

Introduced by

Senators Van Oosting, Myrdal, Paulson

Representatives Hoverson, Richter, O'Brien

1 A BILL for an Act to create and enact a new section to chapter 12.1-34 of the North Dakota  
2 Century Code, relating to the rights of sexual violence survivors.

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

4 **SECTION 1.** A new section to chapter 12.1-34 of the North Dakota Century Code is created  
5 and enacted as follows:

6 **Sexual violence survivor rights.**

7 1. As used in this section:

8 a. "Sexual assault victim advocate" means an employee of a domestic violence  
9 sexual assault organization as defined under section 14-07.1-01.

10 b. "Sexual violence survivor" means an individual who is a victim of a crime defined  
11 under section 12.1-20-03, 12.1-20-03.1, 12.1-20-04, 12.1-20-05, 12.1-20-05.1,  
12 12.1-20-06, 12.1-20-06.1, 12.1-20-07, 12.1-20-11, or 12.1-20-12.3 and, if the  
13 survivor is incompetent or deceased, the parent, guardian, spouse, or any other  
14 individual related to the victim by affinity to the second degree, or any other lawful  
15 representative of the victim. The term does not include an alleged assailant.

16 2. In addition to the rights provided under section 12.1-34-02, a sexual violence survivor  
17 must be afforded the following rights.

18 a. The right to consult with a sexual assault victim advocate during any medical,  
19 evidentiary, or physical examination, unless the advocate is not available in a  
20 timely manner. A survivor's:

21 (1) Communication with a sexual assault victim advocate is privileged, unless  
22 waived by the survivor; and

23 (2) Waiver of the right to a sexual assault victim advocate is privileged.

- 1           b. The right to the presence of privately retained counsel when speaking with law  
2           enforcement regarding the alleged assault, unless:  
3           (1) Counsel is not available in a timely manner; or  
4           (2) Law enforcement is conducting a forensic interview with an alleged child  
5           victim.
- 6           c. The right to access the law enforcement report prepared for the survivor's case,  
7           unless:  
8           (1) The survivor is a minor; or  
9           (2) Providing access would hinder the investigation.
- 10          d. The right to a document prepared by the attorney general explaining the rights of  
11          domestic violence survivors under this section and other relevant law. The rights  
12          document must be provided by a medical provider or law enforcement officer  
13          upon initial contact with the survivor. The document must include:  
14          (1) Notice that a survivor is not required to participate in a criminal investigation,  
15          or in a medical, evidentiary, or physical examination to retain rights;  
16          (2) Information on how to obtain results of a medical, evidentiary, or physical  
17          examination;  
18          (3) Contact information on rape crisis centers, victim advocates, and other  
19          resources; and  
20          (4) Information on forms of protection available to survivors, including, civil and  
21          criminal protection orders.