

CRIMINAL CODE

CHAPTER 120

HOUSE BILL NO. 1417

(Representatives Klemin, Stemen, Hanson)
(Senators Davison, Larson)

AN ACT to amend and reenact sections 12-59-15 and 12.1-01-04, subdivision b of subsection 3 of section 12.1-22-01, and sections 12.1-32-07, 12.1-32-08, and 29-07-01.1 of the North Dakota Century Code, relating to parole and probation violations and court fees; to provide for a legislative management study; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12-59-15 of the North Dakota Century Code is amended and reenacted as follows:

12-59-15. Breach of parole - Hearings - Order of recommitment.

1. When it is alleged that a parolee has violated any of the terms or conditions of parole established by the parole board or by the department of corrections and rehabilitation, the director of the department of corrections and rehabilitation may issue a warrant for the arrest of the parolee.
2. Upon issuance of a warrant of arrest for a parole violation, the running of the time period of parole must be suspended until the parole board issues a final order under this section. The parolee is entitled to credit for time spent in physical custody from the time of arrest until the time the parole board issues a final order.
3. The parolee is entitled to a preliminary hearing, as promptly as is convenient after the arrest and reasonably near the place of the alleged violation or arrest, to determine whether there is probable cause to find that the parolee violated any of the terms and conditions of parole established by the board or by the department of corrections and rehabilitation.
4. The preliminary hearing must be conducted before the director of the department of corrections and rehabilitation or other hearing officer authorized by the director. The preliminary hearing must be conducted by a disinterested hearing officer not directly involved in the supervision of the parolee or by the person bringing the allegation of a parole violation.
5. If the hearing officer determines there is probable cause to find that the parolee has violated any of the terms and conditions of parole established by the board or by the department of corrections and rehabilitation, the board may redetermine the time remaining in the period of parole to reflect any portion of the period during which the parolee was not under supervision or not in the custody of law enforcement personnel in the state.

6. If the hearing officer determines there is probable cause to find that the parolee has violated any of the terms and conditions of parole established by the board or by the department of corrections and rehabilitation, the parolee must be returned to the physical custody of the department of corrections and rehabilitation, transferred to another correctional facility or the state hospital, or released from actual custody pursuant to such terms and conditions as may be established by the parole board or the department of corrections and rehabilitation, pending a final revocation hearing before the parole board. If the board determines at the final revocation hearing that the parolee has violated any of the terms and conditions of parole established by the board or by the department of corrections and rehabilitation, ~~if the board~~ may order ~~that~~ the parolee be recommitted to the physical custody of the department of corrections and rehabilitation to serve all or part of the remaining time of the sentence that has not been served in custody.
7. At any hearing pursuant to this section a record must be made and the parolee shall have:
 - a. Written notice of the purpose of the hearing and the alleged violations.
 - b. The opportunity to be heard in person and present witnesses and documentary evidence.
 - c. The opportunity to confront and cross-examine adverse witnesses, unless the hearing officer determines that confrontation would create a risk of harm to the witness.
 - d. A written statement as to the reasons for the decision.
8. ~~When~~If the board determines the parolee has absconded, as defined in section 12.1-01-04, from supervision, the board may order the parolee to pay the costs of being returned to the board. Moneys recovered under this subsection must be remitted to the department of corrections and rehabilitation.

SECTION 2. AMENDMENT. Section 12.1-01-04 of the North Dakota Century Code is amended and reenacted as follows:

12.1-01-04. General definitions.

As used in this title, unless a different meaning plainly is required:

1. "Absconded" means when a probationer, parolee, participant in a pretrial services program, or participant in a prosecution-led diversion program willfully avoids supervision by making their whereabouts unknown or fails to report to a supervising authority.
2. "Act" or "action" means a bodily movement, whether voluntary or involuntary.
- ~~2-3.~~ "Acted", "acts", and "actions" include, where relevant, "omitted to act" and "omissions to act".
- ~~3-4.~~ "Actor" includes, where relevant, a person guilty of an omission.
- ~~4-5.~~ "Bodily injury" means any impairment of physical condition, including physical pain.

- ~~5-6.~~ "Court" means any of the following courts: the supreme court, a district court, and where relevant, a municipal court.
- ~~6-7.~~ "Dangerous weapon" includes any switchblade or gravity knife, machete, scimitar, stiletto, sword, or dagger; any billy, blackjack, sap, bludgeon, cudgel, metal knuckles, or sand club; any slingshot; any bow and arrow, crossbow, or spear; any weapon that will expel, or is readily capable of expelling, a projectile by the action of a spring, compressed air, or compressed gas including any such weapon, loaded or unloaded, commonly referred to as a BB gun, air rifle, or ~~CO2~~ gun; and any projector of a bomb or any object containing or capable of producing and emitting any noxious liquid, gas, or substance.
- ~~7-8.~~ "Destructive device" means any explosive, incendiary or poison gas bomb, grenade, mine, rocket, missile, or similar device.
- ~~8-9.~~ "Explosive" means gunpowders, powders used for blasting, all forms of high explosives, blasting materials, fuses (other than electric circuit breakers), detonators and other detonating agents, smokeless powders, and any chemical compounds, mechanical mixture, or other ingredients in such proportions, quantities, or packing that ignition by fire, by friction, by concussion, by percussion, or by detonation of the compound, or material, or any part thereof may cause an explosion.
- ~~9-10.~~ "Firearm" means any weapon that will expel, or is readily capable of expelling, a projectile by the action of an explosive and includes any such weapon, loaded or unloaded, commonly referred to as a pistol, revolver, rifle, gun, machine gun, shotgun, bazooka, or cannon.
- ~~10-11.~~ "Force" means physical action.
- ~~11-12.~~ "Government" means:
- The government of this state or any political subdivision of this state;
 - Any agency, subdivision, or department of the state or any political subdivision of the state, including the executive, legislative, and judicial branches;
 - Any corporation or other entity established by law to carry on any governmental function; and
 - Any commission, corporation, or agency established by statute, compact, or contract between or among governments for the execution of intergovernmental programs.
- ~~12-13.~~ "Governmental function" includes any activity that one or more public servants are legally authorized to undertake on behalf of government.
- ~~13-14.~~ "Harm" means loss, disadvantage, or injury to the person affected, and includes loss, disadvantage, or injury to any other person in whose welfare the person affected is interested.
- ~~14-15.~~ "Included offense" means an offense:

- a. That is established by proof of the same or less than all the facts required to establish commission of the offense charged;
- b. That consists of criminal facilitation of or an attempt or solicitation to commit the offense charged; or
- c. That differed from the offense charged only in that it constitutes a less serious harm or risk of harm to the same person, property, or public interest, or because a lesser degree of culpability suffices to establish its commission.

45-16. "Includes" should be read as if the phrase "but is not limited to" were also set forth.

46-17. "Law enforcement officer" or "peace officer" means a public servant authorized by law or by a government agency or branch to enforce the law and to conduct or engage in investigations or prosecutions for violations of law.

47-18. "Local" means of or pertaining to any political subdivision of the state.

48-19. "Manifest injustice" means a specific finding by the court that the imposition of sentence is unreasonably harsh or shocking to the conscience of a reasonable individual, with due consideration of the totality of circumstances.

49-20. "Offense" means conduct for which a term of imprisonment or a fine is authorized by statute after conviction.

20-21. "Official action" includes a decision, opinion, recommendation, vote, or other exercise of discretion by any government agency.

24-22. "Official proceeding" means a proceeding heard or which may be heard before any government agency or branch or public servant authorized to take evidence under oath, including any referee, hearing examiner, commissioner, notary, or other person taking testimony or a deposition in connection with any such proceeding.

22-23. "Omission" means a failure to act.

23-24. As used in this title and in sections outside this title which define offenses, "person" includes, where relevant, a corporation, limited liability company, partnership, unincorporated association, or other legal entity. When used to designate a party whose property may be the subject of action constituting an offense, the word "person" includes a government that may lawfully own property in this state.

24-25. "Political subdivision" as used in this title and in any statute outside this title which defines an offense means a county, city, school district, township, and any other local governmental entity created by law.

25-26. "Possesses" means an individual has:

- a. Direct physical control of something on or around the individual's person;
or

- b. The power and intention to exercise control over something accessible to but not on or around the individual's person.

~~26-27.~~ "Public servant" as used in this title and in any statute outside this title which defines an offense means any officer or employee of government, including law enforcement officers, whether elected or appointed, and any person participating in the performance of a governmental function. The term does not include witnesses.

~~27-28.~~ "Responsivity factors" means characteristics of an individual which affect the individual's ability to respond favorably or unfavorably to a treatment goal.

~~29.~~ "Risk assessment" means an initial phase with a secondary process approved by the department of health and human services for the evaluation of the likelihood a person that committed an offense will commit another similar offense; a validated, standardized actuarial tool used to identify potential risk factors that increase the likelihood an individual will reoffend and responsivity factors that, when addressed, reduce the likelihood an individual will reoffend. The initial phase is an assessment tool that is administered by a trained probation and parole officer or corrections professional. A predetermined score on the initial phase initiates the secondary process, approved by the department of health and human services, that includes may include a clinical interview, psychological testing, and verification through collateral information or psychophysiological testing, or both. The department of health and human services shall perform the secondary process of the risk assessment.

~~28-30.~~ "Serious bodily injury" means bodily injury that creates a substantial risk of death or which causes serious permanent disfigurement, unconsciousness, extreme pain, permanent loss or impairment of the function of any bodily member or organ, a bone fracture, or impediment of air flow or blood flow to the brain or lungs.

~~29-31.~~ "Signature" includes any name, mark, or sign written or affixed with intent to authenticate any instrument or writing.

~~30-32.~~ "Substantial bodily injury" means a substantial temporary disfigurement, loss, or impairment of the function of any bodily member or organ.

~~31-33.~~ "Thing of value" or "thing of pecuniary value" means a thing of value in the form of money, tangible or intangible property, commercial interests, or anything else the primary significance of which is economic gain to the recipient.

~~32-34.~~ "Tier 1 mental health professional" has the same meaning as provided under section 25-01-01.

SECTION 3. AMENDMENT. Subdivision b of subsection 3 of section 12.1-22-01 of the North Dakota Century Code is amended and reenacted as follows:

- b. "Dangerous weapon" means a weapon defined in ~~subsection 6 of~~ section 12.1-01-04 or a weapon the possession of which under the circumstances indicates an intent or readiness to inflict serious bodily injury.

SECTION 4. AMENDMENT. Section 12.1-32-07 of the North Dakota Century Code is amended and reenacted as follows:

12.1-32-07. Supervision of probationer - Conditions of probation - Revocation.

1. When the court imposes probation upon conviction for a felony offense subject to section 12.1-32-09.1 or 12.1-32-02.1, a second or subsequent violation of section 12.1-17-07.1, a second or subsequent violation of any domestic violence protection order, a violation of chapter 12.1-41, a violation of section 14-09-22, or a felony offense under chapter 39-08, the court shall place the defendant under the supervision and management of the department of corrections and rehabilitation. When the court imposes probation upon conviction or order of disposition in all other felony cases, the court may place the defendant under the supervision and management of the department of corrections and rehabilitation. In class A misdemeanor cases, the court may place the defendant under the supervision and management of the department of corrections and rehabilitation or other responsible party. In all other cases, the court may place the defendant under the supervision and management of a community corrections program other than the department of corrections and rehabilitation. A community corrections program means a program for the supervision of a defendant, including monitoring and enforcement of terms and conditions of probation set by the court.
2. ~~The conditions of probation must be such as the court in its discretion deems reasonably necessary to ensure that the defendant will lead a law abiding life or to assist the defendant to do so. The court shall provide as an explicit condition of every probation that the defendant not commit another offense during the period for which the probation remains subject to revocation. The court shall order supervision costs and fees of not less than fifty-five dollars per month unless the court makes a specific finding on record that the imposition of fees will result in an undue hardship. If the offender has not paid the full amount of supervision fees and costs before completion or termination of probation, the court may issue an order, after opportunity for hearing, to determine the amount of supervision fees and costs that are unpaid. The order may be filed, transcribed, and enforced by the department of corrections and rehabilitation in the same manner as civil judgments rendered by a district court of this state. The department of corrections and rehabilitation may administer a risk assessment for the evaluation of each defendant placed under the supervision and management of the department of corrections and rehabilitation. The results of the risk assessment may be used to set a level of supervision and management and develop an individualized case plan for the defendant. The case plan may include a list of responsivity factors and a plan to address any risk factors identified in the risk assessment.~~
3. The court shall provide as an explicit condition of every probation that the defendant may not possess a firearm, destructive device, or other dangerous weapon while the defendant is on probation. Except when the offense is a misdemeanor offense under section 12.1-17-01, 12.1-17-01.1, 12.1-17-01.2, 12.1-17-05, or 12.1-17-07.1, or chapter 14-07.1, the court may waive this condition of probation if the defendant has pled guilty to, or has been found guilty of, a misdemeanor or infraction offense, the misdemeanor or infraction is the defendant's first offense, and the court has made a specific finding on the record before imposition of a sentence or a probation that there is good cause to waive the condition. The court may not waive this condition of probation if the court places the defendant under the supervision and management of the department of corrections and rehabilitation. The court shall provide as an explicit condition of probation that the defendant may not

willfully defraud a urine test administered as a condition of probation. Unless waived on the record by the court, the court shall also provide as a condition of probation that the defendant undergo various agreed-to community constraints and conditions as intermediate measures of the department of corrections and rehabilitation to avoid revocation, which may include:

- a. Community service;
 - b. Day reporting;
 - c. Curfew;
 - d. Home confinement;
 - e. House arrest;
 - f. Electronic monitoring;
 - g. Residential halfway house;
 - h. Intensive supervision program;
 - i. Up to five nonsuccessive periods of incarceration during any twelve-month period, each of which may not exceed forty-eight consecutive hours;
 - j. Participation in the twenty-four seven sobriety program; or
 - k. One period of incarceration during a period of probation not to exceed thirty consecutive days in lieu of a petition for revocation of probation.
4. When imposing a sentence to probation, probation in conjunction with imprisonment, or probation in conjunction with suspended execution or deferred imposition of sentence, the court may impose such conditions as it deems appropriate and may include any one or more of the following:
- a. Work faithfully at a suitable employment or faithfully pursue a course of study or of career and technical education training that will equip the defendant for suitable employment.
 - b. Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose.
 - c. Attend or reside in a facility established for the instruction, recreation, or residence of persons on probation.
 - d. Support the defendant's dependents and meet other family responsibilities.
 - e. Make restitution or reparation to the victim of the defendant's conduct for the damage or injury which was sustained or perform other reasonable assigned work. When restitution, reparation, or assigned work is a condition of probation, the court shall proceed as provided in subsection 1 or 2, as applicable, of section 12.1-32-08.
 - f. Pay a fine imposed after consideration of the provisions of section 12.1-32-05.

- g. Refrain from excessive use of alcohol or any use of narcotics or of another dangerous or abusable drug without a prescription.
 - h. Permit the probation officer to visit the defendant at reasonable times at the defendant's home or elsewhere.
 - i. Remain within the jurisdiction of the court, unless granted permission to leave by the court or the probation officer.
 - j. Answer all reasonable inquiries by the probation officer and promptly notify the probation officer of any change in address or employment.
 - k. Report to a probation officer at reasonable times as directed by the court or the probation officer.
 - l. Submit to a medical examination or other reasonable testing for the purpose of determining the defendant's use of narcotics, marijuana, or other controlled substance whenever required by a probation officer.
 - m. Refrain from associating with known users or traffickers in narcotics, marijuana, or other controlled substances.
 - n. Submit the defendant's person, place of residence, or vehicle to search and seizure by a probation officer at any time of the day or night, with or without a search warrant.
 - o. Serve a term of imprisonment of up to one-half of the maximum term authorized for the offense of which the defendant was convicted.
 - p. Reimburse the costs and expenses determined necessary for the defendant's adequate defense when counsel is appointed or provided at public expense for the defendant. When reimbursement of indigent defense costs and expenses is imposed as a condition of probation, the court shall proceed as provided in subsection 4 of section 12.1-32-08.
 - q. Provide community service for the number of hours designated by the court.
 - r. Refrain from any subscription to, access to, or use of the internet.
5. When the court imposes a sentence to probation, probation in conjunction with imprisonment, or probation in conjunction with suspended execution or deferred imposition of sentence, the defendant must be given a certificate explicitly setting forth the conditions on which the defendant is being released.
6. The court, upon notice to the probationer and with good cause, may modify or enlarge the conditions of probation at any time before the expiration or termination of the period for which the probation remains conditional. If the defendant violates a condition of probation at any time before the expiration or termination of the period, the court may continue the defendant on the existing probation, with or without modifying or enlarging the conditions, or may revoke the probation and impose any other sentence that was available under section 12.1-32-02 or 12.1-32-09 at the time of initial sentencing or deferment.

7. The court may continue or modify probation conditions or revoke probation for a violation of probation conditions occurring before the expiration or termination of the period of probation notwithstanding that the order of the court is imposed after the expiration or termination has occurred. The petition for revocation must be issued within sixty days of the expiration or termination of probation.
8. Jurisdiction over a probationer may be transferred from the court that imposed the sentence to another court of this state with the concurrence of both courts. Retransfers of jurisdiction may also occur in the same manner. The court to which jurisdiction has been transferred under this subsection may exercise all powers permissible under this chapter over the defendant.
9. Notwithstanding any other provision of law, the court may authorize the defendant to assist law enforcement officers in an investigation of a criminal offense upon the terms and conditions as the court may require by written order. The court shall hold a hearing in camera before issuing an order under this subsection. The order must be sealed and is subject to inspection only upon order of the court.
10. The department of corrections and rehabilitation shall provide written notice to a defendant who is in the department's physical custody of any untried petition for revocation against the defendant of which the department has notice and of the defendant's right to make a request for final disposition of the petition.
 - a. Upon notice of an untried petition for revocation of probation, the defendant may request final disposition of the petition. The defendant's request must be in writing and name the court in which the petition for revocation of probation is pending and the prosecuting official charged with the duty of prosecuting the petition.
 - b. The defendant shall submit the request to the department. The department shall certify the term of commitment under which the defendant is being held, the time the defendant has served on the sentence, the time remaining to be served, sentence reduction credit the defendant has earned, the defendant's eligibility for parole, and whether the parole board has made a decision regarding the defendant's parole.
 - c. The department shall send by registered mail, return receipt requested, one copy of the request and certificate to the court and one copy to the prosecuting official to whom the request and certificate is addressed.
 - d. The petition for revocation of probation must be brought to the court for hearing within ninety days after the receipt of the request and certificate by the court and prosecuting official. If the petition is not brought to the court for hearing within the ninety days, the court shall dismiss the petition with prejudice.
 - e. The parties may stipulate for a continuance or the court may grant a continuance upon a showing of good cause by either party for a petition under this subsection.
 - f. If the defendant escapes from custody subsequent to the defendant's execution of a request for final disposition of a petition for revocation, the request is considered void.

³⁴ **SECTION 5. AMENDMENT.** Section 12.1-32-08 of the North Dakota Century Code is amended and reenacted as follows:

12.1-32-08. Hearing prior to ordering restitution, reparation, or reimbursement of indigent defense costs and expenses - Conditions - Collection of restitution for insufficient funds checks - Continuing appropriation.

1. The court, when sentencing a person adjudged guilty of criminal activities that have resulted in pecuniary damages, in addition to any other sentence the court may impose, shall order that the defendant make restitution to the victim or other recipient as determined by the court. Restitution must include payment to the owner of real property that is contaminated by the defendant in the manufacturing of methamphetamine for the cost of removing the contamination and returning the property to the property's condition before contamination and to any other person that has incurred costs in decontaminating the property.
2. If the court has retained jurisdiction after the sentencing hearing for claims of restitution, to make a claim for restitution, the victim shall submit information by affidavit or declaration and, as applicable, documentary evidence within the time specified in the order. The information submitted must describe the items or elements of loss, itemize the total dollar amounts of restitution claimed, and present facts and evidence sufficient to support a finding the restitution is directly related to the offense and the amount awarded. The prosecutor shall serve the defendant with a copy of the information submitted by the victim no later than sixty days following sentencing.
3. The defendant may challenge restitution but must do so by requesting a hearing within thirty days of being served with the written notification of the amount of restitution requested. The hearing request must be made in writing and filed with the court. If no hearing is requested, the court may enter a judgment ordering restitution. A defendant may not challenge restitution after the thirty-day time period has passed.
4. In determining the amount of restitution, the court shall take into account the reasonable damages sustained by the victim or victims of the criminal offense, which damages are limited to those directly related to the criminal offense and expenses actually sustained as a direct result of the defendant's criminal action. This can include an amount equal to the cost of necessary and related professional services and devices relating to physical, psychiatric, and psychological care. The defendant may be required as part of the sentence imposed by the court to pay the prescribed treatment costs for a victim of a sexual offense as defined in chapters 12.1-20 and 12.1-27.2. The court shall fix the amount of restitution or reparation and shall fix the manner of performance of any condition or conditions of probation established pursuant to this subsection. The court may order the defendant to disclose income and assets on forms developed by the state court administrator to facilitate the setting of an appropriate payment plan. The court shall order restitution be paid to the division of adult services for any benefits the division has paid or may pay to the victim under chapter 54-23.4 unless the court, on the record, directs otherwise. Any payments made pursuant to the order must be deducted from damages awarded in a civil action arising from the same incident.

³⁴ Section 12.1-32-08 was also amended by section 1 of Senate Bill No. 2057, chapter 297.

5. An order that a defendant make restitution or reparation as a sentence or condition of probation, unless the court directs otherwise, may be filed without filing fee, transcribed, and enforced by the person entitled to the restitution or reparation or by the division of adult services in the same manner as civil judgments rendered by the courts of this state may be enforced. Upon thirty days' written notice to the victim's last known address, the court may order the judgment imposing a duty to pay restitution or reparation be docketed in the same manner as a civil judgment under section 29-26-22.1.
6. When the restitution ordered by the court under subsection 1 is the result of a finding that the defendant issued a check or draft without sufficient funds or without an account, the court shall impose as costs the greater of the sum of ten dollars or an amount equal to twenty-five percent of the amount of restitution ordered. The costs imposed under this subsection, however, may not exceed one thousand dollars. The state-employed clerks of district court shall remit the funds collected as costs under this subsection to the state treasurer for deposit in the restitution collection assistance fund. The funds deposited into the restitution collection assistance fund are appropriated to the judicial branch on a continuing basis for the purpose of defraying expenses incident to the collection of restitution, including operating expenses and the compensation of additional necessary personnel. The state's attorneys and county-employed clerks of district court shall remit the funds collected as costs under this subsection to the county treasurer to be deposited in the county general fund.
7. The court may order the defendant to perform reasonable assigned work as a condition of probation, which assigned work need not be related to the offense charged, but must not be solely for the benefit of a private individual other than the victim.
8. ~~Under section 12-1-32-07, the court may order that the defendant reimburse indigent defense costs and expenses as a condition of probation.~~
 - a. ~~Unless it finds that there is no likelihood that the defendant is or will be able to pay attorney's fees and expenses, the court, in its judgment of conviction, and in any order or amended judgment following a revocation or other postjudgment proceeding, shall notify the defendant, the defendant's probation officer, and the prosecuting attorney of the presumed amount of costs and expenses to be reimbursed, as determined by the commission on legal counsel for indigents, and of the right to a hearing on the reimbursement amount. The reimbursement amount must include an application fee imposed under section 29-07-01.1 if the fee has not been paid before disposition of the case and the court has not waived payment of the fee.~~
 - b. ~~If the defendant or prosecutor requests a hearing within thirty days of receiving notice under this subdivision, the court shall schedule a hearing at which the actual amount of attorney's fees and expenses must be shown. In determining the amount and method of reimbursement, the court shall consider the financial resources of the defendant and the nature of the burden that reimbursement of costs and expenses will impose.~~
 - e. ~~A defendant who is required to reimburse indigent defense costs and expenses as a condition of probation and who is not willfully in default in~~

~~that reimbursement may at any time petition the court that imposed the condition to waive reimbursement of all or any portion of the costs and expenses. If the court is satisfied that reimbursement of the amount due will impose undue hardship on the defendant or the defendant's immediate family, the court may waive reimbursement of all or any portion of the amount due or modify the method of payment.~~

~~d. If at any time the court finds that the defendant is able to reimburse costs and expenses and has willfully failed to do so, the court may continue, modify, or enlarge the conditions of probation or revoke probation as provided in subsection 6 or 7, as applicable, of section 12.1-32-07.~~

- 9- ~~If the court finds that the defendant is unable to pay a fine, supervision fee, reimbursement for indigent defense costs and expenses, or restitution or reparations, the court may order the defendant to perform reasonable assigned work in lieu of all or part of a fine, a supervision fee, reimbursement for indigent defense costs and expenses, or restitution or reparations. The defendant may not perform reasonable assigned work in lieu of restitution or reparations unless the person entitled to restitution or reparations has consented in writing or on the record.~~

³⁵ **SECTION 6. AMENDMENT.** Section 29-07-01.1 of the North Dakota Century Code is amended and reenacted as follows:

29-07-01.1. Payment of expenses for defense of indigents —Reimbursement of indigent defense costs and expenses - Indigent defense administration fund - Continuing appropriation.

1. Lawyers provided to represent indigent persons must be compensated at a reasonable rate to be determined by the commission on legal counsel for indigents. Expenses necessary for the adequate defense of an indigent person prosecuted in district court, other than for a violation of a home rule county's ordinance, when approved by the commission, must be paid by the state. Expenses necessary for the adequate defense of an indigent person prosecuted for violation of a home rule county's ordinance must be paid by the home rule county. Expenses necessary for the adequate defense of an indigent person prosecuted in municipal court, when approved by the judge, must be paid by the city in which the alleged offense took place. The city shall also pay the expenses in any matter transferred to district court pursuant to section 40-18-06.2 or 40-18-15.1, in any appeal taken to district court from a judgment of conviction in municipal court pursuant to section 40-18-19, and in an appeal or postconviction matter seeking relief from a conviction resulting from violation of a municipal ordinance. A defendant requesting representation by counsel at public expense, or for whom counsel provided at public expense without a request is considered appropriate by the court, shall submit an application for indigent defense services. ~~For an application for indigent defense services in the district court, a nonrefundable application fee of thirty-five dollars must be paid at the time the application is submitted. The district court may extend the time for payment of the fee or may waive or reduce the fee if the court determines the defendant is financially unable to pay all or part of the fee. If the application fee is not paid before disposition of the case, the fee amount must be added to the amount to be reimbursed under this section. Application fees collected under this subsection must be forwarded for deposit in the indigent defense administration fund established under subsection 4.~~

³⁵ Section 29-07-01.1 was also amended by section 2 of House Bill No. 1032, chapter 379.

2. ~~A defendant for whom counsel is provided at public expense, subject to this subsection, shall reimburse the state, home rule county, or city such sums as the state, home rule county, or city expends on the defendant's behalf.~~

 - a. ~~At the time counsel is provided for a defendant, the court shall advise the defendant of the defendant's potential obligation to reimburse the appropriate governmental entity the amounts expended on behalf of the defendant.~~
 - b. ~~Unless it finds that there is no likelihood that the defendant is or will be able to pay attorney's fees and expenses, the court, in its judgment of conviction, and in any order or amended judgment entered following a revocation or other postjudgment proceeding, shall order the defendant to reimburse the presumed amount of indigent defense costs and expenses, as determined by the commission, and shall notify the defendant of the right to a hearing on the reimbursement amount. If the defendant or prosecutor requests a hearing within thirty days of receiving notice under this subdivision, the court shall schedule a hearing at which the actual amount of attorney's fees and expenses must be shown. In determining the amount of reimbursement and method of payment, the court shall consider the financial resources of the defendant and the nature of the burden that reimbursement of costs and expenses will impose.~~
 - c. ~~A defendant who is required to reimburse indigent defense costs and expenses and who is not willfully in default in that reimbursement may at any time petition the court to waive reimbursement of all or any portion of the attorney's fees and expenses. If the court is satisfied that reimbursement of the amount due will impose undue hardship on the defendant or the defendant's immediate family, the court may waive reimbursement of all or any portion of the amount due or modify the method of payment.~~
3. ~~The attorney general, the state's attorney of the home rule county, or the prosecuting attorney of the city in which the alleged offense took place, if reimbursement has not been received, shall seek civil recovery of any amounts expended on the defendant's behalf anytime the attorney general, state's attorney, or city attorney determines the person for whom counsel was appointed may have funds to repay the state, home rule county, or city within six years of the date such amount was paid on that person's behalf. A person against whom civil recovery is sought under this subsection is entitled to all exemptions accorded to other judgment debtors. The attorney general, state's attorney, or prosecuting attorney may contract with a private sector collection agency for assistance in seeking recovery of such funds. Before referring the matter to a collection agency, the state's attorney shall notify the person who is the subject of the collection action.~~
4. The indigent defense administration fund is a special fund in the state treasury. The state treasurer shall deposit in the fund all application fees collected under subsection 1. All moneys in the indigent defense administration fund are appropriated on a continuing basis to the commission on legal counsel for indigents to be used in the administration of the indigent defense system.

SECTION 7. LEGISLATIVE MANAGEMENT STUDY - COURT FINES AND FEES. During the 2025-26 interim, the legislative management shall consider studying court fines and fees, including fines and fees relating to travel permits, presentence investigations, the drug court program, electronic monitoring, alcohol monitoring, and the twenty-four seven sobriety program. The study must consider the total amount collected; rate of fees collected, including any money expended to collect the fines and fees; an evaluation of practices in other states; and the overall impacts on a defendant. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the seventieth legislative assembly.

Approved April 29, 2025

Filed April 29, 2025

CHAPTER 121

SENATE BILL NO. 2077

(Judiciary Committee)

(At the request of the Department of Health and Human Services)

AN ACT to amend and reenact section 12.1-04.1-21 of the North Dakota Century Code, relating to criminal responsibility proceedings following a verdict or finding.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-04.1-21 of the North Dakota Century Code is amended and reenacted as follows:

12.1-04.1-21. Proceeding following verdict or finding.

After entry of a verdict, finding, or an unresisted plea, that an individual committed the crime charged, but is not guilty by reason of lack of criminal responsibility, the court shall:

1. Make a finding, based upon the verdict or finding provided in section 12.1-04.1-18, of the expiration date of the court's jurisdiction; and
2. Order the individual committed to a treatment facility, as defined under chapter 25-03.1, for examination. The superintendent or the director of a treatment facility may petition the court to transfer or assign the individual committed if, in the superintendent's or director's opinion, it would be more appropriate for the individual committed to receive the examination in or by a least restrictive setting if the attending physician or director of the least restrictive setting consents. The order of the court may set terms of custody during the period of examination.

Approved March 14, 2025

Filed March 14, 2025

CHAPTER 122

HOUSE BILL NO. 1194

(Representatives Vetter, Christianson, Murphy, Dockter, Hauck, D. Johnston,
Koppelman, Jonas, Motschenbacher)
(Senators Paulson, Luick)

AN ACT to amend and reenact section 12.1-11-03 of the North Dakota Century Code, relating to false information or false reports to law enforcement; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-11-03 of the North Dakota Century Code is amended and reenacted as follows:

12.1-11-03. False information or report to law enforcement officers or security officials.

~~A person~~

1. An individual is guilty of a class A misdemeanor if that ~~person~~individual:

4. a. Gives false information or a false report to a law enforcement officer which that ~~person~~individual knows to be false, and the information or report may interfere with an investigation or may materially mislead a law enforcement officer; or
2. b. Falsely reports to a law enforcement officer or other security official the occurrence of a crime of violence or other incident calling for an emergency response when that ~~person~~individual knows ~~that~~ the incident did not occur. "Security official" means a public servant responsible for averting or ~~dealing with~~handling emergencies involving public safety.

2. An on duty law enforcement officer having probable cause to suspect an individual has vexatiously provided a false report regarding another individual to a law enforcement officer or security official shall report the information to the state's attorney of the county in which the violation occurs.

Approved April 16, 2025

Filed April 16, 2025

CHAPTER 123

HOUSE BILL NO. 1341

(Representatives Heinert, Bosch, Lefor, McLeod, Meier, Porter)
(Senators Axtman, Cleary, Dever, Larson)

AN ACT to amend and reenact section 12.1-17-01 of the North Dakota Century Code, relating to simple assault; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

12.1-17-01. Simple assault.

1. A person is guilty of an offense if that person:
 - a. Willfully causes bodily injury to another human being; or
 - b. Negligently causes bodily injury to another human being by means of a firearm, destructive device, or other weapon, the use of which against a human being is likely to cause death or serious bodily injury.
2. The offense is:
 - a. A class C felony when the victim is a peace officer or correctional institution employee acting in an official capacity, which the actor knows to be a fact; an employee of the state hospital acting in the course and scope of employment, which the actor knows to be a fact, and the actor is an individual committed to or detained at the state hospital pursuant to chapter 25-03.3; a person engaged in a judicial proceeding; or a member of a municipal or volunteer fire department or emergency medical services personnel unit, or emergency department worker or hospital worker, engaged in essential patient care, in the performance of the member's duties.
 - b. A class B misdemeanor except as provided in subdivision a.

Approved April 15, 2025

Filed April 17, 2025

CHAPTER 124

HOUSE BILL NO. 1225

(Representatives Klemin, Karls, Lefor, Vetter)
(Senators Myrdal, Sickler, Larson)

AN ACT to amend and reenact sections 12.1-17-03 and 12.1-32-09 of the North Dakota Century Code, relating to reckless endangerment and habitual offenders; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-17-03 of the North Dakota Century Code is amended and reenacted as follows:

12.1-17-03. Reckless endangerment.

~~A person~~An individual is guilty of an offense if ~~he~~the individual creates a substantial risk of serious bodily injury or death to another. The offense is a class ~~C~~B felony if the individual uses a firearm. ~~The offense is a class C felony if the circumstances manifest his~~the individual's extreme indifference to the value of human life. Otherwise it is a class A misdemeanor. There is risk within the meaning of this section if the potential for harm exists, whether or not a particular person's safety is actually jeopardized.

SECTION 2. AMENDMENT. Section 12.1-32-09 of the North Dakota Century Code is amended and reenacted as follows:

12.1-32-09. Dangerous special offenders - Habitual offenders - Extended sentences - Procedure.

1. A court may sentence a convicted offender to an extended sentence as a dangerous special offender or a habitual offender in accordance with this section upon a finding of any one or more of the following:
 - a. The convicted offender is a dangerous, mentally abnormal person whose conduct has been characterized by persistent aggressive behavior and the behavior makes the offender a serious danger to other persons.
 - b. The convicted offender is a professional criminal who has substantial income or resources derived from criminal activity.
 - c. The convicted offender is a habitual offender. The court may not make such a finding unless the offender is an adult and has previously been convicted in any state or states or by the United States of two felonies of ~~class C or above~~ committed at different times when the offender was an adult. For the purposes of this subdivision, a felony conviction in another state or under the laws of the United States is considered a felony of ~~class C or above if it is punishable by a maximum term of imprisonment of five years or more.~~

- d. The offender was convicted of an offense that seriously endangered the life of another person and the offender had previously been convicted of a similar offense.
- e. The offender is especially dangerous because the offender used a firearm, dangerous weapon, or destructive device in the commission of the offense or during the flight therefrom.

A conviction shown on direct or collateral review or at the hearing to be invalid or for which the offender has been pardoned on the ground of innocence must be disregarded for purposes of subdivision c. In support of findings under subdivision b, it may be shown that the offender has had control of income or property not explained as derived from a source other than criminal activity. For purposes of subdivision b, a substantial source of income means a source of income which for any period of one year or more exceeds the minimum wage, determined on the basis of a forty-hour week and a fifty-week year, without reference to exceptions, under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended, for an employee engaged in commerce or in the production of goods for commerce, and which for the same period exceeds fifty percent of the offender's declared adjusted gross income under chapter 57-38.

- 2. The extended sentence may be imposed in the following manner:
 - a. If the offense for which the offender is convicted is a class A felony, the court may impose a sentence up to a maximum of life imprisonment.
 - b. If the offense for which the offender is convicted is a class B felony, the court may impose a sentence up to a maximum of imprisonment for twenty years.
 - c. If the offense for which the offender is convicted is a class C felony, the court may impose a sentence up to a maximum of imprisonment for ten years.
- 3. Whenever an attorney charged with the prosecution of a defendant in a court of this state for an alleged felony committed when the defendant was over the age of eighteen years has reason to believe that the defendant is a dangerous special offender or a habitual offender, the attorney, at a reasonable time before trial or acceptance by the court of a plea of guilty, may sign and file with the court, and may amend, a notice specifying that the defendant is a dangerous special offender or a habitual offender who upon conviction for the felony is subject to the imposition of a sentence under subsection 2, and setting out with particularity the reasons why the attorney believes the defendant to be a dangerous special offender or a habitual offender. In no case may the fact that the prosecuting attorney is seeking sentencing of the defendant as a dangerous special offender or a habitual offender be disclosed to the jury before a verdict. If the court finds that the filing of the notice as a public record may prejudice fair consideration of a pending criminal matter, the court may order the notice sealed and the notice is not subject to subpoena or public inspection during the pendency of the criminal matter, except on order of the court, but is subject to inspection by the defendant alleged to be a dangerous special offender or a habitual offender and the offender's counsel.

4. Upon any plea of guilty, or verdict or finding of guilt of the defendant of such felony, a hearing must be held, before sentence is imposed, in accordance with this subsection as follows:
 - a. By a jury, or the court if a jury is waived by the defendant, if the notice alleges that the defendant is a dangerous special offender under subdivision a, b, d, or e of subsection 1. The jury, or the court if a jury is waived, must find that the defendant is a dangerous special offender under one or more of these subdivisions by proof beyond a reasonable doubt. However, in the case of a notice alleging only subdivision e of subsection 1, the trial jury, or the trial court if a jury is waived, may make a special finding of proof of this subdivision without an additional hearing subsequent to a verdict or finding of guilt.
 - b. By the court if the notice alleges that the defendant is a habitual offender under subdivision c of subsection 1. The court must find that the defendant is a habitual offender by a preponderance of the evidence.
5. Except in the most extraordinary cases, the court shall obtain a presentence report and may receive a diagnostic testing report under subsection 5 of section 12.1-32-02 before holding a hearing under this subsection. The court shall fix a time for the hearing and notice thereof must be given to the defendant and the prosecution at least five days prior thereto. The court shall permit the prosecution and counsel for the defendant, or the defendant if the defendant is not represented by counsel, to inspect the presentence report sufficiently before the hearing as to afford a reasonable opportunity for verification. In extraordinary cases, the court may withhold material not relevant to a proper sentence, diagnostic opinion that might seriously disrupt a program of rehabilitation, any source of information obtained on a promise of confidentiality, and material previously disclosed in open court. A court withholding all or part of a presentence report shall inform the parties of its action and place in the record the reasons therefor. The court may require parties inspecting all or part of a presentence report to give notice of any part thereof intended to be controverted. In connection with the hearing, the defendant is entitled to compulsory process and cross-examination of such witnesses as appear at the hearing. A duly authenticated copy of a former judgment or commitment is prima facie evidence of such former judgment or commitment. If the jury or the court finds, after hearing, one or more of the grounds set forth in subsection 1, that the defendant is a dangerous special offender or a habitual offender, the court shall sentence the defendant to imprisonment for an appropriate term within the limits specified in subsection 2.

Approved April 28, 2025

Filed April 28, 2025

CHAPTER 125

HOUSE BILL NO. 1134

(Representatives Heilman, Henderson, Hoverson, S. Olson, D. Johnston, Wolff,
VanWinkle)
(Senators Cory, Paulson)

AN ACT to amend and reenact section 12.1-17-07 of the North Dakota Century Code, relating to harassment of another.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³⁶ **SECTION 1. AMENDMENT.** Section 12.1-17-07 of the North Dakota Century Code is amended and reenacted as follows:

12.1-17-07. Harassment.

1. A person is guilty of an offense if, with intent to frighten or harass another, the person:
 - a. Communicates in writing or by electronic communication a threat to inflict injury on any person, to any person's reputation, or to any property;
 - b. Makes a telephone call anonymously or in offensively coarse language;
 - c. Makes repeated telephone calls or other electronic communication, whether or not a conversation ensues, with no purpose of legitimate communication; ~~or~~
 - d. Communicates a falsehood in writing or by electronic communication and causes mental anguish; or
 - e. Communicates in writing, by electronic communication, or by electronically publishing, posting, or otherwise disclosing information to a public internet site or public forum an individual's personal identifying information.
2. The offense is a class A misdemeanor if it is under subdivision a or e of subsection 1 or subsection 4. Otherwise it is a class B misdemeanor.
3. Any offense defined herein and committed by use of electronic communication may be deemed to have been committed at either the place at which the electronic communication was made or at the place where the electronic communication was received.
4. A person is guilty of an offense if the person initiates communication with a 911 emergency line, public safety answering point, or an emergency responder communication system with the intent to annoy or harass another person or a public safety agency or who makes a false report to a public safety agency.

³⁶ Section 12.1-17-07 was also amended by section 1 of House Bill No. 1429, chapter 126.

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- a. Intent to annoy or harass is established by proof of one or more calls with no legitimate emergency purpose.
 - b. Upon conviction of a violation of this subsection, a person is also liable for all costs incurred by any unnecessary emergency response.
5. Any offense defined herein is deemed communicated in writing if it is transmitted electronically, by electronic mail, facsimile, or other similar means. Electronic communication means transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo-electronic, or photo-optical system.

Approved March 21, 2025

Filed March 24, 2025

CHAPTER 126

HOUSE BILL NO. 1429

(Representatives Holle, Dobervich, Headland, Henderson, Koppelman, Tveit,
Brandenburg)
(Senators Lemm, Magrum)

AN ACT to amend and reenact sections 12.1-17-07 and 12.1-17-07.1 of the North Dakota Century Code, relating to harassment and stalking with a robot; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³⁷ **SECTION 1. AMENDMENT.** Section 12.1-17-07 of the North Dakota Century Code is amended and reenacted as follows:

12.1-17-07. Harassment.

1. As used in this section "robot" means an artificial object or system that senses, processes, and acts using technology, including the associated elements, communication links, and artificial intelligence. The term includes remotely piloted aircraft.
2. A person is guilty of an offense if, with intent to frighten or harass another, the person:
 - a. Communicates in writing or by electronic communication a threat to inflict injury on any person, to any person's reputation, or to any property;
 - b. Makes a telephone call anonymously or in offensively coarse language;
 - c. Makes repeated telephone calls or other electronic communication, whether or not a conversation ensues, with no purpose of legitimate communication; ~~or~~
 - d. Communicates a falsehood in writing or by electronic communication and causes mental anguish; or
 - e. Uses a robot to engage in offensive conduct with no legitimate purpose.
- ~~2-3.~~ The offense is a class A misdemeanor if it is under subdivision a of subsection 1 or subsection 4. Otherwise it is a class B misdemeanor.
- ~~3-4.~~ Any offense defined herein and committed by use of electronic communication may be deemed to have been committed at either the place at which the electronic communication was made or at the place where the electronic communication was received.

³⁷ Section 12.1-17-07 was also amended by section 1 of House Bill No. 1134, chapter 125.

- ~~4-5.~~ A person is guilty of an offense if the person initiates communication with a 911 emergency line, public safety answering point, or an emergency responder communication system with the intent to annoy or harass another person or a public safety agency or who makes a false report to a public safety agency.
- Intent to annoy or harass is established by proof of one or more calls with no legitimate emergency purpose.
 - Upon conviction of a violation of this subsection, a person is also liable for all costs incurred by any unnecessary emergency response.
- ~~5-6.~~ Any offense defined herein is deemed communicated in writing if it is transmitted electronically, by electronic mail, facsimile, or other similar means. Electronic communication means transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo-electronic, or photo-optical system.

SECTION 2. AMENDMENT. Section 12.1-17-07.1 of the North Dakota Century Code is amended and reenacted as follows:

12.1-17-07.1. Stalking.

1. As used in this section:

- "Course of conduct" means a pattern of conduct consisting of two or more acts evidencing a continuity of purpose. The term includes an act conducted with a robot in the direct control of the person. The term does not include constitutionally protected activity.
- "Immediate family" means a spouse, parent, child, or sibling. The term also includes any other individual who regularly resides in the household or who within the prior six months regularly resided in the household.
- "Robot" means an artificial object or system that senses, processes, and acts using technology, including the associated elements, communication links, and artificial intelligence. The term includes remotely piloted aircraft.
- "Stalk" means:
 - (1) To engage in an intentional course of conduct directed at a specific person which frightens, intimidates, or harasses that person and which serves no legitimate purpose. The course of conduct may be directed toward that person or a member of that person's immediate family and must cause a reasonable person to experience fear, intimidation, or harassment; or
 - (2) The unauthorized tracking of the person's movements or location through the use of a global positioning system, robot, or other electronic means that would cause a reasonable person to be frightened, intimidated, or harassed and which serves no legitimate purpose.

2. A person may not intentionally stalk another person.

3. In any prosecution under this section, it is not a defense that the actor was not given actual notice that the person did not want the actor to contact or follow the person; nor is it a defense that the actor did not intend to frighten, intimidate, or harass the person. An attempt to contact or follow a person after being given actual notice that the person does not want to be contacted or followed is prima facie evidence that the actor intends to stalk that person.
4. In any prosecution under this section, it is a defense that a private investigator licensed under chapter 43-30 or a peace officer licensed under chapter 12-63 was acting within the scope of employment.
5. If a person claims to have been engaged in a constitutionally protected activity, the court shall determine the validity of the claim as a matter of law and, if found valid, shall exclude evidence of the activity.
6. a. A person who violates this section is guilty of a class C felony if:
 - (1) The person previously has been convicted of violating section 12.1-17-01, 12.1-17-01.1, 12.1-17-01.2, 12.1-17-02, 12.1-17-04, 12.1-17-05, or 12.1-17-07, or a similar offense from another court in North Dakota, a court of record in the United States, or a tribal court, involving the victim of the stalking;
 - (2) The stalking violates a court order issued under chapter 14-07.1 protecting the victim of the stalking, if the person had notice of the court order; or
 - (3) The person previously has been convicted of violating this section.
- b. If subdivision a does not apply, a person who violates this section is guilty of a class A misdemeanor.

Approved April 21, 2025

Filed April 22, 2025

CHAPTER 127

HOUSE BILL NO. 1217

(Representatives Dobervich, Conmy, Ista, O'Brien, Schneider, Schreiber-Beck)
(Senators Braunberger, Roers)

AN ACT to repeal section 12.1-20-17 of the North Dakota Century Code, relating to willfully transferring body fluid containing the human immunodeficiency virus.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Section 12.1-20-17 of the North Dakota Century Code is repealed.

Approved March 19, 2025

Filed March 20, 2025

CHAPTER 128

HOUSE BILL NO. 1528

(Representatives M. Ruby, Nelson)
(Senator Klein)

AN ACT to amend and reenact sections 12.1-21-01 and 12.1-21-02 of the North Dakota Century Code, relating to arson and endangering by fire or explosion; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-21-01 of the North Dakota Century Code is amended and reenacted as follows:

12.1-21-01. Arson.

~~A person~~

1. An individual is guilty of arson, a class B felony, if ~~he~~the individual starts or maintains a fire or causes an explosion with intent to destroy ~~an~~:
 - a. An entire or any part of a building or inhabited structure of another or a vital public facility, or if he starts or maintains a fire or causes an explosion with intent to destroy or;
 - b. Or damage his the individual's own real or personal property for the purpose of collecting insurance for the loss;
 - c. Or damage the individual's own real property for the purpose of depriving another with a legal interest in the real property damaged or destroyed; or
 - d. Or damage the individual's own personal property for the purpose of depriving another with a legal interest in the personal property damaged or destroyed, and the value of the personal property damaged or destroyed has a value in excess of two thousand dollars.
2. For purposes of this section, "a legal interest" includes, a joint legal interest by joint ownership of the property, or an individual's own legal interest in property financed by another, such as a mortgage, contract, deed, or lien.

SECTION 2. AMENDMENT. Section 12.1-21-02 of the North Dakota Century Code is amended and reenacted as follows:

12.1-21-02. Endangering by fire or explosion.

1. ~~A person~~An individual is guilty of an offense if ~~he~~the individual intentionally starts or maintains a fire or causes an explosion and thereby recklessly:
 - a. Places another person in danger of death or bodily injury;

-
- b. Places an entire or any part of a building or inhabited structure of another or a vital public facility in danger of destruction; or
 - c. Causes damage to property of another constituting pecuniary loss in excess of two thousand dollars.
2. For purposes of this section, "person in danger" includes, fire department, law enforcement, and emergency medical personnel, a firefighter, and a volunteer firefighter while responding to a fire or during fire suppression efforts.
3. The offense is a class B felony if the actor places another person in danger of death under circumstances manifesting an extreme indifference to the value of human life. Otherwise it is a class C felony.

Approved April 2, 2025

Filed April 3, 2025

CHAPTER 129

HOUSE BILL NO. 1305

(Representatives Kasper, Bosch, Headland, Koppelman, Louser, Motschenbacher,
Steiner)
(Senators Clemens, Cory, Meyer)

AN ACT to amend and reenact section 12.1-22-03 and subsection 1 of section 12.1-22-06 of the North Dakota Century Code, relating to criminal trespass; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-22-03 of the North Dakota Century Code is amended and reenacted as follows:

12.1-22-03. Criminal trespass - Noncriminal offense on posted property.

1. An individual is guilty of a class C felony if, knowing the individual is not licensed or privileged to do so, the individual enters or remains in a dwelling or in highly secured premises.
2. An individual who unlawfully detains, occupies, or trespasses upon a residential dwelling is guilty of a class C felony for the first offense and a class B felony for a second or subsequent offense if the second or subsequent offense occurred at the same residential dwelling as the first offense.
3. An individual is guilty of a class A misdemeanor if, knowing the individual is not licensed or privileged to do so, the individual:
 - a. Enters or remains in or on any building, occupied structure, or storage structure, or separately secured or occupied portion thereof; or
 - b. Enters or remains in any place enclosed by a fence or otherwise enclosed as manifestly to exclude intruders, unless the individual is a licensed hunter or angler who is lawfully hunting or fishing. For purposes of this subdivision, "fence" means a permanent structure on nonurban, private property which is maintained and capable of containing livestock.
- ~~3-4.~~ a. An individual is guilty of a class B misdemeanor if, knowing the individual is not licensed or privileged to do so, the individual enters or remains in any place as to which notice against trespass is given by actual communication to the actor by the owner or an individual authorized by the owner or by posting in a manner reasonably likely to come to the attention of intruders. The name of the person posting the premises must appear on each sign in legible characters.
- b. Even if the conduct of the owner or individual authorized by the owner varies from the provisions of subdivision a, an individual may be found guilty of violating subdivision a if the owner or individual authorized by the owner substantially complied with subdivision a and notice against trespass is clear from the circumstances.

- c. An individual who violates subdivision a is guilty of a class A misdemeanor for the second or subsequent offense within a two-year period.

4-5.

- a. A peace officer may cite an individual who, knowing the individual is not licensed or privileged to do so, entered or remained in a place as to which notice against trespass is given by posting in a manner reasonably likely to come to the attention of intruders or a place enclosed by a fence as defined in subsection 2, with a noncriminal offense. An individual cited under this subsection may not be prosecuted under subsection 2 or 3 for the same offense.

- b. The fine for a citation under subdivision a is two hundred fifty dollars for each violation.

- c. The peace officer citing the individual shall:

- (1) Take the name and address of the individual; and

- (2) Notify the individual of the right to request a hearing if posting bond by mail.

- d. The peace officer may not take the individual into custody or require the individual to proceed with the peace officer to any other location for the purpose of posting bond. The officer shall provide the individual with an envelope for use in mailing the bond.

- e. An individual cited may appear before the designated official and pay the statutory fine for the violation at or before the time scheduled for hearing.

- f. If the individual has posted bond, the individual may forfeit bond by not appearing at the designated time.

- g. If the individual posts bond by mail, the bond must be submitted within fourteen days of the date of the citation and the individual cited shall indicate on the envelope or citation whether a hearing is requested. If the individual does not request a hearing within fourteen days of the date of the citation, the bond is deemed forfeited and the individual is deemed to have admitted to the violation and to have waived the right to a hearing on the issue of commission of the violation. If the individual requests a hearing, the court for the county in which the citation is issued shall issue a summons to the individual requesting the hearing notifying the individual of the date of the hearing before the designated official.

- h. Upon appearing at the hearing scheduled in the citation or otherwise scheduled at the individual's request, the individual may make a statement in explanation of the individual's action. The official may at that time waive or suspend the statutory fine or bond.

- i. A citing peace officer may not receive the statutory fine or bond.

- j. The bond required to secure appearance before the judge must be identical to the statutory fine established in subdivision b.

5-6.

- An individual is guilty of a class B misdemeanor if that individual remains upon the property of another after being requested to leave the property by a duly

authorized individual. An individual who violates this subsection is guilty of a class A misdemeanor for the second or subsequent offense within a two-year period.

- ~~6-7.~~ This section does not apply to a peace officer in the course of discharging the peace officer's official duties.

SECTION 2. AMENDMENT. Subsection 1 of section 12.1-22-06 of the North Dakota Century Code is amended and reenacted as follows:

1. "Dwelling" ~~has the meaning prescribed in subsection 2 of section 42-1-05-12~~ means real property or residential property, including a building, structure, or part of a building or structure, used or intended to be used as a home or residence.

Approved April 15, 2025

Filed April 17, 2025

CHAPTER 130

SENATE BILL NO. 2257

(Senator Myrdal)

AN ACT to amend and reenact subsection 5 of section 12.1-23-05 of the North Dakota Century Code, relating to grading of theft offenses of values not exceeding five hundred dollars; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 5 of section 12.1-23-05 of the North Dakota Century Code is amended and reenacted as follows:

5. a. Theft under this chapter of property or services of a value not exceeding five hundred dollars is a class B misdemeanor for a first offense if:
 - (1) The theft was committed by shoplifting; or
 - (2) The following three factors are met:
 - (a) The theft was not committed by threat;
 - (b) The theft was not committed by deception by one who stood in a confidential or fiduciary relationship to the victim of the theft; and
 - (c) The defendant was not a public servant or an officer or employee of a financial institution who committed the theft in the course of official duties.
- b. The special classification provided in paragraph 2 of subdivision a applies if the offense is classified under this subsection in the charge or if, at sentencing, the required factors are established by a preponderance of the evidence.
- c. A second or third offense under paragraph 1 of subdivision a, or an equivalent ordinance, occurring within three years is a class A misdemeanor. A fourth or subsequent violation under paragraph 1 of subdivision a, or an equivalent ordinance, occurring within four years is a class C felony.
- d. A sentence imposed under this subsection must be accompanied by a written statement by the court providing notice of any offense under this section which provides an enhanced penalty, including the penalty for a subsequent offense.

Approved March 19, 2025

Filed March 20, 2025

CHAPTER 131

HOUSE BILL NO. 1351

(Representatives Satrom, Christy, Ostlie, Schneider)
(Senators Clemens, Conley)

AN ACT to amend and reenact subsection 13 of section 12.1-27.1-01 and section 12.1-27.1-03.3 of the North Dakota Century Code, relating to sexually expressive images; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 13 of section 12.1-27.1-01 of the North Dakota Century Code is amended and reenacted as follows:

13. As used in this chapter, "sexually expressive image" means a real, altered, or computer-generated photograph or visual representation that exhibits a nude or partially denuded human figure, as defined in section 12.1-27.1-03.1, or sexual conduct.

SECTION 2. AMENDMENT. Section 12.1-27.1-03.3 of the North Dakota Century Code is amended and reenacted as follows:

12.1-27.1-03.3. Creation, possession, or dissemination of sexually expressive images prohibited - Exception - Civil action.

1. A person is guilty of a class A misdemeanor if, knowing of its character and content, that person:
 - a. Without written consent from each individual who has a reasonable expectation of privacy in the image, surreptitiously creates or willfully possesses a sexually expressive image that was surreptitiously created; or
 - b. Distributes or publishes, electronically or otherwise, a sexually expressive image with the intent to cause emotional harm or humiliation to any individual depicted in the sexually expressive image who has a reasonable expectation of privacy in the image, or after being given notice by an individual or parent or guardian of the individual who is depicted in a sexually expressive image that the individual, parent, or guardian does not consent to the distribution or publication of the sexually expressive image.
2. A person is guilty of a class B misdemeanor if, knowing of its character and content, that person acquires and knowingly distributes any sexually expressive image that was created without the consent of the subject of the image.
3. This section does not authorize any act prohibited by any other law. If the sexually expressive image is of a minor and possession does not violate section 12.1-27.2-04.1, a parent or guardian of the minor may give permission for a person to possess or distribute the sexually expressive image.

4. This section does not apply to any book, photograph, video recording, motion picture film, or other visual representation sold in the normal course of business through wholesale or retail outlets that possess a valid sales tax permit or used by an attorney, attorney's agent, or any other person obtaining evidence for a criminal investigation or pending civil action, or by a medical professional or a peace officer acting within that individual's scope of employment.
5. Nothing in this section may be construed to impose liability on a provider of an interactive computer service, as defined under 47 U.S.C. 230, or an information service or telecommunication service, as defined under 47 U.S.C. 153, for content provided by another person.
6. A depicted individual who is identifiable and who suffers harm from a person's violation of this section has a cause of action against the person if the person produced, possessed, distributed, promoted, advertised, sold, exhibited, broadcasted, or transmitted the sexually expressive image for the purpose of sexual arousal, sexual gratification, humiliation, degradation, or monetary or commercial gain.
 - a. The court may order the filing party to redact from all pleadings and documents filed in the action other identifying characteristics of the plaintiff.
 - b. A party to whom subdivision a applies shall file with the court and serve on all other parties a redacted and unredacted version of the filing and a confidential information form that includes the redacted plaintiff's name and other identifying characteristics.
 - c. The court may make further orders as necessary to protect the identity and privacy of a plaintiff.
7. In an action under subsection 6, a prevailing plaintiff may recover:
 - a. The greater of:
 - (1) Economic and noneconomic damages proximately caused by the defendant's violation of this section, including damages for emotional distress whether or not accompanied by other damages; or
 - (2) Statutory damages not to exceed ten thousand dollars against each defendant found liable under this section;
 - b. An amount equal to any monetary gain made by the defendant from the distribution, promotion, advertising, sale, exhibition, broadcasting, or transmission of the sexually expressive image; and
 - c. Exemplary damages.
8. In an action under subsection 6, the court may award a prevailing plaintiff:
 - a. Reasonable attorney fees and costs; and
 - b. Other remedies available by law, including injunctive relief.

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

Approved April 21, 2025

Filed April 22, 2025

CHAPTER 132

HOUSE BILL NO. 1386

(Representatives Christy, Bahl, Berg, Conmy, Grindberg, Hoverson, Mitskog,
J. Olson)
(Senators Boschee, Myrdal, Sickler, Thomas)

AN ACT to amend and reenact sections 12.1-27.2-01 and 12.1-27.2-04.1 of the North Dakota Century Code, relating to a prohibition on possessing certain computer-generated images; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-27.2-01 of the North Dakota Century Code is amended and reenacted as follows:

12.1-27.2-01. Definitions.

As used in this chapter:

1. "Computer-generated image" means an image or visual representation created through the use of artificial intelligence or other computer program.
2. "Minor" means an individual under eighteen years of age or a computer-generated image used, created, adapted, altered, or modified to appear to depict an individual under eighteen years of age by face, likeness, or other distinguishing characteristics.
3. "Obscene sexual performance" means any performance which includes sexual conduct by a minor in any obscene material or obscene performance, as defined in section 12.1-27.1-01.
- ~~2-4.~~ "Performance" means any play, motion picture, photograph, dance, or other visual representation, or any part of a performance.
- ~~3-5.~~ "Promote" means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, ship, transport, publish, distribute, circulate, disseminate, present, exhibit, or advertise.
- ~~4-6.~~ "Sexual conduct" means actual or simulated:
 - a. Sexual intercourse;
 - b. Sodomy, as defined under section 12.1-27.1-01;
 - c. Sexual bestiality;
 - d. Masturbation;
 - e. Sadomasochistic abuse, as defined under section 12.1-27.1-01;
 - f. Lewd exhibition of the buttocks, breasts, or genitals;

- g. Nude or partially denuded human figure, as defined in section 12.1-27.1-03.1, if depicted for the purpose of the sexual stimulation or the sexual gratification of any individual who may view such depiction; or
- h. Physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or breasts. It is not necessary that the minor know that he or she is participating in the described conduct, or any aspect of it.

~~5-7.~~ "Sexual performance" means any performance which includes sexual conduct by a minor.

~~6-8.~~ "Simulated" means the explicit depiction of any of the conduct set forth in subsection 4 which creates the appearance of actual sexual conduct and which exhibits any nude or partially denuded human figure, as defined in section 12.1-27.1-03.1.

SECTION 2. AMENDMENT. Section 12.1-27.2-04.1 of the North Dakota Century Code is amended and reenacted as follows:

12.1-27.2-04.1. Possession of certain materials prohibited.

1. A person is guilty of a class C felony if, knowing of its character and content, that person knowingly possesses any motion picture, computer-generated image, photograph, or other visual representation that includes sexual conduct by a minor.
2. An individual violating this section is guilty of a class B felony if:
 - a. The offense involved twenty or more images;
 - b. The offense involved sadistic or masochistic conduct or other depictions of violence;
 - c. The offense involved sexual bestiality;
 - d. The offense involves a prepubescent minor or a minor under twelve years of age; or
 - e. The individual has previously been convicted of an offense subject to registration under section 12.1-32-15.
3. This section does not impose liability on the provider of an interactive computer service, as defined in 47 U.S.C. 230, or an internet service provider, cloud computer provider, cybersecurity provider, communication service provider, or information service or telecommunication service network, as defined in 47 U.S.C. 153, for any content provided by another person.

Approved April 21, 2025

Filed April 22, 2025

CHAPTER 133

HOUSE BILL NO. 1226

(Representatives Klemin, Heinert, D. Johnston, Motschenbacher, Porter, Rohr)
(Senators Axtman, Cory, Larson, Paulson)

AN ACT to amend and reenact section 12.1-31-15 of the North Dakota Century Code, relating to wearing a mask in a public place.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-31-15 of the North Dakota Century Code is amended and reenacted as follows:

12.1-31-15. Wearing of masks during commission of criminal offense prohibited.

1. An individual may not wear a mask, hood, or other device that covers, hides, or conceals any portion of that individual's face:
 - a. With the intent to intimidate, threaten, abuse, or harass any other individual;
 - b. For the purpose of evading or escaping discovery, recognition, or identification during the commission of a criminal offense; ~~or~~
 - c. For the purpose of concealment, flight, or escape when the individual has been charged with, arrested for, or convicted of a criminal offense; or
 - d. With the intent to conceal the identity of the individual while congregating in a public place with other individuals wearing a mask, hood, or other device that covers, hides, or conceals any portion of the individual's face.
2. Subdivision d of subsection 1 does not apply to public gatherings to celebrate Halloween, a masquerade, or other similar celebration.
3. A violation of this section is a class A misdemeanor.

Approved April 23, 2025

Filed April 23, 2025

CHAPTER 134

HOUSE BILL NO. 1313

(Representatives Satrom, Ostlie)
(Senator Conley)

AN ACT to amend and reenact subsection 1 of section 12.1-32-02 and subdivision h of subsection 5 of section 39-08-01 of the North Dakota Century Code, relating to sentencing alternatives and the sentencing of a defendant to an addiction treatment program for a violation of driving under the influence; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³⁸ **SECTION 1. AMENDMENT.** Subsection 1 of section 12.1-32-02 of the North Dakota Century Code is amended and reenacted as follows:

1. Every person convicted of an offense who is sentenced by the court must be sentenced to one or a combination of the following alternatives, unless the sentencing alternatives are otherwise specifically provided in the statute defining the offense or sentencing is deferred under subsection 4:
 - a. Payment of the reasonable costs of the person's prosecution.
 - b. Probation.
 - c. A term of imprisonment, including intermittent imprisonment:
 - (1) In a state correctional facility in accordance with section 29-27-07, in a regional corrections center, or in a county jail, if convicted of a felony or a class A misdemeanor.
 - (2) In a county jail or in a regional corrections center, if convicted of a class B misdemeanor.
 - (3) In a facility or program deemed appropriate for the treatment of the individual offender, including available community-based or faith-based programs.
 - (4) In the case of persons convicted of an offense who are under eighteen years of age at the time of sentencing, the court is limited to sentencing the minor defendant to a term of imprisonment in the custody of the department of corrections and rehabilitation.
 - d. A fine.
 - e. Restitution for damages resulting from the commission of the offense.
 - f. A no contact order prohibiting contact with a victim of the offense.

³⁸ Section 12.1-32-02 was also amended by section 1 of House Bill No. 1030, chapter 301, and section 2 of House Bill No. 1336, chapter 135.

- g. Restoration of damaged property or other appropriate work detail.
- g-h. Commitment to an appropriate licensed public or private institution for treatment of alcoholism, drug addiction, or mental disease or defect.
- h-i. Commitment to a sexual offender treatment program.
- i-j. Drug court program. A drug court is a district court supervised treatment program approved by the supreme court which combines judicial supervision with alcohol and drug testing and substance use disorder treatment in a licensed treatment program. The supreme court may adopt rules, including rules of procedure, for drug court programs.
- j-k. Veterans treatment docket. A veterans treatment docket is a district court supervised docket approved by the supreme court which combines judicial supervision with licensed treatment programs to treat substance use disorders, mental health conditions, behavioral health conditions, traumatic brain injuries, military sexual trauma, and co-occurring disorders. The supreme court may adopt rules, including rules of procedure, for veterans treatment dockets.
- k-l. Completion of a restorative justice program. For purposes of this section, "restorative justice program" means a system of justice which focuses on the rehabilitation of offenders through reconciliation with victims and the community at large.
- l-m. Mental health court program. A mental health court is a district court supervised treatment program approved by the supreme court which combines judicial supervision with mental health services and treatment in a licensed treatment program. The supreme court may adopt rules, including rules of procedure, for mental health court programs.

Except as provided by section 12.1-32-06.1, sentences imposed under this subsection may not exceed in duration the maximum sentences of imprisonment provided by section 12.1-32-01, section 12.1-32-09, or as provided specifically in a statute defining an offense. This subsection does not permit the unconditional discharge of an offender following conviction. A sentence under subdivision e or fg must be imposed in the manner provided in section 12.1-32-08. ~~If the person is sentenced to a term of imprisonment, the court may prohibit the person from contacting the victim during the term of imprisonment.~~ For purposes of this subsection, "victim" means victim as defined in section 12.1-34-01.

³⁹ **SECTION 2. AMENDMENT.** Subdivision h of subsection 5 of section 39-08-01 of the North Dakota Century Code is amended and reenacted as follows:

- h. If the penalty mandated by this section includes imprisonment or placement upon conviction of a violation of this section or equivalent ordinance, and if an addiction evaluation has indicated that the defendant needs treatment, the court may order the defendant to undergo treatment at an appropriate licensed addiction treatment program under subdivision gh of subsection 1 of section 12.1-32-02 and the time spent by the defendant in the treatment must be credited as a portion of a sentence of

³⁹ Section 39-08-01 was also amended by section 12 of House Bill No. 1030, chapter 301, and section 3 of House Bill No. 1336, chapter 135.

imprisonment or placement under this section. A court may not order the department of corrections and rehabilitation to be responsible for the costs of treatment in a private treatment facility.

SECTION 3. APPLICATION. This Act applies to a court order or any criminal sentencing imposed after the effective date of this Act.

Approved March 21, 2025

Filed March 24, 2025

CHAPTER 135

HOUSE BILL NO. 1336

(Representatives Satrom, Grueneich, Ostlie)
(Senators Conley, Dwyer)

AN ACT to amend and reenact section 12.1-31.2-02, subsection 1 of section 12.1-32-02, and subdivision h of subsection 5 of section 39-08-01 of the North Dakota Century Code, relating to orders prohibiting contact and use of orders prohibiting contact as an alternative to sentencing.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁴⁰ **SECTION 1. AMENDMENT.** Section 12.1-31.2-02 of the North Dakota Century Code is amended and reenacted as follows:

12.1-31.2-02. Order prohibiting contact.

1. a. If an individual ~~who~~ is charged with ~~or~~ arrested for, ~~or subject to a sentence or order deferring imposition of sentence for~~ a crime of violence or threat of violence, stalking, harassment, or a sex offense ~~is released from custody before arraignment or trial~~, the court authorizing the release of the individual, ~~imposing a sentence, or issuing an order deferring imposition of sentence~~, shall consider and may issue an order prohibiting the individual from having contact with the victim. The order must contain the court's directives and must inform the individual that any violation of the order constitutes a criminal offense. The state's attorney shall provide a copy of the order to the victim. The court shall determine at the time of the individual's arraignment whether an order issued pursuant to this section will be extended. If the court issues an order pursuant to this section before the time the individual is charged, the order expires at the individual's arraignment or within seventy-two hours of issuance if charges against the individual are not filed.
- b. A party or victim may file a written request with the court to modify or terminate an order issued under this section. If requested, the court may hold a hearing to determine whether to grant or deny the request to modify or terminate an order.
- c. If an order prohibiting contact is issued upon a charge or arrest, the order terminates upon dismissal, acquittal, sentence, or order deferring imposition of sentence. Upon sentence or order deferring imposition of sentence, the court may issue a new order under this subsection.
2. If the court has probable cause to believe ~~that~~ the individual ~~charged or arrested~~ subject to an order under subsection 1 is likely to use, display, or threaten to use a firearm or dangerous weapon as defined in section 12.1-01-04 in any further act of violence, the court shall require ~~that~~ the individual surrender for safekeeping any firearm or specified dangerous

⁴⁰ Section 12.1-31.2-02 was also amended by section 1 of House Bill No. 1079, chapter 339.

weapon in or subject to the individual's immediate possession or control, to the sheriff of the county or chief of police of the city in which the individual resides.

3. ~~Whenever~~If an order prohibiting contact is issued, modified, ~~extended~~, or terminated under this section, the clerk of court shall forward a copy of the order within one business day to the appropriate law enforcement agency specified in the order. Upon receipt of the copy of the order, the law enforcement agency shall enter the order in the central warrant information system and the national crime information center database provided by the federal bureau of investigation, or its successor agency.
 - a. Once the bureau, after consultation with the state court administrator, determines and implements a method to transmit electronically to the bureau an order prohibiting contact, the court electronically shall send the full text of the order as issued, modified, ~~extended~~, or terminated in accordance with this section and any data fields identified by the bureau. This electronic submission will fulfill the law enforcement agency's requirement to enter the order in the central warrant information system, but will not fulfill its requirement to enter, maintain, and respond to inquiries regarding the order in the national crime information center database provided by the federal bureau of investigation, or its successor agency.
 - b. Once the bureau, after consultation with the state court administrator, determines and implements an electronic method to notify law enforcement about the order, the clerk of court's requirement to forward the order to the law enforcement agency will be satisfied.
 - c. Once the bureau, after consultation with the director of state radio, determines and implements a method to enter the order into the national crime information center database provided by the federal bureau of investigation, or its successor agency, the bureau shall enter the order electronically in the national crime information center database provided by the federal bureau of investigation, or its successor agency. This electronic entry will fulfill the law enforcement agency's requirement to enter the order in the national crime information center database provided by the federal bureau of investigation, or its successor agency, but will not fulfill its requirement to maintain and respond to inquiries regarding the order in the national crime information center database provided by the federal bureau of investigation, or its successor agency.
4. An individual who violates a court order issued under this section is guilty of a class A misdemeanor.
5. A law enforcement officer shall arrest an individual without a warrant if the officer determines there is probable cause that the individual has committed the offense of violating an order prohibiting contact under this section, whether or not the violation was committed in the presence of the officer. A law enforcement officer who acts in good faith on probable cause and without malice is immune from any civil or criminal liability for making an arrest under this subsection.

⁴¹ **SECTION 2. AMENDMENT.** Subsection 1 of section 12.1-32-02 of the North Dakota Century Code is amended and reenacted as follows:

1. a. Every person convicted of an offense who is sentenced by the court must be sentenced to one or a combination of the following alternatives, unless the sentencing alternatives are otherwise specifically provided in the statute defining the offense or sentencing is deferred under subsection 4:
 - ~~a.~~ (1) Payment of the reasonable costs of the person's prosecution.
 - ~~b.~~ (2) Probation.
 - ~~c.~~ (3) A term of imprisonment, including intermittent imprisonment:
 - (4) (a) In a state correctional facility in accordance with section 29-27-07, in a regional corrections center, or in a county jail, if convicted of a felony or a class A misdemeanor.
 - (2) (b) In a county jail or in a regional corrections center, if convicted of a class B misdemeanor.
 - (3) (c) In a facility or program deemed appropriate for the treatment of the individual offender, including available community-based or faith-based programs.
 - (4) (d) In the case of persons convicted of an offense who are under eighteen years of age at the time of sentencing, the court is limited to sentencing the minor defendant to a term of imprisonment in the custody of the department of corrections and rehabilitation.
 - ~~d.~~ (4) A fine.
 - ~~e.~~ (5) Restitution for damages resulting from the commission of the offense.
 - ~~f.~~ (6) Restoration of damaged property or other appropriate work detail.
 - ~~g.~~ (7) Commitment to an appropriate licensed public or private institution for treatment of alcoholism, drug addiction, or mental disease or defect.
 - ~~h.~~ (8) Commitment to a sexual offender treatment program.
 - ~~i.~~ (9) Drug court program. A drug court is a district court supervised treatment program approved by the supreme court which combines judicial supervision with alcohol and drug testing and substance use disorder treatment in a licensed treatment program. The supreme court may adopt rules, including rules of procedure, for drug court programs.
 - ~~j.~~ (10) Veterans treatment docket. A veterans treatment docket is a district court supervised docket approved by the supreme court which combines judicial supervision with licensed treatment programs to treat substance use disorders, mental health conditions, behavioral health conditions, traumatic brain injuries, military sexual trauma, and co-occurring disorders. The supreme court may adopt rules, including rules of procedure, for veterans treatment dockets.

⁴¹ Section 12.1-32-02 was also amended by section 1 of House Bill No. 1030, chapter 301, and section 1 of House Bill No. 1313, chapter 134.

- ~~k.~~ (11) Completion of a restorative justice program. For purposes of this section, "restorative justice program" means a system of justice which focuses on the rehabilitation of offenders through reconciliation with victims and the community at large.
- ~~l.~~ (12) Mental health court program. A mental health court is a district court supervised treatment program approved by the supreme court which combines judicial supervision with mental health services and treatment in a licensed treatment program. The supreme court may adopt rules, including rules of procedure, for mental health court programs.

(13) An order prohibiting contact.

- ~~b.~~ Except as provided ~~by~~ in section 12.1-32-06.1, sentences imposed under this subsection may not exceed in duration the maximum sentences of imprisonment provided by section 12.1-32-01, section 12.1-32-09, or as provided specifically in a statute defining an offense. This subsection does not permit the unconditional discharge of an offender following conviction. A sentence under ~~subdivision e paragraph 5 or f 6 of subdivision a~~ must be imposed in the manner provided in section 12.1-32-08. If the person is sentenced to a term of imprisonment, the court may prohibit the person from contacting the victim during the term of imprisonment. For purposes of this subsection, "victim" means victim as defined in section 12.1-34-01.

⁴² **SECTION 3. AMENDMENT.** Subdivision h of subsection 5 of section 39-08-01 of the North Dakota Century Code is amended and reenacted as follows:

- h. If the penalty mandated by this section includes imprisonment or placement upon conviction of a violation of this section or equivalent ordinance, and if an addiction evaluation has indicated that the defendant needs treatment, the court may order the defendant to undergo treatment at an appropriate licensed addiction treatment program under ~~subdivision g of~~ subsection 1 of section 12.1-32-02 and the time spent by the defendant in the treatment must be credited as a portion of a sentence of imprisonment or placement under this section. A court may not order the department of corrections and rehabilitation to be responsible for the costs of treatment in a private treatment facility.

Approved March 21, 2025

Filed March 24, 2025

⁴² Section 39-08-01 was also amended by section 12 of House Bill No. 1030, chapter 301, and section 2 of House Bill No. 1313, chapter 134.

CHAPTER 136

SENATE BILL NO. 2067

(Judiciary Committee)

(At the request of the Department of Corrections and Rehabilitation)

AN ACT to amend and reenact subsection 2 of section 12.1-32-06.1 of the North Dakota Century Code, relating to the commencement date of supervised probation if an alternative to incarceration is court ordered.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 12.1-32-06.1 of the North Dakota Century Code is amended and reenacted as follows:

2. Except as provided in this section, the length of supervised probation imposed in conjunction with a sentence of probation or a suspended execution or deferred imposition of sentence may not extend for more than five years for a felony offense subject to section 12.1-32-09.1, a felony offense subject to section 12.1-32-02.1, which involves the use of a firearm or dangerous weapon, a second or subsequent violation of section 12.1-17-07.1, a second or subsequent violation of any domestic violence protection order, a violation of chapter 12.1-41, or a violation of section 14-09-22; three years for any other felony offense; two years for a class A misdemeanor; and three hundred sixty days for a class B misdemeanor offense from the later of the date of:
 - a. The order imposing probation;
 - b. The defendant's release from incarceration or an alternative to incarceration; or
 - c. Termination of the defendant's parole.

Approved March 14, 2025

Filed March 14, 2025

CHAPTER 137

HOUSE BILL NO. 1061

(Judiciary Committee)

(At the request of the Department of Corrections and Rehabilitation)

AN ACT to amend and reenact subsections 17 and 18 of section 12.1-34-02 of the North Dakota Century Code, relating to fair treatment of victims.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁴³ **SECTION 1. AMENDMENT.** Subsection 17 of section 12.1-34-02 of the North Dakota Century Code is amended and reenacted as follows:

17. Prompt notice of custodial release. Registered victims and witnesses must be informed whenever a criminal defendant receives a temporary, provisional, or final release from custody or whenever the defendant escapes from custody. Victims who are not registered must be given the same notice by the appropriate custodial authority. Notification must include the transfer of the defendant to a work-release or education release program, a community residential program, or transfer to a mental health facility. All notices to the registered victim and witnesses concerning this release information must be within a reasonable time prior to the defendant's release or transfer. The notice given by the custodial authority must be given by any means reasonably calculated to give prompt notice.

⁴⁴ **SECTION 2. AMENDMENT.** Subsection 18 of section 12.1-34-02 of the North Dakota Century Code is amended and reenacted as follows:

18. Participation in parole board and pardon decision. Victims may submit a written statement for consideration by the parole board, the governor, or the pardon advisory board, if one has been appointed, prior to the parole board, the governor, or the pardon advisory board taking any action on a defendant's request for parole or pardon. A victim statement made under this subsection is a confidential record and may be disclosed only to the parole board, the governor, the pardon advisory board, or their authorized representative. Victims of violent crimes may at the discretion of the parole board, the governor, or the pardon advisory board personally appear and address the parole board, the governor, or the pardon advisory board. Victim testimony and written statements under this subsection are confidential and may be disclosed only to the parole board, the governor, the pardon advisory board, or their authorized representative. Notice must be given by the parole board ~~or~~, pardon clerk, or authorized representative informing the registered victim of the pending review. The registered victim must be provided notice of the decision of the parole board or of the governor and the recommendations of the pardon advisory board, if any, and, if applicable, notice of the date of the prisoner's release on parole or the prisoner's pardon, conditional pardon,

⁴³ Section 12.1-34-02 was also amended by section 2 of House Bill No. 1061, chapter 137.

⁴⁴ Section 12.1-34-02 was also amended by section 1 of House Bill No. 1061, chapter 137.

reprieve, commutation, or remission of fine. Notice must be given within a reasonable time after the parole board or the governor makes a decision but in any event before the parolee's or pardoned prisoner's release from custody.

Approved March 21, 2025

Filed March 24, 2025

CHAPTER 138

SENATE BILL NO. 2387

(Senators Van Oosting, Myrdal, Paulson)
(Representatives Hoverson, Richter, O'Brien)

AN ACT to create and enact a new section to chapter 12.1-34 of the North Dakota Century Code, relating to the rights of sexual violence survivors.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Sexual violence survivor rights.

1. As used in this section:
 - a. "Sexual assault victim advocate" means a victim advocate of a domestic violence sexual assault organization as defined under section 14-07.1-01, or a victim advocate from a children's advocacy center as defined in section 50-25.1-02.
 - b. "Sexual violence survivor" means an individual who is a victim of a crime defined under section 12.1-20-03, 12.1-20-03.1, 12.1-20-04, 12.1-20-05, 12.1-20-05.1, 12.1-20-06, 12.1-20-06.1, 12.1-20-07, 12.1-20-11, or 12.1-20-12.3.
2. In addition to the rights provided under section 12.1-34-02, a sexual violence survivor must be afforded the following rights.
 - a. The right to consult with a sexual assault victim advocate during any forensic medical examination, unless the advocate is not available in a timely manner. A survivor's:
 - (1) Communication with a sexual assault victim advocate is privileged, unless waived by the survivor; and
 - (2) Waiver of the right to a sexual assault victim advocate is privileged.
 - b. The right to the presence of privately retained counsel when speaking with law enforcement regarding the alleged assault, unless law enforcement is conducting a forensic interview with an alleged child victim.
 - c. Except as provided by law, the right to access the law enforcement report prepared for the survivor's case at no cost.
 - d. The right to a document prepared by the attorney general explaining the rights of sexual violence survivors under this section and other relevant law, which must be provided by a medical provider or law enforcement officer upon initial contact with the survivor.

Approved April 22, 2025

Filed April 23, 2025

CHAPTER 139

SENATE BILL NO. 2209

(Senators Cleary, Larson)
(Representatives Hanson, O'Brien, Satrom, Schneider)

AN ACT to amend and reenact section 12.1-34-07 of the North Dakota Century Code, relating to the expansion of medical examinations of victims of criminal conduct; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁴⁵ **SECTION 1. AMENDMENT.** Section 12.1-34-07 of the North Dakota Century Code is amended and reenacted as follows:

12.1-34-07. Medical screening and acute forensic medical examinations costs - Reimbursement by attorney general - Use of evidence.

1. An acute forensic medical examination is an examination performed on an alleged victim of criminal sexual conduct or domestic violence for the purpose of gathering evidence of an alleged crime and is performed within ~~ninety-six~~ ninety-one hundred twenty hours after the alleged crime unless good cause is shown for the delay in performing the examination. When an acute forensic medical examination is performed, the costs incurred by a health care facility or health care professional for performing the acute forensic medical examination or any preliminary medical screening examination may not be charged, either directly or through a third-party payer, to the alleged victim.
2. A child forensic medical examination is an examination performed on an alleged child victim of criminal sexual conduct, physical abuse, or neglect for the purpose of gathering evidence of an alleged crime. When a child forensic medical examination is performed, the costs incurred by a health care facility or health care professional for performing the child forensic medical examination or any preliminary medical screening examination may not be charged, either directly or through a third-party payer, to the alleged child victim or the child's parent, guardian, or custodian.
3. Upon submission of appropriate documentation, the attorney general, within the limits of legislative appropriations, shall reimburse the health care facility or a health care professional for the reasonable costs incurred in performing the medical screening and acute forensic medical examination. The attorney general, subject to legislative appropriations, shall reimburse each accredited children's advocacy center located in the state for a forensic interview that is not reimbursable by Medicaid or crime victims compensation.
4. Evidence obtained during a medical examination under this section may not be used against an alleged victim for the prosecution of the alleged victim for a separate offense.

⁴⁵ Section 12.1-34-07 was also amended by section 1 of Senate Bill No. 2292, chapter 140.

SECTION 2. APPROPRIATION - ATTORNEY GENERAL - DOMESTIC VIOLENCE FORENSIC MEDICAL EXAMINATION PROGRAM - REPORTS.

There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$200,000, or so much of the sum as may be necessary, to the attorney general in a domestic violence examinations line item for the purpose of the domestic violence forensic medical examination program for community-based or hospital-based domestic violence examiner programs and related administrative costs, for the biennium beginning July 1, 2025, and ending June 30, 2027. Any organization that receives funding under this section shall report to the attorney general and the appropriations committees of the seventieth legislative assembly on the use of the funds received and the outcomes of its programs. The attorney general shall report to the appropriations committees of the seventieth legislative assembly on the number of victims receiving domestic violence forensic medical examinations and documentation of collaborative efforts to assist victims, which includes nurses, the hospital or clinic, law enforcement, and state's attorneys.

Approved March 28, 2025

Filed March 31, 2025

CHAPTER 140

SENATE BILL NO. 2292

(Senators Lee, Hogan, Roers)
(Representatives Meier, Nelson, Mitskog)

AN ACT to amend and reenact subsection 3 of section 12.1-34-07 of the North Dakota Century Code, relating to the reimbursement of medical screening and examination for sexual assault victims.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁴⁶ **SECTION 1. AMENDMENT.** Subsection 3 of section 12.1-34-07 of the North Dakota Century Code is amended and reenacted as follows:

3. Upon submission of appropriate documentation, the attorney general, within the limits of legislative appropriations, shall reimburse from the general fund the health care facility or a health care professional for the reasonable costs incurred in performing the medical screening and acute forensic medical examination. The attorney general, subject to legislative appropriations, shall reimburse from the general fund each accredited children's advocacy center located in the state for a forensic interview that is not reimbursable by Medicaid or crime victims compensation.

Approved April 2, 2025

Filed April 3, 2025

⁴⁶ Section 12.1-34-07 was also amended by section 1 of Senate Bill No. 2209, chapter 139.

CHAPTER 141

HOUSE BILL NO. 1361

(Representatives D. Johnston, Jonas, Kiefert, Schauer)
(Senators Myrdal, Boehm)

AN ACT to create and enact a new section to chapter 12.1-41 of the North Dakota Century Code, relating to mandatory minimum sentences for human trafficking offenders; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 12.1-41 of the North Dakota Century Code is created and enacted as follows:

Prohibited acts - Mandatory terms of imprisonment.

A person who violates a provision of this chapter is subject to mandatory minimum sentencing requirements to be served without the benefit of parole as follows:

1. For a class AA felony, the court shall impose a minimum sentence of twenty years' imprisonment.
2. For a class A felony, the court shall impose a minimum sentence of ten years' imprisonment.
3. For a class B felony, the court shall impose a minimum sentence of five years' imprisonment.

Approved April 21, 2025

Filed April 22, 2025