-31.2-01, except a temporary restraining order under subsection 4 of  
16 section 12.1-31.2-01; ~~or~~

17       (3) A protection order issued against the student at the request of another  
18 student or employee of the school, except a temporary protection order  
19 under section 14-07.1-03; or

20       (4) Any other order issued against the student prohibiting contact with a student  
21 or employee of the school which is signed by a district judge or a judicial  
22 referee within a delinquency or criminal case;

23       c. The principal of the school receives information pertaining to an offense or order  
24 included under this section as provided in section 27-20.2-21; or

25       d. The victim of the offense or the subject of the order notifies the principal of the  
26 offense or order.

27       2. For purposes of this section, a representative of the juvenile court system may notify  
28 the principal of a school regarding the existence of files or records of the juvenile court  
29 pertaining to a student of the school which are open to inspection by the principal  
30 under section 27-20.2-21.



1       **SECTION 10. AMENDMENT.** Subsection 3 of section 27-20.2-09 of the North Dakota  
2 Century Code is amended and reenacted as follows:

3       3.    The giving of information and advice and any conditions imposed for the conduct and  
4            control of the child may not extend beyond six months from the day commenced  
5            unless extended by the court for an additional period not to exceed six months and  
6            does not authorize the detention of the child if not otherwise permitted by this chapter.  
7            For a driving-related offense, the conditions may include a restriction on the child's  
8            driving privileges as authorized under section 27-20.4-1916 of this Act.

9       **SECTION 11.** A new section to chapter 27-20.4 of the North Dakota Century Code is  
10 created and enacted as follows:

11       **Petition.**

- 12       1.    A petition alleging delinquency under this chapter must be reviewed by the director,  
13            the court, or other person designated by the director and authorized by the court to  
14            determine whether the filing of the petition is in the best interest of the public and the  
15            child.
- 16       2.    The state's attorney shall prepare, file, and serve a petition alleging delinquent  
17            conduct on the parties. The juvenile court shall conduct an inquiry into and provide the  
18            last known address of the parents or legal guardian of the child in the referral to the  
19            state's attorney.
- 20       3.    A petition alleging delinquent conduct may not include the adult class level of the  
21            offense unless the offense level is a necessary element of the delinquent conduct.

22       **SECTION 12.** A new section to chapter 27-20.4 of the North Dakota Century Code is  
23 created and enacted as follows:

24       **Fitness to proceed - Lack of criminal responsibility.**

25       In a juvenile court proceeding involving the issue of fitness to proceed or criminal  
26 responsibility, the court shall determine whether the child:

- 27       1.    Is fit to proceed in accordance with title 27; and  
28       2.    Lacked criminal responsibility for the commission of an offense in accordance with  
29            chapter 12.1-04.1.

30       **SECTION 13. AMENDMENT.** Subsection 5 of section 27-20.4-11 of the North Dakota  
31 Century Code is amended and reenacted as follows:

- 1           5. An informal agreement may not extend beyond six months from the day the  
2           agreement was agreed upon. An extension may be granted by the court for an  
3           additional period not to exceed six months. An extension may not authorize the  
4           detention of the child if not otherwise permitted by this chapter. For a driving-related  
5           offense, the agreement may include a restriction on the child's driving privileges as  
6           allowed under section ~~27-20.4-19~~16 of this Act.

7           **SECTION 14. AMENDMENT.** Subsection 1 of section 27-20.4-18 of the North Dakota  
8 Century Code is amended and reenacted as follows:

- 9           1. A probation order entered by the court must place the child under the supervision of  
10          the director, unless the child is over eighteen years of age and the child's risk and  
11          needs require supervision by the department of corrections and rehabilitation under  
12          subsection ~~43~~ of section ~~27-20.4-15~~27-20.4-17.

13          **SECTION 15. AMENDMENT.** Subsection 1 of section 27-20.4-20 of the North Dakota  
14 Century Code is amended and reenacted as follows:

- 15          1. In addition to a child being ordered to make restitution under section  
16          ~~27-20.4-16~~27-20.4-17, a parent of a child adjudged delinquent may be ordered to  
17          make restitution on the child's behalf in an amount not exceeding five thousand  
18          dollars.

19          **SECTION 16.** A new section to chapter 27-20.4 of the North Dakota Century Code is  
20 created and enacted as follows:

21          **Collateral consequences - Registration - Firearms - Driving privileges.**

- 22          1. A child may be ordered to register as a sexual offender under section 12.1-32-15.  
23          2. A child may be prohibited from possessing a firearm in accordance with section  
24          62.1-02-01.  
25          3. If a child is adjudicated delinquent of an offense that would be a class A misdemeanor  
26          or a felony if the offense were committed by an adult, the juvenile court may suspend  
27          the child's driving privileges for a period of up to six months for the first offense, and  
28          up to one year for a second or subsequent offense. The juvenile court may order the  
29          successful completion of an appropriate driver's examination as a condition for  
30          reinstating the child's driving privileges.

- 1           a. If the juvenile court suspends a child's driving privileges, the court immediately  
2           shall take possession of the child's driver's license or permit and send a copy of  
3           the court's order to the director of the department of transportation who shall  
4           make notation of the child's suspended driving privileges.
- 5           b. The record of the child's suspension of driving privileges under this section:
- 6           (1) Must be kept confidential;  
7           (2) May not be released except to law enforcement personnel in connection  
8           with law enforcement activities; and  
9           (3) May not be disclosed to or shared with the licensing officials of any other  
10          state or jurisdiction.
- 11          c. At the end of the six-month or one-year suspension period, the director shall  
12          remove and destroy all records of the child's suspension of driving privileges  
13          under this section.
- 14          4. A child may be prohibited from participating in extracurricular activities in accordance  
15          with section 15.1-09-33.4.

16          **SECTION 17. AMENDMENT.** Section 62.1-02-01 of the North Dakota Century Code is  
17          amended and reenacted as follows:

18          **62.1-02-01. Persons who are not to possess firearms - Penalty.**

- 19          1. a. A person who has been convicted anywhere of a felony offense involving  
20                violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an  
21                equivalent felony offense of another state or the federal government is prohibited  
22                from owning a firearm or having one in possession from the date of conviction  
23                and continuing for ten years after the date of conviction or the date of release  
24                from incarceration, parole, or probation, whichever is latest.
- 25          b. A person who has been convicted anywhere of a felony offense of this or another  
26                state or the federal government not provided for in subdivision a or who has been  
27                convicted of a class A misdemeanor offense involving violence or intimidation in  
28                violation of chapters 12.1-16 through 12.1-25 or an equivalent offense of another  
29                state or the federal government and the offense was committed while using or  
30                possessing a firearm, a dangerous weapon, or, as defined in section 12.1-01-04,  
31                a destructive device or an explosive, is prohibited from owning a firearm or

1           having one in possession from the date of conviction and continuing for five years  
2           after the date of conviction or the date of release from incarceration, parole, or  
3           probation, whichever is latest.

4           c. A person who is or has ever been diagnosed and confined or committed to a  
5           hospital or other institution in this state or elsewhere by a court of competent  
6           jurisdiction, other than a person who has had the petition that provided the basis  
7           for the diagnosis, confinement, or commitment dismissed under section  
8           25-03.1-17, 25-03.1-18, or 25-03.1-19, or equivalent statutes of another  
9           jurisdiction, as a person requiring treatment as defined in section 25-03.1-02, or  
10          as a mentally deficient individual, is prohibited from purchasing a firearm or  
11          having one in possession. This limitation does not apply to a person who has not  
12          suffered from the disability for the previous three years or who has successfully  
13          petitioned for relief under section 62.1-02-01.2.

14          d. A person under the age of eighteen years may not possess a handgun except  
15          that such a person, while under the direct supervision of an adult, may possess a  
16          handgun for the purposes of firearm safety training, target shooting, or hunting.

17          e. A child who has been adjudicated delinquent of a felony offense involving  
18          violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an  
19          equivalent felony offense of another state or the federal government is prohibited  
20          from owning a firearm or having one in possession from the date of adjudication  
21          and continuing for ten years after the date of adjudication.

22          f. A child who has been adjudicated of a class A misdemeanor offense involving  
23          violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an  
24          equivalent offense of another state or the federal government, and the offense  
25          was committed while using or possessing a firearm, a dangerous weapon, a  
26          destructive device, or an explosive is prohibited from owning a firearm or having  
27          one in possession from the date of adjudication and continuing for five years after  
28          the date of adjudication.

29          A person who violates subdivision a or b is guilty of a class C felony, and a person who  
30          violates subdivision c or d is guilty of a class A misdemeanor.

- 1           2. For the purposes of this section, "conviction" means a determination that the person  
2           committed one of the above-mentioned crimes upon a verdict of guilt, a plea of guilty,  
3           or a plea of nolo contendere even though:
- 4           a. The court suspended execution of sentence in accordance with subsection 3 of  
5           section 12.1-32-02;
- 6           b. The court deferred imposition of sentence in accordance with subsection 4 of  
7           section 12.1-32-02;
- 8           c. The court placed the person on probation;
- 9           d. The person's conviction has been reduced in accordance with subsection 9 of  
10          section 12.1-32-02 or section 12.1-32-07.1;
- 11          e. Sentence dispositions, sentence reductions, or offense determinations equivalent  
12          to this section were imposed or granted by a court, board, agency, or law of  
13          another state or the federal government; or
- 14          f. The person committed an offense equivalent to an offense described in  
15          subdivision ~~a~~ or b or f of subsection 1 when that person was subject to juvenile  
16          adjudication or proceedings and a determination of a court under chapter 27-20.4  
17          or of a court of another state or the federal government was made that the  
18          person committed the delinquent act or offense.
- 19          3. A felon who is not sentenced under section 12.1-32-09.1 may possess a rifle that has  
20          a barrel sixteen inches [40.72 centimeters] or longer or a shotgun that has a barrel  
21          eighteen inches [45.72 centimeters] or longer and which is one of the following:
- 22          a. A firearm, including any firearm with a matchlock, flintlock, percussion cap, or  
23          similar type of ignition system, manufactured before 1899.
- 24          b. A replica of any firearm described in subdivision a, if the replica is not designed  
25          or redesigned for using rimfire or conventional centerfire fixed ammunition or  
26          uses rimfire or conventional centerfire fixed ammunition that is no longer  
27          manufactured in the United States and which is not readily available in the  
28          ordinary channels of commercial trade.
- 29          c. A muzzleloading rifle or muzzleloading shotgun designed to use black powder or  
30          a black powder substitute and which cannot use fixed ammunition.

- 1       **SECTION 18. REPEAL.** Sections 27-20.4-12, 27-20.4-13, and 27-20.4-19 of the North
- 2       Dakota Century Code are repealed.