

Introduced by

1 A BILL for an Act to create and enact sections 12.1-20-05.1 and 12.1-20-12.2 and a new  
2 section to chapter 29-04 of the North Dakota Century Code, relating to sexual offenses, the  
3 luring of minors by computer, and a statute of limitations for gross sexual imposition; to amend  
4 and reenact sections 12.1-20-04, 12.1-20-05, 12.1-20-07, and 12.1-20-12.1, subdivision e of  
5 subsection 1 of section 12.1-32-15, subdivision c of subsection 5 of section 15-36-15.1,  
6 subdivision b of subsection 1 of section 23-07-07.5, and section 23-07.7-01 of the North Dakota  
7 Century Code, relating to sexual offenses; to repeal sections 12.1-20-09, 12.1-20-10, and  
8 12.1-22-03.1 of the North Dakota Century Code, relating to adultery, unlawful cohabitation, and  
9 surreptitious intrusion; and to provide a penalty.

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

11 **SECTION 1. AMENDMENT.** Section 12.1-20-04 of the North Dakota Century Code is  
12 amended and reenacted as follows:

13 **12.1-20-04. Sexual imposition.**

14 ~~4.~~ A person who engages in a sexual act or sexual contact with another, or who  
15 causes another to engage in a sexual act or sexual contact, is guilty of ~~an offense~~  
16 a class B felony if the actor ~~compels~~:

- 17 1. Compels the other person to submit by any threat that would render a person of  
18 reasonable firmness incapable of resisting; or  
19 ~~2. The offense is a class C felony unless the victim is a minor, fifteen years of age or~~  
20 ~~older, in which case it is a class B felony.~~ Engages in a sexual act or sexual  
21 contact with another, whether consensual or not, as part of an induction, initiation,  
22 ceremony, pledge, hazing, or qualification to become a member or an associate of  
23 any criminal street gang as defined in section 12.1-06.2-01.

1           **SECTION 2. AMENDMENT.** Section 12.1-20-05 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **12.1-20-05. Corruption or solicitation of minors.**

- 4           1. An adult who is at least three years older than the minor and engages in, or causes  
5 another to engage in a sexual act with ~~another person or who causes another~~  
6 person to engage in a sexual act the minor, is guilty of a class A misdemeanor if  
7 the ~~other person~~ victim is a minor fifteen years of age or older, or is guilty of a  
8 class C felony if the adult is at least twenty-two years of age and the ~~other person~~  
9 victim is a minor fifteen years of age or older.
- 10          2. An adult who solicits a person under the age of fifteen years to engage in a sexual  
11 act or sexual contact is guilty of a class A misdemeanor.

12           **SECTION 3.** Section 12.1-20-05.1 of the North Dakota Century Code is created and  
13 enacted as follows:

14           **12.1-20-05.1. Luring minors by computer.** An adult who is at least three years older  
15 than the minor is guilty of luring minors by computer when:

- 16          1. The adult knows the character and content of a communication that, in whole or in  
17 part, depicts actual or simulated nudity, sexual acts, sexual contact,  
18 sadomasochistic abuse, or other sexual performances and uses any computer  
19 communication system that allows the input, output, examination, or transfer of  
20 computer data or computer programs from one computer to another to initiate or  
21 engage in such communication with the minor; and
- 22          2. By means of that communication the adult importunes, invites, or induces the  
23 minor to engage in sexual acts or to have sexual contact with the adult, or to  
24 engage in a sexual performance, obscene sexual performance, or sexual conduct  
25 for the adult's benefit, satisfaction, lust, passions, or desires.
- 26          3. A violation of this section is a class A misdemeanor, but if the adult is twenty-two  
27 years of age or older or the minor is under the age of fifteen, violation of this  
28 section is a class C felony.

29           **SECTION 4. AMENDMENT.** Section 12.1-20-07 of the North Dakota Century Code is  
30 amended and reenacted as follows:

31           **12.1-20-07. Sexual assault.**

1. A person who knowingly has sexual contact with another person, or who causes another person to have sexual contact with that person, is guilty of an offense if:
  - a. That person knows or has reasonable cause to believe that the contact is offensive to the other person;
  - b. That person knows or has reasonable cause to believe that the other person suffers from a mental disease or defect which renders that other person incapable of understanding the nature of that other person's conduct;
  - c. That person or someone with that person's knowledge has substantially impaired the victim's power to appraise or control the victim's conduct, by administering or employing without the victim's knowledge intoxicants, a controlled substance as defined in chapter 19-03.1, 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 that other person;
  - e. The other person is a minor, fifteen years of age or older, and the actor is the other person's 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 who is at least three years older than the minor.
2. The offense is a class C felony if the actor's conduct violates subdivision b, c, or e of subsection 1, or subdivision f of subsection 1 if the adult is at least twenty-two years of age, a class A misdemeanor if the actor's conduct violates subdivision d of subsection 1 or subdivision f of subsection 1 if the adult is at least eighteen years of age and not twenty-two years of age or older, or a class B misdemeanor if the actor's conduct violates subdivision a of subsection 1.

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

**12.1-20-12.1. Indecent exposure.**

1. ~~A person shall be guilty of a class B misdemeanor for, with intent to arouse, appeal to, or gratify that person's lust, passions, or sexual desires, is guilty of a class A misdemeanor if that person:~~

~~1- Knowingly exposing one's penis, vulva, or anus in a public place with the intent to annoy or harass another person.~~

~~2- Masturbating~~

~~a. Masturbates in a public place; or~~

~~b. Exposes one's penis, vulva, or anus in a public place.~~

2. A person is guilty of a class C felony if the person violates subsection 1 after a previous conviction for violating subsection 1, after a previous conviction for violating section 12.1-20-12.2, or after being required to register under section 12.1-32-15.

**SECTION 6.** Section 12.1-20-12.2 of the North Dakota Century Code is created and enacted as follows:

**12.1-20-12.2. Surreptitious intrusion.**

1. An individual, with the intent to arouse, appeal to, or gratify that individual's lust, passions, or sexual desires, is guilty of a class A misdemeanor if that individual does any of the following:

a. With intent to intrude upon or interfere with the privacy of another, enters upon another's property and surreptitiously gazes, stares, or peeps in the window or any other aperture of a house or place of dwelling of another.

b. With intent to intrude upon or interfere with the privacy of another, enters upon another's property and surreptitiously installs or uses any device for observing, photographing, recording, amplifying, or broadcasting sounds or events through the window or any other aperture of a house or place of dwelling of another.

c. With intent to intrude upon or interfere with the privacy of the occupant, surreptitiously gazes, stares, or peeps in the window or other aperture of a tanning booth, a sleeping room in a hotel, or other place where a reasonable individual would have an expectation of privacy and has exposed or is likely to

1           expose that individual's intimate parts or has removed the clothing covering  
2           the immediate area of the intimate parts.

3           d. With intent to intrude upon or interfere with the privacy of the occupant,  
4           surreptitiously installs or uses any device for observing, photographing,  
5           recording, amplifying, or broadcasting sounds or events through the window  
6           or other aperture of a tanning booth, a sleeping room in a hotel, or other place  
7           where a reasonable individual would have an expectation of privacy and has  
8           exposed or is likely to expose that individual's intimate parts or has removed  
9           the clothing covering the immediate area of the intimate parts.

10          2. A person is guilty of a class C felony if the person violates subsection 1 after a  
11          previous conviction for violating subsection 1, after a previous conviction for  
12          violating section 12.1-20-12.1, or after being required to register under section  
13          12.1-32-15.

14          **SECTION 7. AMENDMENT.** Subdivision e of subsection 1 of section 12.1-32-15 of the  
15 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

16           e. "Sexual offender" means a person who has pled guilty to or been found guilty  
17           of a violation of section 12.1-20-03, 12.1-20-03.1, 12.1-20-04, 12.1-20-05,  
18           12.1-20-05.1, 12.1-20-06, 12.1-20-07, 12.1-20-11, 12.1-20-12.1, or  
19           12.1-20-12.2, chapter 12.1-27.2, or subsection 2 of section 12.1-22-03.1, or  
20           an equivalent ordinance, or an attempt to commit these offenses.

21          **SECTION 8. AMENDMENT.** Subdivision c of subsection 5 of section 15-36-15.1 of the  
22 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

23           c. "Sexual offense" means a violation of section 12.1-20-03, 12.1-20-03.1,  
24           12.1-20-04, 12.1-20-05, 12.1-20-06, 12.1-20-07, 12.1-20-11, or ~~12.1-22-03.4~~  
25           12.1-20-12.2, or chapter 12.1-27.2, or an equivalent ordinance.

26          **SECTION 9. AMENDMENT.** Subdivision b of subsection 1 of section 23-07-07.5 of the  
27 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

28           b. Every individual, whether imprisoned or not, who is convicted of a sexual  
29           offense under chapter 12.1-20, except for those convicted of violating sections  
30           ~~12.1-20-10,~~ 12.1-20-12.1, and 12.1-20-13; and

1           **SECTION 10. AMENDMENT.** Section 23-07.7-01 of the 1999 Supplement to the North  
2 Dakota Century Code is amended and reenacted as follows:

3           **23-07.7-01. Court-ordered sexual offense medical testing.** The court may order any  
4 defendant charged with a sex offense under chapter 12.1-20 and any alleged juvenile offender  
5 with respect to whom a petition has been filed in a juvenile court alleging violation of chapter  
6 12.1-20 to undergo medical testing to determine whether the defendant or alleged juvenile  
7 offender has any sexually transmitted diseases, including a test for infection with the human  
8 immunodeficiency virus or any other identified positive agent of acquired immunodeficiency  
9 syndrome. The court may not order a defendant charged with violating section ~~12.1-20-10,~~  
10 12.1-20-12.1; or 12.1-20-13 or an alleged juvenile offender with respect to when a petition has  
11 been filed in a juvenile court alleging violation of section ~~12.1-20-10,~~ 12.1-20-12.1; or  
12 12.1-20-13 to undergo the testing authorized by this section. The court may order the testing  
13 only if the court receives a petition from the alleged victim of the offense or from the prosecuting  
14 attorney if the alleged victim has made a written request to the prosecuting attorney to petition  
15 the court for an order authorized under this section. On receipt of a petition, the court shall  
16 determine, without a hearing, if probable cause exists to believe that a possible transfer of a  
17 sexually transmitted disease or human immunodeficiency virus took place between the  
18 defendant or alleged juvenile offender and the alleged victim. If the court determines probable  
19 cause exists, the court shall order the defendant or alleged juvenile offender to submit to testing  
20 and that a copy of the test results be released to the defendant's or alleged juvenile offender's  
21 physician and each requesting victim's physician. The physicians for the defendant or alleged  
22 juvenile offender and requesting victim must be specifically named in the court order, and the  
23 court order must be served on the physicians before any test.

24           **SECTION 11.** A new section to chapter 29-04 of the North Dakota Century Code is  
25 created and enacted as follows:

26           **Prosecution for gross sexual imposition.** Except as otherwise provided by law, a  
27 prosecution for a violation of subdivision a of subsection 1 of section 12.1-20-03 must be  
28 commenced in the proper court within seven years after the commission of the offense.

29           **SECTION 12. REPEAL.** Sections 12.1-20-09, 12.1-20-10, and 12.1-22-03.1 of the  
30 North Dakota Century Code are repealed.