

CRIMINAL CODE

CHAPTER 120

SENATE BILL NO. 2237
(Committee on Judiciary)
(At the request of the Attorney General)

INTOXICATION AS A DEFENSE

AN ACT to amend and reenact section 12.1-04-02 of the North Dakota Century Code, relating to intoxication as a defense to a criminal charge.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 12.1-04-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12.1-04-02. INTOXICATION.)

1. Intoxication is not a defense to a criminal charge. Intoxication does not, in itself, constitute mental disease or defect within the meaning of section 12.1-04-03. Evidence of intoxication is admissible whenever it is relevant to negate or to establish an element of the offense charged.
2. A person is reckless with respect to an element of an offense even though his disregard thereof is not conscious, if his not being conscious thereof is due to self-induced intoxication.

Approved March 23, 1977

CHAPTER 121

HOUSE BILL NO. 1136
(Winkjer)

LACK OF CRIMINAL RESPONSIBILITY
AS A DEFENSE

AN ACT to amend and reenact section 12.1-04-03 of the North Dakota Century Code, relating to lack of criminal responsibility as a defense.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 12.1-04-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12.1-04-03. LACK OF CRIMINAL RESPONSIBILITY A DEFENSE.) A person is not responsible for criminal conduct if, as a result of mental disease or defect existing at the time the conduct occurs, (1) he lacked substantial capacity to comprehend the harmful nature or consequences of his conduct, or (2) his conduct was the result of a loss or serious distortion of his capacity to recognize reality. Lack of criminal responsibility under this section is a defense.

Approved March 12, 1977

CHAPTER 122

HOUSE BILL NO. 1469
(Eagles)

SEX OFFENSES

AN ACT to amend and reenact sections 12.1-20-02, 12.1-20-03, 12.1-20-04, 12.1-20-05, and 12.1-20-07 of the North Dakota Century Code, relating to the definition of sexual act, and the offenses of gross sexual imposition, sexual imposition, corruption of minors, and sexual assault.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 12.1-20-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12.1-20-02. DEFINITIONS.) In sections 12.1-20-03 through 12.1-20-12:

1. "Sexual act" means sexual contact between human beings who are not husband and wife consisting of contact between the penis and the vulva, the penis and the anus, the mouth and the penis, or the mouth and the vulva; or the use of an object which comes in contact with the victim's anus, vulva, or penis. For the purposes of this subsection, sexual contact between the penis and the vulva, or between the penis and the anus or an object and the anus, vulva, or penis of the victim, occurs upon penetration, however slight. Emission is not required.
2. "Sexual contact" means any touching of the sexual or other intimate parts of the person for the purpose of arousing or gratifying sexual desire.
3. "Deviate sexual act" means any form of sexual contact with an animal, bird, or dead person.
4. "Object" means anything used in commission of a sexual act other than the person of the actor.

SECTION 2. AMENDMENT.) Section 12.1-20-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12.1-20-03. GROSS SEXUAL IMPOSITION.)

1. A person who engages in a sexual act with another, or who causes another to engage in a sexual act, is guilty of an offense if:
 - a. He compels the victim to submit by force or by threat of imminent death, serious bodily injury, or kidnapping, to be inflicted on any human being;
 - b. He or someone with his knowledge has substantially impaired the victim's power to appraise or control his or her conduct by administering or employing without his or her knowledge intoxicants or other means with intent to prevent resistance;
 - c. He knows that the victim is unaware that a sexual act is being committed upon him or her;
 - d. The victim is less than fifteen years old; or
 - e. He knows or has reasonable cause to believe that the other person suffers from a mental disease or defect which renders him or her incapable of understanding the nature of his or her conduct.
2. A person who engages in sexual contact with another, or who causes another to engage in sexual contact, is guilty of an offense if:
 - a. The victim is less than fifteen years old; or
 - b. He compels the victim to submit by force or by threat of imminent death, serious bodily injury, or kidnapping, to be inflicted on any human being.
3. An offense under this section is a class A felony if in the course of the offense the actor inflicts serious bodily injury upon the victim, or if his conduct violates subdivision d of subsection 1, or if the victim is not a voluntary companion of the actor and has not previously permitted him sexual liberties. Otherwise the offense is a class B felony.

SECTION 3. AMENDMENT.) Section 12.1-20-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12.1-20-04. SEXUAL IMPOSITION.) A person who engages in a sexual act or sexual contact with another, or who causes another to engage in a sexual act or sexual contact, is guilty of a class C felony if he compels the other person to submit by any threat that would render a person of reasonable firmness incapable of resisting.

SECTION 4. AMENDMENT.) Section 12.1-20-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12.1-20-05. CORRUPTION OF MINORS.) An adult who engages in a sexual act with another person or who causes another person to engage in a sexual act, is guilty of a class A misdemeanor if the other person is a minor, fifteen years of age or older.

SECTION 5. AMENDMENT.) Section 12.1-20-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12.1-20-07. SEXUAL ASSAULT.)

1. A person who knowingly has sexual contact with another or who causes such other person to have sexual contact with him, is guilty of an offense if:
 - a. He knows or has reasonable cause to believe that the contact is offensive to the other person;
 - b. He knows or has reasonable cause to believe that the other person suffers from a mental disease or defect which renders him or her incapable of understanding the nature of his or her conduct;
 - c. He or someone with his knowledge has substantially impaired the other person's power to appraise or control his or her conduct, by administering or employing without the other's knowledge intoxicants or other means for the purpose of preventing resistance;
 - d. The other person is in official custody or detained in a hospital, prison, or other institution and the actor has supervisory or disciplinary authority over him or her;
 - e. The other person is a minor, fifteen years of age or older, and the actor is his or her parent, guardian, or is otherwise responsible for general supervision of the other person's welfare; or
 - f. The other person is a minor, fifteen years of age or older, and the actor is an adult.
2. The offense is a class A misdemeanor if the actor's conduct violates subdivision e or f of subsection 1, otherwise the offense is a class B misdemeanor.

Approved March 19, 1977

CHAPTER 123

HOUSE BILL NO. 1211
(Committee on Judiciary)
(At the request of the Attorney General)

ENDANGERING PERSONS OR PROPERTY

AN ACT to amend and reenact subsection 1 of section 12.1-21-02 of the North Dakota Century Code, relating to the crime of endangering by fire or explosion.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 1 of section 12.1-21-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. A person is guilty of an offense if he 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.

Approved March 31, 1977

CHAPTER 124

SENATE BILL NO. 2534
(Schirado)

CRIMINAL MISCHIEF PENALTIES

AN ACT to amend and reenact subsection 2 of section 12.1-21-05 of the North Dakota Century Code, relating to the penalties for criminal mischief.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 2 of section 12.1-21-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The offense is:
 - a. A class C felony if the actor intentionally causes pecuniary loss in excess of two thousand dollars or damages tangible property of another by means of an explosive or a destructive device; and
 - b. A class A misdemeanor if the actor recklessly causes pecuniary loss in excess of two thousand dollars or if the actor intentionally causes pecuniary loss of from one hundred through two thousand dollars.

Otherwise the offense is a class B misdemeanor.

Approved March 23, 1977

CHAPTER 125

HOUSE BILL NO. 1559
(Olson)

THEFT OFFENSES

AN ACT to create and enact three new sections to chapter 12.1-23 of the North Dakota Century Code, relating to altering identification marks; and to the possession of altered property and dealing in stolen property; to amend and reenact section 12.1-23-09 of the North Dakota Century Code, relating to defenses and proof as to theft and related offenses; and to create and enact two new subsections to section 12.1-23-10 of the North Dakota Century Code, relating to definitions of "dealer in property" and "traffic".

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1.) A new section to chapter 12.1-23 of the North Dakota Century Code is hereby created and enacted to read as follows:

REMOVAL OF IDENTIFICATION MARKS.)

1. A person commits the offense of removal of identification marks if he, with intent to cause interruption of the ownership of another, defaces, erases, or otherwise alters any serial number or identification mark placed or inscribed on any personal property by the manufacturer or owner for the purpose of identifying the personal property or its component parts, provided the personal property exceeds one hundred dollars in value. A person removes identification marks if he attempts to or succeeds in erasing, defacing, altering, or removing a serial number or identification mark or part thereof, on the personal property of another, that exceeds one hundred dollars in value.
2. A person who commits the offense of removal of identification marks on property or its component parts which exceeds one hundred dollars in value, is guilty of a class A misdemeanor.

SECTION 2.) A new section to chapter 12.1-23 of the North Dakota Century Code is hereby created and enacted to read as follows:

POSSESSION OF ALTERED PROPERTY.)

1. A person is guilty of the offense of possession of altered property if he possesses property the identifying features of which, including serial numbers or labels, have been removed or in any fashion altered, knowing the serial number or identification mark placed on the same by the manufacturer or owner for the purpose of identification, has been erased, altered, changed, or removed for the purpose of changing the identity of such personal property.
2. A person who commits the offense of possession of altered property or its component parts which exceed one hundred dollars in value, shall be guilty of a class A misdemeanor. In the event that more than one item of personal property is defaced, erased, or otherwise altered or unlawfully possessed, as specified in sections 2 and 3 of this Act, by an individual then an offense is determined to be committed under this section if the aggregate of the value of the property so defaced, erased, or otherwise altered or unlawfully possessed is in excess of one hundred dollars.

SECTION 3.) A new section to chapter 12.1-23 of the North Dakota Century Code is hereby created and enacted to read as follows:

DEALING IN STOLEN PROPERTY.)

1. A person is guilty of the offense of dealing in stolen property if he:
 - a. Traffics in, or endeavors to traffic in the property of another that has been stolen; or
 - b. Initiates, organizes, plans, finances, directs, manages, or supervises the theft and trafficking in the property of another that has been stolen.
2. A person who commits the offense of dealing in stolen property in violation of:
 - a. Subsection 1.a. shall be guilty of a class C felony; or
 - b. Subsection 1.b. shall be guilty of a class B felony.

SECTION 4. AMENDMENT.) Section 12.1-23-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12.1-23-09. DEFENSES AND PROOF AS TO THEFT AND RELATED OFFENSES.)

1. It is a defense to a prosecution under this chapter that:
 - a. The actor honestly believed that he had a claim to the property or services involved which he was entitled to assert in the manner which forms the basis for the charge against him; or
 - b. The victim is the actor's spouse, but only when the property involved constitutes household or personal effects or other property normally accessible to both spouses and the parties involved are living together. The term "spouse", as used in this section, includes persons living together as husband and wife.
2. It does not constitute a defense to a prosecution for conduct constituting an offense in violation of this chapter that:
 - a. Stratagem or deception, including the use of an undercover operative or law enforcement officer, was employed;
 - b. A facility or an opportunity to engage in such conduct, including offering for sale property not stolen as if it were stolen, was provided; or
 - c. Mere solicitation that would not induce an ordinary law-abiding person to engage in such conduct was made by a law enforcement officer to gain evidence against a person predisposed to engage in such conduct.
3.
 - a. It shall be a prima facie case of theft under this chapter if it is shown that a public servant or an officer, director, agent, employee of, or a person connected in any capacity with a financial institution has failed to pay or account upon lawful demand for money or property entrusted to him as part of his official duties or if an audit reveals a shortage or falsification of his accounts.
 - b. Proof of the purchase or sale of stolen property at a price substantially below its fair market value, unless satisfactorily explained, gives rise to an inference that the person buying or selling the property was aware of the risk that it had been stolen.

- c. Proof of the purchase or sale of stolen property by a dealer in property, out of the regular course of business, or without the usual indicia of ownership other than mere possession, unless satisfactorily explained, gives rise to an inference that the person buying or selling the property was aware of the risk that it had been stolen.
4. The testimony of an accomplice, if believed beyond a reasonable doubt, is sufficient for a conviction for conduct constituting an offense in violation of this Act when:
- a. Strategem or deception, including the use of an undercover operative or law enforcement officer, was employed;
 - b. A facility or an opportunity to engage in such conduct including offering for sale property not stolen as if it were stolen, was provided; or
 - c. Mere solicitation that would not induce an ordinary law-abiding person to engage in such conduct was made by a law enforcement officer to gain evidence against a person predisposed to engage in such conduct.

SECTION 5.) Two new subsections to section 12.1-23-10 of the North Dakota Century Code are hereby created and enacted to read as follows:

"Dealer in property" means a person who buys or sells property as a business.

"Traffic" means: (1) to sell, transfer, distribute, dispense or otherwise dispose of to another person; or (2) to buy, receive, possess, or obtain control of, with intent to sell, transfer, distribute, dispense or otherwise dispose of to another person.

Approved April 21, 1977

CHAPTER 126

SENATE BILL NO. 2417
(Christensen)

DISPLAY OF OBJECTIONABLE MATERIALS

AN ACT to create and enact section 12.1-27.1-03.1 of the North Dakota Century Code, relating to the display of objectionable materials to minors and providing a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1.) Section 12.1-27.1-03.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

12.1-27.1-03.1. OBJECTIONABLE MATERIALS OR PERFORMANCE - DISPLAY TO MINORS - DEFINITIONS - PENALTY.)

1. A person is guilty of a class B misdemeanor if he willfully displays at newsstands or any other business establishment frequented by minors, or where minors are or may be invited as a part of the general public, any photograph, book, paperback book, pamphlet, or magazine, the exposed cover or available content of which exploits, is devoted to, or is principally made up of depictions of nude or partially denuded human figures posed or presented in a manner to exploit sex, lust, or perversion for commercial gain.
2. As used in this section:
 - a. "Nude or partially denuded human figures" means less than completely and opaquely covered human genitals, pubic regions, female breasts or a female breast, if the breast or breasts are exposed below a point immediately above the top of the areola, or human buttocks; and includes human male genitals in a discernibly turgid state even if completely and opaquely covered.
 - b. "Where minors are or may be invited as a part of the general public" includes any public roadway or public walkway.

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- c. The above shall not be construed to include a bona fide school, college, university, museum, public library, or art gallery.

Approved April 20, 1977

CHAPTER 127

SENATE BILL NO. 2122
(Jones, Christensen)

MANDATORY IMPRISONMENT FOR CERTAIN CRIMES

AN ACT to create and enact a new section to chapter 12.1-32 of the North Dakota Century Code, relating to a minimum term of imprisonment for committing a felony while in possession of a dangerous weapon, an explosive, or a firearm.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1.) A new section to chapter 12.1-32 of the North Dakota Century Code is hereby created and enacted to read as follows:

MINIMUM PRISON TERMS FOR ARMED OFFENDERS.) Notwithstanding any other provisions of this title, minimum terms of imprisonment shall be imposed upon an offender and served without benefit of parole when, in the course of committing an offense, he inflicts or attempts to inflict bodily injury upon another, or threatens or menaces another with imminent bodily injury with a dangerous weapon, an explosive, or a firearm. Such minimum penalties shall apply only when possession of a dangerous weapon, an explosive, or a firearm has been charged and admitted or found to be true in the manner provided by law, and shall be imposed as follows:

1. If the offense for which the offender is convicted is a class A or class B felony, the court shall impose a minimum sentence of four years' imprisonment.
2. If the offense for which the offender is convicted is a class C felony, the court shall impose a minimum sentence of two years' imprisonment.

Approved April 21, 1977

CHAPTER 128

SENATE BILL NO. 2097
(Freed)

DANGEROUS SPECIAL OFFENDER NOTICE DISCLOSURE

AN ACT to amend and reenact subsection 3 of section 12.1-32-09 of the North Dakota Century Code, relating to the procedure for extended sentences for dangerous special offenders.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 3 of section 12.1-32-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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, such 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 who upon conviction for such felony is subject to the imposition of a sentence under subsection 2, and setting out with particularity the reasons why such attorney believes the defendant to be a dangerous special offender. In no case shall the fact that the prosecuting attorney is seeking sentencing of the defendant as a dangerous special offender be disclosed to the jury. If the court finds that the filing of the notice as a public record may prejudice fair consideration of a pending criminal matter, it may order the notice sealed and the notice shall not be subject to subpoena or public inspection during the pendency of such criminal matter, except on order of the court, but shall be subject to inspection by the defendant alleged to be a dangerous special offender and his counsel.

Approved March 12, 1977

CHAPTER 129

SENATE BILL NO. 2531
(Schirado)

**REPEAL OF AGGREGATE TERM LIMIT FOR
MULTIPLE OFFENSES**

AN ACT to repeal subsection 2 of section 12.1-32-11 of the North Dakota Century Code, relating to the aggregate total term of imprisonment for sentences for multiple offenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. REPEAL.) Subsection 2 of section 12.1-32-11 of the North Dakota Century Code is hereby repealed.

Approved March 23, 1977

CHAPTER 130

SENATE BILL NO. 2058
(Legislative Council)
(Interim Committee on Judiciary "C")

CRIMINAL CONVICTION AND OCCUPATIONAL
LICENSING

AN ACT to define offense and to create and enact new sections to chapters 5-03 and 10-04, section 12.1-33-02.1, and new sections to chapters 25-16, 27-11, 36-06, 43-01, 43-02.1, 43-04, 43-05, 43-06, 43-07, 43-09, 43-10, 43-15, 43-18, 43-18.1, 43-19.1, 43-20, 43-21, 43-22, 43-23, 43-27, 43-28, 43-33, 43-34, 43-35, 43-36, 50-11, 50-11.1, 50-12, 50-19, and 51-05.1 of the North Dakota Century Code, providing that conviction of an offense shall not disqualify a person from licensure for a profession or occupation unless the offense has a direct bearing upon a person's ability to serve the public in the profession or occupation, unless, following conviction, a person is not sufficiently rehabilitated; and to amend and reenact subsection 3 of section 5-02-02, subsection 7 of section 10-04-11, subsection 4 of section 25-16-08, subsection 7 of section 26-17.1-42, subsection 1 of section 27-14-02, subsection 2 of section 43-01-16, subdivision a of subsection 1 of section 43-02.1-05, subdivision a of subsection 2 of section 43-03-13, subsection 4 of section 43-03-20, subsection 1 of section 43-04-40, subsection 5 of section 43-05-16, subsection 2 of section 43-11-31, subsection 2 of section 43-12-22, subsection 1 of section 43-13-22, subsection 3 of section 43-17-31, subsection 1 of section 43-18-18, subsection 1 of section 43-18.1-07, section 43-19.1-25, subdivision f of subsection 1 of section 43-23-11.1, subdivision b of subsection 1 of section 43-23.1-15, section 43-25-07, subsection 2 of section 43-25-10, subsection 3 of section 43-26-11, subsection 3 of section 43-28-18, subsections 3 and 10 of section 43-29-14, subsection 4 of section 43-30-05, subsection 3 of section 43-30-12, subsection 4 of section 43-31-07, subsection 3 of section 43-31-10, subsection 1 of section 43-32-27, subsection 2 of section 43-33-12, section 43-36-21, subdivision c of subsection 1 of section 43-37-13, section 50-11-07, section 50-11.1-09, section 50-12-10, section 50-19-12, subdivision e of subsection 1 of section 51-05.1-03, and section 53-06-06 of the North Dakota Century Code, providing that conviction of an offense shall not disqualify a person from licensure for a profession or occupation unless the offense has a direct bearing upon a person's ability to serve the public in the profession or occupation, or unless, following conviction of any offense, a person is not

sufficiently rehabilitated.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 3 of section 5-02-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Applicant or manager must not have been convicted of an offense determined by the attorney general to have a direct bearing upon an applicant's or manager's ability to serve the public as an alcoholic beverage retailer; or, following conviction of any offense, is determined not to be sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 2.) A new section to chapter 5-03 of the North Dakota Century Code is hereby created and enacted to read as follows:

CONVICTION NOT BAR TO LICENSURE - EXCEPTIONS.) Conviction of an offense shall not disqualify a person from licensure under this chapter unless the state treasurer determines that the offense has a direct bearing upon a person's ability to serve the public as a beer or liquor wholesaler, or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 3.) A new section to chapter 10-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

CONVICTION NOT BAR TO REGISTRATION - EXCEPTIONS.) Conviction of an offense shall not disqualify a person from registration under this chapter unless the commissioner determines that the offense has a direct bearing upon a person's ability to serve the public as a dealer, salesman, or investment advisor, or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 4. AMENDMENT.) Subsection 7 of section 10-04-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- * 7. Has been convicted of an offense determined by the commissioner to have a direct bearing upon a person's ability to serve the public as a dealer, salesman, or investment advisor, or the commissioner finds that a person, following conviction of any offense, is not sufficiently rehabilitated under section 12.1-33-02.1;

*NOTE: Subsection 7 of section 10-04-11 was also amended by section 10 of Senate Bill No. 2246, chapter 83.

SECTION 5.) Section 12.1-33-02.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

12.1-33-02.1. PRIOR CONVICTION OF A CRIME NOT BAR TO STATE LICENSURES - EXCEPTIONS.)

1. A person shall not be disqualified to practice, pursue, or engage in any occupation, trade, or profession for which a license, permit, certificate, or registration is required from any state agency, board, commission, or department solely because of prior conviction of an offense. However, a person may be denied a license, permit, certificate, or registration because of prior conviction of an offense if it is determined that such person has not been sufficiently rehabilitated, or that the offense has a direct bearing upon a person's ability to serve the public in the specific occupation, trade, or profession.
2. A state agency, board, commission, or department shall consider the following in determining sufficient rehabilitation:
 - a. The nature of the offense and whether it has a direct bearing upon the qualifications, functions, or duties of the specific occupation, trade, or profession;
 - b. Information pertaining to the degree of rehabilitation of the convicted person; and
 - c. The time elapsed since the conviction or release. Completion of probation or parole, or a period of five years after final discharge or release from any term of imprisonment without subsequent conviction shall be deemed prima facie evidence of sufficient rehabilitation.
3. If conviction of an offense is used in whole or in part as a basis for disqualification of a person, such disqualification shall be in writing and shall specifically state the evidence presented and the reasons for disqualification. A copy of such disqualification shall be sent to the applicant by certified mail.
4. A person desiring to appeal from a final decision by any state agency, board, commission, or department shall follow the procedure provided by the chapter of the Century Code regulating the specific occupation, trade, or profession. If no appeal or review procedure is provided by such chapter, an appeal may be taken in accordance with chapter 28-32, except for attorneys disbarred or suspended under chapter 27-14.

SECTION 6.) A new section to chapter 25-16 of the North Dakota Century Code is hereby created and enacted to read as follows:

CONVICTION NOT BAR TO LICENSURE - EXCEPTIONS.) Conviction of an offense shall not disqualify a person from licensure under this chapter unless the division determines that the offense has a direct bearing upon a person's ability to serve the public as an owner or operator of a treatment or care center for mentally retarded, or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 7. AMENDMENT.) Subsection 4 of section 25-16-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. The owner or operator of the center has been guilty of an offense determined by the division to have a direct bearing upon a person's ability to serve the public as an owner or operator, or the division determines, following conviction of an offense, that the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 8. AMENDMENT.) Subsection 7 of section 26-17.1-42 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. Conviction of an offense determined by the commissioner to have a direct bearing upon a person's ability to serve the public as an insurance agent, broker, representative, or consultant, or the commissioner finds, after conviction of an offense, that the person is not sufficiently rehabilitated under section 12.1-33-02.1.

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

CONVICTION NOT BAR TO CERTIFICATION - EXCEPTIONS.) Conviction of an offense shall not disqualify a person from a certificate of admission and licensure under this chapter unless the state bar board and the supreme court determine that the offense has a direct bearing upon a person's ability to serve the public as an attorney and counselor at law, or that the person, following conviction of any offense, is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 10. AMENDMENT.) Subsection 1 of section 27-14-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Committed an offense determined by the supreme court to have a direct bearing upon a person's ability to serve the public as an attorney and counselor at law, or the supreme court determines, following conviction of an offense, that the person is not sufficiently rehabilitated under section 12.1-33-02.1;

SECTION 11.) A new section to chapter 36-06 of the North Dakota Century Code is hereby created and enacted to read as follows:

CONVICTION NOT BAR TO LICENSURE - EXCEPTIONS.) Conviction of an offense shall not disqualify a person from licensure under this chapter unless the director of the department of weights and measures determines that the offense has a direct bearing upon a person's ability to serve the public as a weighmaster, or that the person, following conviction of any offense, is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 12.) A new section to chapter 43-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

CONVICTION NOT BAR TO CERTIFICATION - EXCEPTIONS.) Conviction of an offense shall not disqualify a person, firm, or corporation from certification under this chapter unless the board determines that the offense has a direct bearing upon a person's ability to serve the public as an abstractor or that, following conviction of an offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 13. AMENDMENT.) Subsection 2 of section 43-01-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. If the holder thereof has been convicted of an offense determined by the board to have a direct bearing upon the holder's ability to serve the public as an abstractor, or if, following conviction of an offense, the board finds the holder is not sufficiently rehabilitated under section 12.1-33-02.1;

SECTION 14.) A new section to chapter 43-02.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

CONVICTION NOT BAR TO CERTIFICATION OR LICENSURE - EXCEPTIONS.) Conviction of an offense shall not disqualify a person from certification or licensure under this chapter unless the board determines that the offense has a direct bearing upon a person's ability to serve the public as a certified or licensed public accountant, or determines, pursuant to section 12.1-33-02.1, that, following conviction of an offense, the person is not sufficiently rehabilitated.

SECTION 15. AMENDMENT.) Subdivision a of subsection 1 of section 43-02.1-05 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- a. If the holder thereof has been convicted of an offense determined by the board to have a direct bearing upon the holder's ability to serve the public as a certified or licensed public accountant, or the board finds, following conviction of an offense, that the holder is not sufficiently rehabilitated under section 12.1-33-02.1;

SECTION 16. AMENDMENT.) Subdivision a of subsection 2 of section 43-03-13 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- a. Conviction of an offense determined by the board to have a direct bearing upon an applicant's ability to serve the public as an architect, or the board determines, following conviction of an offense, that the applicant is not sufficiently rehabilitated under section 12.1-33-02.1;

SECTION 17. AMENDMENT.) Subsection 4 of section 43-03-20 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. The holder of such certificate has been convicted of an offense determined by the board to have a direct bearing upon the holder's ability to serve the public as an architect; or that, following conviction of an offense, the holder is not sufficiently rehabilitated under section 12.1-33-02.1; or

SECTION 18.) A new section to chapter 43-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

CONVICTION NOT BAR TO CERTIFICATION OR PERMIT - EXCEPTIONS.) Conviction of an offense shall not disqualify a person from certification or a permit under this chapter unless the board determines that the offense has a direct bearing upon a person's ability to serve the public as a barber, or determines, following conviction of any offense, that the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 19. AMENDMENT.) Subsection 1 of section 43-04-40 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Conviction of an offense, shown by a certified copy of the record of conviction, determined by the board to have a direct bearing upon a person's ability to serve the

public as a barber, or the board determines, following conviction of any offense, that the person is not sufficiently rehabilitated under section 12.1-33-02.1;

SECTION 20.) A new section to chapter 43-05 of the North Dakota Century Code is hereby created and enacted to read as follows:

CONVICTION NOT BAR TO LICENSURE - EXCEPTIONS.) Conviction of an offense shall not disqualify an applicant from licensure under this chapter unless the board determines that the offense has a direct bearing upon an applicant's ability to serve the public as a podiatrist, or determines that an applicant, following conviction of any offense, is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 21. AMENDMENT.) Subsection 5 of section 43-05-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. Conviction of an offense determined by the board to have a direct bearing upon the holder's ability to serve the public as a podiatrist, or the board determines that the holder, following his conviction of any offense, is not sufficiently rehabilitated under section 12.1-33-02.1;

SECTION 22.) A new section to chapter 43-06 of the North Dakota Century Code is hereby created and enacted to read as follows:

CONVICTION NOT BAR TO LICENSURE - EXCEPTIONS.) Conviction of an offense shall not disqualify a person from licensure under this chapter unless the board determines that the offense has a direct bearing upon a person's ability to serve the public as a chiropractor or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 23.) A new section to chapter 43-07 of the North Dakota Century Code is hereby created and enacted to read as follows:

CONVICTION NOT BAR TO LICENSURE - EXCEPTIONS.) Conviction of an offense shall not disqualify a person from licensure under this chapter unless the secretary of state determines that the offense has a direct bearing upon a person's ability to serve the public as a contractor or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 24.) A new section to chapter 43-09 of the North

Dakota Century Code is hereby created and enacted to read as follows:

CONVICTION NOT BAR TO LICENSURE - EXCEPTIONS.) Conviction of an offense shall not disqualify a person from licensure under this chapter unless the board determines that the offense has a direct bearing upon a person's ability to serve the public as an electrician or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 25.) A new section to chapter 43-10 of the North Dakota Century Code is hereby created and enacted to read as follows:

CONVICTION NOT BAR TO LICENSURE - EXCEPTIONS.) Conviction of an offense shall not disqualify a person from licensure under this chapter unless the board determines that the offense has a direct bearing upon a person's ability to serve the public as an embalmer or determines pursuant to section 12.1-33-02.1 that the person, following conviction of any offense, is not sufficiently rehabilitated.

SECTION 26. AMENDMENT.) Subsection 2 of section 43-11-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Is guilty of an offense determined by the board to have a direct bearing upon a person's ability to serve the public as a hairdresser or cosmetologist, or who, following conviction of any offense, the board determines is not sufficiently rehabilitated under section 12.1-33-02.1;

* SECTION 27. AMENDMENT.) Subsection 2 of section 43-12-22 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Is guilty of an offense determined by the board to have a direct bearing upon a person's ability to serve the public as a nurse, or when the board determines, following conviction of any offense, that a person is not sufficiently rehabilitated under section 12.1-33-02.1; or

SECTION 28. AMENDMENT.) Subsection 1 of section 43-13-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Has been convicted of a violation of any provisions of this chapter, or of an offense determined by the board to have a direct bearing upon a holder's ability to serve the public as an optometrist, or when the board determines, following conviction of a holder for any

*NOTE: Section 43-12-22 was repealed by section 4 of House Bill No. 1299, chapter 400.

other offense, that the holder is not sufficiently rehabilitated under section 12.1-33-02.1;

SECTION 29.) A new section to chapter 43-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

CONVICTION NOT BAR TO REGISTRATION - EXCEPTIONS.) Conviction of an offense shall not disqualify a person from registration under this chapter unless the board determines that the offense has a direct bearing upon a person's ability to serve the public as a pharmacist or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 30. AMENDMENT.) Subsection 3 of section 43-17-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. The conviction of an offense determined by the board to have a direct bearing upon a person's ability to serve the public as a practitioner of medicine and surgery, or the board determines, following conviction of the person of any offense, that he is not sufficiently rehabilitated. The rehabilitation determination shall be made in accordance with section 12.1-33-02.1.

SECTION 31.) A new section to chapter 43-18 of the North Dakota Century Code is hereby created and enacted to read as follows:

CONVICTION NOT BAR TO LICENSURE - EXCEPTIONS.) Conviction of an offense shall not disqualify a person from licensure under this chapter unless the board determines that the offense has a direct bearing upon a person's ability to serve the public as a plumber, or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 32. AMENDMENT.) Subsection 1 of section 43-18-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Commission of an offense determined by the board to have a direct bearing upon the holder's ability to serve the public as a plumber, or the board determines, following conviction of any offense, that the holder is not sufficiently rehabilitated under section 12.1-33-02.1;

SECTION 33.) A new section to chapter 43-18.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

CONVICTION NOT BAR TO LICENSURE - EXCEPTIONS.) Conviction of an offense shall not disqualify a person from licensure under this chapter unless the board determines that the offense has a direct bearing upon a person's ability to serve the public as a water conditioning contractor, or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 34. AMENDMENT.) Subsection 1 of section 43-18.1-07 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Committed an offense determined by the board to have a direct bearing upon a holder's ability to serve the public as a water conditioning contractor, or the board determines, following conviction of any offense, that a holder is not sufficiently rehabilitated under section 12.1-33-02.1;

SECTION 35.) A new section to chapter 43-19.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

CONVICTION NOT BAR TO REGISTRATION - EXCEPTIONS.) Conviction of an offense shall not disqualify a person from registration under this chapter unless the board determines that the offense has a direct bearing upon a person's ability to serve the public as an engineer and land surveyor, or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 36. AMENDMENT.) Section 43-19.1-25 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-19.1-25. DISCIPLINARY ACTION - REVOCATIONS, SUSPENSIONS, OR REPRIMAND.) The board shall have the power to suspend, refuse to renew, or revoke the certificate of registration of, or reprimand, any registrant, who is found guilty of any of the following:

1. The practice of any fraud or deceit in obtaining a certificate of registration.
2. Any gross negligence, incompetence, or misconduct in the practice of engineering or land surveying.
3. Any offense determined by the board to have a direct bearing upon a person's ability to serve the public as a professional engineer and land surveyor; or when the board determines, following conviction of any offense, that a person is not sufficiently rehabilitated under section 12.1-33-02.1.

4. The violation of the code of ethics adopted and promulgated by the board.

SECTION 37.) A new section to chapter 43-20 of the North Dakota Century Code is hereby created and enacted to read as follows:

CONVICTION NOT BAR TO LICENSURE - EXCEPTIONS.) Conviction of an offense shall not disqualify a person from licensure under this chapter unless the board determines that the offense has a direct bearing upon a person's ability to serve the public as a dental hygienist, or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

* SECTION 38.) A new section to chapter 43-21 of the North Dakota Century Code is hereby created and enacted to read as follows:

CONVICTION NOT BAR TO LICENSURE - EXCEPTIONS.) Conviction of an offense shall not disqualify a person from licensure under this chapter unless the board determines that the offense has a direct bearing upon a person's ability to serve the public as a licensed practical nurse, or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 39.) A new section to chapter 43-22 of the North Dakota Century Code is hereby created and enacted to read as follows:

CONVICTION NOT BAR TO REGISTRATION - EXCEPTIONS.) Conviction of an offense shall not disqualify a person from registration under this chapter unless the commissioner determines that the offense has a direct bearing upon a person's ability to serve the public as an oil, gas, or mineral broker, or determines that, following conviction of any offense, the person is not sufficiently rehabilitated. That determination shall be made as provided by section 12.1-33-02.1.

SECTION 40.) A new section to chapter 43-23 of the North Dakota Century Code is hereby created and enacted to read as follows:

CONVICTION NOT BAR TO LICENSURE - EXCEPTIONS.) Conviction of an offense shall not disqualify a person from licensure under this chapter unless the commission determines that the offense has a direct bearing upon a person's ability to serve the public as a real estate broker or salesman, or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 41. AMENDMENT.) Subdivision f of subsection 1 of

*NOTE: Chapter 43-21 was repealed by section 4 of House Bill No. 1299, chapter 400.

section 43-23-11.1 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- * f. Been convicted or pleaded guilty or nolo contendere before a court of competent jurisdiction in this or any other state, or before any federal court, of an offense determined by the commission to have a direct bearing upon a person's ability to serve the public as a real estate broker or salesman, or the commission determines, following conviction of any offense, that the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 42. AMENDMENT.) Subdivision b of subsection 1 of section 43-23.1-15 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- b. Been convicted of an offense determined by the commission to have a direct bearing upon a person's ability to serve the public as a real estate subdivider, or the commission determines, following conviction of any offense, that the person is not sufficiently rehabilitated under section 12.1-33-02.1;

SECTION 43. AMENDMENT.) Section 43-25-07 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-25-07. REQUISITES FOR EXAMINATION - SUBJECT - MINIMUM PASSING GRADE - FEES.) Any person who shall furnish to the North Dakota board of massage satisfactory proof that he or she is eighteen years of age or more, a high school graduate, a bona fide citizen of the United States and a bona fide resident of the state of North Dakota for a least six months immediately preceding his or her application to take the examination, and of good moral character and temperate habits, and shall present a diploma or credentials issued by a recognized, approved school of massage or like institution of not less than one thousand hours of study and who passes a reasonable demonstrative, oral, and written examination, conducted by and under the supervision and direction of said board in the art of body massage by hand, or with any mechanical or vibratory apparatus for the purpose of body massaging, reducing or contouring, the use of oil rubs, salt glow, hot and cold packs, tub, shower, heat lamps, and similar baths, and shall pay the fees hereinafter specified, which fees shall accompany the application to the secretary-treasurer of the board, shall be entitled to be registered and to be issued a certificate of registration as masseur or masseuse. Minimum requirements for certificate of registration shall be a general average in said examination of seventy-five percent in all subjects involved and not less than fifty percent in any one subject.

Any applicant failing to pass said requirements shall be entitled within six months to a reexamination upon payment of an additional fee of ten dollars, but two such reexaminations shall

*NOTE: Subdivision f of subsection 1 of section 43-23-11.1 was also amended by section 1 of Senate Bill No. 2159, chapter 407.

exhaust the privilege under the original application.

Conviction of an offense shall not disqualify a person from registration under this chapter unless the board determines that the offense has a direct bearing upon a person's ability to serve the public as a masseur or masseuse, or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 44. AMENDMENT.) Subsection 2 of section 43-25-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. That the registrant has been convicted of an offense determined by the board to have a direct bearing upon a person's ability to serve the public as a masseur or masseuse, or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1. The conviction of an offense shall include conviction in any jurisdiction in the United States of any offense, which if committed within the state of North Dakota would constitute an offense under the laws thereof.

SECTION 45. AMENDMENT.) Subsection 3 of section 43-26-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Conviction of an offense determined by the board to have a direct bearing upon a holder's ability to serve the public as a physical therapist, or the board determines, following conviction of any offense, that a holder is not sufficiently rehabilitated under section 12.1-33-02.1;

SECTION 46.) A new section to chapter 43-27 of the North Dakota Century Code is hereby created and enacted to read as follows:

CONVICTION NOT BAR TO REGISTRATION - EXCEPTIONS.) Conviction of an offense shall not disqualify a person from registration under this chapter unless the board determines that the offense has a direct bearing upon a person's ability to serve the public as a watchmaker, or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 47.) A new section to chapter 43-28 of the North Dakota Century Code is hereby created and enacted to read as follows:

CONVICTION NOT BAR TO LICENSURE - EXCEPTIONS.) Conviction

of an offense shall not disqualify a person from licensure under this chapter unless the board determines that the offense has a direct bearing upon a person's ability to serve the public as a dentist, or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 48. AMENDMENT.) Subsection 3 of section 43-28-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Been convicted of an offense determined by the board to have a direct bearing upon a person's ability to serve the public as a dentist, or the board determines, following conviction for any offense, that a person is not sufficiently rehabilitated under section 12.1-33-02.1;

SECTION 49. AMENDMENT.) Subsections 3 and 10 of section 43-29-14 of the 1975 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

3. Habitual intemperance in the use of intoxicating liquors, or habitual addiction to the use of morphine, cocaine, or other habit-forming drugs.
10. Conviction of an offense determined by the board to have a direct bearing upon a person's ability to serve the public as a veterinarian, or when the board determines, following conviction of any offense, that a person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 50. AMENDMENT.) Subsection 4 of section 43-30-05 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Who has not been convicted of an offense determined by the attorney general to have a direct bearing upon the person's ability to serve the public as a private detective, or who, following conviction of any offense, is determined, pursuant to section 12.1-33-02.1, not to be sufficiently rehabilitated.

SECTION 51. AMENDMENT.) Subsection 3 of section 43-30-12 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. If the holder of any license or a member of any copartnership or an officer of any corporation has been adjudged guilty of the commission of an offense determined by the attorney general to have a direct bearing upon a holder's ability to serve the public as a private detective, or if the attorney general determines that,

following conviction of any offense, the holder is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 52. AMENDMENT.) Subsection 4 of section 43-31-07 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Who has not been convicted of an offense determined by the attorney general to have a direct bearing upon a person's ability to serve the public as an examiner, or who, following conviction of any offense, is not determined, pursuant to section 12.1-33-02.1, to be rehabilitated, or who has not been released or discharged under other than honorable conditions from any of the armed services of the United States.

SECTION 53. AMENDMENT.) Subsection 3 of section 43-31-10 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Conviction of an offense determined by the attorney general to have a direct bearing upon a person's ability to serve the public as an examiner, or when the attorney general determines, following a person's conviction of any offense, that the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 54. AMENDMENT.) Subsection 1 of section 43-32-27 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Has been convicted of an offense determined by the board to have a direct bearing upon a person's ability to serve the public as a psychologist, or where the board determines, following conviction of any offense, that a person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 55.) A new section to chapter 43-33 of the North Dakota Century Code is hereby created and enacted to read as follows:

CONVICTION NOT BAR TO LICENSURE - EXCEPTIONS.) Conviction of an offense shall not disqualify a person from licensure under this chapter unless the department determines that the offense has a direct bearing upon a person's ability to serve the public as a hearing aid dealer, or determines that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 56. AMENDMENT.) Subsection 2 of section 43-33-12 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The conviction of an offense determined by the department to have a direct bearing upon a person's ability to serve the public as a hearing aid dealer, or the department determines, following conviction of any offense, that a person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 57.) A new section to chapter 43-34 of the North Dakota Century Code is hereby created and enacted to read as follows:

CONVICTION NOT BAR TO LICENSURE - EXCEPTIONS.) Conviction of an offense shall not disqualify a person from licensure under this chapter unless the board determines that the offense has a direct bearing upon a person's ability to serve the public as a nursing home administrator, or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 58.) A new section to chapter 43-35 of the North Dakota Century Code is hereby created and enacted to read as follows:

CONVICTION NOT BAR TO CERTIFICATION - EXCEPTIONS.) Conviction of an offense shall not disqualify a person from certification under this chapter unless the board determines that the offense has a direct bearing upon a person's ability to serve the public as a water well contractor, or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 59.) A new section to chapter 43-36 of the North Dakota Century Code is hereby created and enacted to read as follows:

CONVICTION NOT BAR TO REGISTRATION - EXCEPTIONS.) Conviction of an offense shall not disqualify a person from registration under this chapter unless the board determines that the offense has a direct bearing upon a person's ability to serve the public as a professional soil classifier, or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 60. AMENDMENT.) Section 43-36-21 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-36-21. DISCIPLINARY ACTION - REVOCATIONS, SUSPENSIONS, OR REPRIMANDS.) The board shall have the power to suspend, refuse to renew or revoke the certificate of registration of, or reprimand any registrant who is guilty of any of the following:

1. The practice of fraud or deceit in obtaining a

certificate of registration.

2. Any gross negligence, incompetence, or misconduct in the practice of soil classifying.
3. Any offense determined by the board to have a direct bearing upon a registrant's ability to serve the public as a professional soil classifier, or the board determines, following conviction of any offense, that a registrant is not sufficiently rehabilitated under section 12.1-33-02.1.
4. Violation of the code of ethics adopted and promulgated by the board.

SECTION 61. AMENDMENT.) Subdivision c of subsection 1 of section 43-37-13 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- c. Conviction of an offense in any court of the United States or any state thereof, if the acts for which he is convicted are determined by the board to have a direct bearing on such applicant's or licensee's ability to serve the public in the capacity of a speech pathologist or audiologist or the board determines that such applicant or licensee, following conviction of any other offense, is not sufficiently rehabilitated under section 12.1-33-02.1;

SECTION 62.) A new section to chapter 50-11 of the North Dakota Century Code is hereby created and enacted to read as follows:

CONVICTION NOT BAR TO LICENSURE - EXCEPTIONS.) Conviction of an offense shall not disqualify a person from licensure under this chapter unless the board determines that the offense has a direct bearing upon a person's ability to serve the public as the owner or proprietor of a foster family care home or institution for children or adults, or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 63. AMENDMENT.) Section 50-11-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-11-07. REVOCATION OF LICENSE.) The social service board may revoke the license of any foster family care home or institution for children or adults upon proper showing of any of the following:

1. Any of the conditions set forth in section 50-11-02 as prerequisites for the issuance of the license no

longer exist.

2. The license was issued upon fraudulent or untrue representations.
3. The owner or proprietor of such home or institution has violated any of the rules and regulations of the social service board.
4. The owner or proprietor of such home or institution has been guilty of an offense determined by the board to have a direct bearing upon a person's ability to serve the public, or residents of the home, as an owner or proprietor, or the board determines, following conviction of any other offense, that an owner or proprietor is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 64.) A new section to chapter 50-11.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

CONVICTION NOT BAR TO LICENSURE - EXCEPTIONS.) Conviction of an offense shall not disqualify a person from licensure under this chapter unless the board determines that the offense has a direct bearing upon a person's ability to serve the public as the owner or proprietor of a day care center, family day care home, or as a child care attendant, or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 65. AMENDMENT.) Section 50-11.1-09 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-11.1-09. REVOCATION OF LICENSE OR REGISTRATION CERTIFICATE.) The board may revoke the license or registration certificate of any day care center, family day care home, or child care attendant upon proper showing of any of the following:

1. Any of the applicable conditions set forth in section 50-11.1-04 as prerequisites for the issuance of the license no longer exist.
2. The license or registrant is no longer in compliance with the minimum standards prescribed by the board.
3. The license or registration certificate was issued upon fraudulent or untrue representation.
4. The licensee or registrant has violated any rules and regulations of the board.

5. The licensee or registrant has been guilty of an offense determined by the board to have a direct bearing upon a person's ability to serve the public as a licensee or registrant.
6. The licensee has been convicted of any offense and the board, acting pursuant to section 12.1-33-02.1, has determined that he has not been sufficiently rehabilitated.

SECTION 66.) A new section to chapter 50-12 of the North Dakota Century Code is hereby created and enacted to read as follows:

CONVICTION NOT BAR TO LICENSURE - EXCEPTIONS.) Conviction of an offense shall not disqualify a person from licensure under this chapter unless the board determines that the offense has a direct bearing upon a person's ability to serve the public as the owner or proprietor of a child-placing agency, or that, following his conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 67. AMENDMENT.) Section 50-12-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-12-10. REVOCATION OF LICENSE - GROUNDS.) The social service board of North Dakota may revoke the license of any child-placing agency upon a proper showing of any of the following:

1. Any of the conditions set forth in section 50-12-03 as prerequisites for the issuance of the license no longer exist.
2. The license was issued upon fraudulent or untrue representations.
3. The licensee has violated any of the rules and regulations of the social service board of North Dakota.
4. The licensee has been guilty of an offense determined by the board to have a direct bearing upon a person's ability to serve the public as a licensee, or the board determines, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 68.) A new section to chapter 50-19 of the North Dakota Century Code is hereby created and enacted to read as follows:

CONVICTION NOT BAR TO LICENSURE - EXCEPTIONS.) Conviction

of an offense shall not disqualify a person from licensure under this chapter unless the division determines that the offense has a direct bearing upon a person's ability to serve the public as the owner or operator of a maternity home for unmarried mothers, or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 69. AMENDMENT.) Section 50-19-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-19-12. REVOCATION OF LICENSE.) The division may revoke a license of any maternity home for unmarried mothers upon a proper showing of any of the following:

1. Any of the conditions set forth in section 50-19-03 as requirements for the issuance of the license no longer exists.
2. The license was issued upon fraudulent or untrue representations.
3. The owner or operator has violated any of the rules and regulations of the division.
4. The owner or operator of the maternity home has been guilty of an offense determined by the division to have a direct bearing upon a person's ability to serve the public as an owner or operator, or the division determines, following his conviction of any other offense, that the owner or operator is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 70.) A new section to chapter 51-05.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

CONVICTION NOT BAR TO LICENSURE - EXCEPTIONS.) Conviction of an offense shall not disqualify a person from licensure under this chapter unless the commission determines that the offense has a direct bearing upon a person's ability to serve the public as an auctioneer, or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 71. AMENDMENT.) Subdivision e of subsection 1 of section 51-05.1-03 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- e. Been convicted or plead guilty or nolo contendere before a court of competent jurisdiction in this or any other state, or before any federal court, of

an offense determined by the commission to have a direct bearing upon a person's ability to serve the public as an auctioneer, or the board determines, following conviction of any offense, that the person is not sufficiently rehabilitated under section 12.1-33-02.1;

SECTION 72. AMENDMENT.) Section 53-06-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-06-06. REFUSAL OR REVOCATION OF LICENSE - PROCEDURE.) The attorney general may refuse to issue a license or may revoke a license issued to any person for any place when any of the following appears:

1. That the applicant has been convicted of an offense determined by the attorney general to have a direct bearing upon a person's ability to serve the public as a licensee, or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.
2. That the place is not provided properly with sanitary equipment.
3. That the building is not suitable for the protection of the life and limbs of the public who may frequent the same.
4. That there are not suitable appliances for the protection of the public in case of fire.

The attorney general, after a hearing before him upon any of the above violations by a licensee, is authorized to revoke any license granted pursuant to the provisions of this chapter. After the licensee has pleaded guilty to, or has been convicted of, a violation of any law or ordinance of any city regulating the business licensed a second time, his license shall be revoked and for one year neither he nor any place in which he may have any financial interest may be licensed again.

SECTION 73. OFFENSE DEFINED.) As used in this Act, "offense" has the same meaning as provided in subsection 21 of section 12.1-01-04.

Approved March 17, 1977