

HOUSE BILL NO. 1328

Introduced by

Representatives Heinert, Hauck, Jonas, Meier, Wagner

Senators Larson, Schaible

1 A BILL for an Act to amend and reenact subsection 7 of section 27-20.3-01 and section
2 27-20.4-05.1 of the North Dakota Century Code, relating to the definition of custodian and
3 delinquency referrals to juvenile court.

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

5 **SECTION 1. AMENDMENT.** Subsection 7 of section 27-20.3-01 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 7. "Custodian" means a person, other than a parent or legal guardian, which stands in
8 loco parentis to the child ~~and~~, a person to which legal custody of the child has been
9 given by order of a court, or a public or nonpublic school attended by the child.

10 **SECTION 2. AMENDMENT.** Section 27-20.4-05.1 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **27-20.4-05.1. Method of making a delinquency referral to juvenile court.**

- 13 1. A referral alleging a child has committed a delinquent act may be made to the juvenile
14 court by a law enforcement officer who has reasonable grounds and knowledge of the
15 facts alleged and believes such facts are true.
- 16 2. If a child is taken into custody on the alleged delinquent act, the law enforcement
17 officer shall send the referral to the juvenile court within twenty-four hours after the
18 time in which the minor is taken into custody under section 27-20.4-05.
- 19 3. A child who commits an infraction or misdemeanor offense on school property may not
20 be referred to the juvenile court unless school interventions have been unsuccessful
21 and documentation ~~is of internal or external consultations are~~ included with the referral
22 indicating which interventions or educational approaches were attempted. A school
23 shall exhaust all school discipline policies before referring a child to juvenile court.

- 1 a. A school is not required to engage in interventions before referring a case for the
2 following misdemeanor offenses:
- 3 (1) Drug-related offenses under title 19;
4 (2) Offenses against a person under chapter 12.1-17, 12.1-31.2, or 14-07.1;
5 (3) Sex offenses under chapters 12.1-20, 12.1-27.1, 12.1-27.2, and 12.1-29;
6 and
7 (4) Any offense involving a firearm, weapon, or dangerous weapon as defined
8 in section 62.1-01-01.
- 9 b. A law enforcement officer may:
- 10 (1) Investigate possible delinquent offenses and conduct occurring at a school,
11 including conducting probable cause searches;
12 (2) Consult with school staff about the conduct of a child enrolled in a school;
13 (3) Refer a child to the juvenile court for a delinquent offense occurring on
14 school grounds or on school property as allowed by this section;
15 (4) Transport a child enrolled in a school to a location permitted by law;
16 (5) Take temporary custody of a child in accordance with section 27-20.4-05 or
17 protective custody of a child in accordance with section 27-20.3-06; and
18 (6) Protect the safety of students and the school community.