

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2035

2001 SENATE JUDICIARY

SB 2035

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2035

Senate Judiciary Committee

☐ Conference Committee

Hearing Date January 15th, 2001

Tape Number	Side A	Side B	Meter #
2	X		29.2
January 16, 2001 (tape 2)		X	3.3-29.5
Committee Clerk Signature			

Minutes: SENATOR TRAYNOR opened the hearing on SB 2035: A BILL FOR AN ACT TO CREATE AND ENACT SECTIONS 12.1-20-05.1 AND 12.1-20-12.2 AND A NEW SECTION TO CHAPTER 29-04 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO SEXUAL OFFENSES, THE LURING OF MINORS BY COMPUTER, AND A STATUTE OF LIMITATIONS FOR GROSS SEXUAL IMPOSITION; TO AMEND AND REENACT SECTIONS 12.1-20-04, 12.1-20-05, AND 12.1-20-12.1, SUBDIVISION E OF SUBSECTION 1 OF SECTION 12.1-32-15, AND SUBDIVISION C OF SUBSECTION 5 OF SECTION 15-36-15.1 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO SEXUAL OFFENSES; TO REPEAL SECTION 12.1-22-03.1 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO SURREPTITIOUS INTRUSION; AND TO PROVIDE A PENALTY. REPRESENTATIVE MAHONEY, representing district 33 and interim criminal justice committee, is in favor of SB 2035. Main idea of 2035 is to go over bugs of the Internet. People who go after minors in cyberspace and commit sex crimes against youth. First part of bill deals

Page 2

Senate Judiciary Committee

Bill/Resolution Number SB 2035

Hearing Date January 15th, 2001

with hazing, an added section 12.1-20-04 under sexual imposition. It relates to hazing of criminal street gangs. Section 2 goes to the heart of the bill, soliciting minors into sexual activities and it relates to communications to have minors perform sex with adults. Section 4 deals with disorderly conduct. Section 5 deals with updated technology: Using modern technology and invading private property. Serpitious intrusion, a new crime. Section 6 deals with time to serve for crime. Statute deals with constitution rights and standards and upholds to the standards.

SENATOR TRENBEATH raising the classification of offense. Is that the intent of the committee?

REPRESENTATIVE MAHONEY no.

SENATOR TRENBEATH with respect to section 1; what used to be a class C felony is now a class B am I reading that right?

REPRESENTATIVE MAHONEY Ladd can explain that better

SENATOR TRENBEATH MR. Chairman that was my second comment was regard to section 3 12.1-20.05 subsection 3 it appears that the person soliciting is 18 and the person solicited is 14, that's a felony. If a person is 22 soliciting a 15 year old its a misdemeanor, that's not right.

REPRESENTATIVE MAHONEY the committee could change that.

VONETTE RICHTER, attorney with the legislative council, neutral regarding SB 2035.

Believes REPRESENTATIVE MAHONEY described the bill well.

SENATOR TRAYNOR what's criminal trespass doing in the robbery section.

SENATOR BERCIER yes, why?

VONETTE RICHTER regardless of where the penalties are in the bill they all apply.

REPRESENTATIVE THORESON, in favor of section SB 2035. Wants to deal only with section 4 of the bill relating to indecent exposure. With a person exposing themselves to a child in a school bathroom. Believes the bill is handled quite nicely.

REPRESENTATIVE BYRON CLARK, testifying in favor of SB 2035. Shocked to find that a misdemeanor of a man exposing himself in a school.

SENATOR NELSON has there been a problem with the regular sex offender at NDSU.

LADD ERICKSON, assistant state attorney, testifying in favor of SB 2035. (testimony/new amendments attached). Went on to explain amendments. (meter # 4.0-# 20)

SENATOR TRAYNOR have you discussed the current changes with the attorney general?

LADD ERICKSON no, not yet.

SENATOR TRAYNOR any constitutional challenges on the proposed amendments.

LADD ERICKSON there is one, "discusses," page 2, section 3, line 13; I could not find where that had been litigated. The word discusses was not in the New York law. I thought maybe if we used discusses we would be getting in bad ground.

SENATOR BERCIER, between here and Anamose I might need to relieve myself.

LADD ERICKSON I believe intent, and matter of discretion.

SENATOR TRAYNOR I was interested in the reference to criminal street gangs on page 1 of the bill which refers to 12.1-06.2-01. Does that mean there has to be a pattern.

LADD ERICKSON that's a tough question to answer.

CRYSTAL DUEKER, resident of Fargo ND, testified against SB 2035. (testimony attached)

JOHNATHAN BYERS, speaks on behalf of the attorney general, testifies in favor of SB 2035.
(testimony attached)

SENATOR TRAYNOR closed the hearing on SB 2035, until Tuesday the 16th of January at 2:30 PM..

✓ January 16th, 2001 tape 2 meter # 2.1

LADD ERICKSON, (proposed amendments attached and explains his position). Needs to explain intrusion to states attorney.

SENATOR TRAYNOR page 1 section 4 and 5, you would like those withdrawn.

LADD ERICKSON section 3, luring minors. Agreed to delete this to facilitate this, according to

MR BYERS. Page 2 line 17 insert words "person adult believes to be a minor," after "a."

Same on line 18 after "induces" a person adult believes to be a minor. Same language. Final place on line 23 appropriate wording would be "years of age or older or the adult reasonably believes the minor is under 15 years of age." Then delete amendment I proposed.

Reason we wrote this differently is for law enforcement purposes. The penalty section is where determination is made whether the person knows they are talking to a minor, or not talking to a minor. To prevent a minor from luring the adult. Section 1 and 2 is for investigation (police involvement) guy stalking doesn't know he's dealing with a minor. Law enforcement must clarify this. Withdraw any disorderly conduct amendments.

MR BENNETT, representing the attorney general, testifies in favor os SB 2035. Legitimate concerns are infrences we would lik to clear up. We would like to define "sexual contact" with proper language. An argumentative rule of application and evidence.

SENATOR TRAYNOR subplant last page of MR ERICKSONS.

BOB BENNETT yes. Makes language clearer.

SENATOR LYSON where is this in the bill?

BOB BENNETT a new section, maybe section 10.

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Senate Judiciary Committee

Bill/Resolution Number SB 2035

Hearing Date ~~January 16th, 2001~~ 1-16-01

SENATOR TRAYNOR don't need to change the body of the bill?

BOB BENNETT no. Need to amend subsection C: with intent to harass or annoy. Want to propose after word language knowing exposes ones penis, vulva, or anus. Can get it to committee in a short time.

SENATOR TRAYNOR CLOSED THE HEARING ON SB 2035. After the discussion,

SENATOR WATNE MOTIONED TO ADOPT BENETTE'S AND ERICKSON'S

AMENDMENTS. SECONDED BY BERCIER. VOTE INDICATED 7 YEAS, 0 NAYS,

AND 0 ABSENT AND NOT VOTING. SENATOR LYSON MOTIONED TO DO PASS

AS AMENDED. SECONDED BY SENATOR BERCIER. VOTED INDICATED 7 YEAS,

0 NAYS, AND 0 ABSENT AND NOT VOTING. SENATOR WATNE VOLUNTEERED

TO CARRY THE BILL.

FISCAL NOTE
Requested by Legislative Council
12/14/2000

Bill/Resolution No.: SB 2035

Amendment to:

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0		\$0		\$0
Appropriations	\$0	\$0		\$0		\$0

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0		\$0	\$0		\$0	\$0

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill increases the penalties for a number of sexual offenses. It also creates a new offense "luring minors by computer" and establishes penalties for this crime. These changes in penalties could result in a number of sex offenders receiving more lengthy sentences. Both county jails and the North Dakota Department of Corrections and Rehabilitation(DOCR) could be affected by this bill. County budgets will be affected if offenders receive more lengthy jail sentences and the DOCR's budget will be affected if additional offenders are sentenced to incarceration with the DOCR or if offenders receive more lengthy sentences of incarceration. It is not possible however to estimate the fiscal effect of this bill since it is not possible to estimate the number of offenders who would receive stiffer sentences because of the penalty changes included in the bill.

Therefore the Department is not able to project the impact on expenditures and appropriations for the 2001-2003 and 2003-2005 biennia.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

No impact on revenues.

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

See narrative above.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

See narrative above.

Name:	Elaine Little	Agency:	DOCR
Phone Number:	328-6390	Date Prepared:	12/22/2000

Date: 1/17/01
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. *SB 2035*

Senate	Judiciary	Committee
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Subcommittee on _____

or

☐ **Conference Committee****Legislative Council Amendment Number**

Action Taken Move to ~~Adopt~~ ^{Adopt} Bob & U/cd's amendments.

Motion Made By Watne Seconded By Borci

[illegible]

Total (Yes) 7 No 0

Absent D

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

Date: 1/17/01

Roll Call Vote #: 2

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2035

Senate Judiciary

Committee

☐ Subcommittee on

or

☐ **Conference Committee****Legislative Council Amendment Number**

Action Taken Motion to Do Pass as Amended.

Motion Made By

Seconded

By

[illegible]

Total (Yes) 7 No 0

Absent 0

Floor Assignment Watne

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2035: Judiciary Committee (Sen. Traynor, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2035 was placed on the Sixth order on the calendar.

Page 1, line 4, after "reenact" insert "subsection 4 of section 12.1-20-02," remove the second "and", and after the third comma insert "subsection 1 of section 12.1-31-01,"

Page 1, line 6, after "offenses" insert "and disorderly conduct"

Page 1, after line 8, insert:

"SECTION 1. AMENDMENT. Subsection 4 of section 12.1-20-02 of the North Dakota Century Code is amended and reenacted as follows:

4. "Sexual contact" means any touching, whether or not through the clothing or other covering, of the sexual or other intimate parts of the person, or the penile ejaculation or ejaculate or emission of urine or feces upon any part of the person, for the purpose of arousing or satisfying sexual or aggressive desires."

Page 2, line 1, after the underscored comma insert "solicits with the intent to engage in,"

Page 2, line 4, overstrike ", or is guilty of a class C felony if the adult is at least twenty-two years of"

Page 2, line 5, overstrike "age and the", remove "victim", and overstrike "is a minor fifteen years of age or older"

Page 2, line 6, overstrike "a person under the age of fifteen years" and insert immediately thereafter "with the intent"

Page 2, line 7, overstrike "or sexual contact" and insert immediately thereafter "with a minor under age fifteen or engages in or causes another to engage in a sexual act when the adult is at least twenty-two years of age and the victim is a minor fifteen years of age or older,"

Page 2, line 17, after "a" insert "person the adult believes to be a"

Page 2, line 18, after "a" insert "person the adult believes to be a"

Page 2, line 23, after the first "the" insert "adult reasonably believes the"

Page 4, after line 9, insert:

"SECTION 7. AMENDMENT. Subsection 1 of section 12.1-31-01 of the North Dakota Century Code is amended and reenacted as follows:

1. An individual is guilty of a class B misdemeanor if, with intent to harass, annoy, or alarm another person or in reckless disregard of the fact that another person is harassed, annoyed, or alarmed by the individual's behavior, the individual:
 - a. Engages in fighting, or in violent, tumultuous, or threatening behavior;
 - b. Makes unreasonable noise;

REPORT OF STANDING COMMITTEE (410)
January 18, 2001 9:49 a.m.

Module No: SR-08-1184
Carrier: Watne
Insert LC: 10096.0301 Title: .0400

- c. In a public place, uses abusive or obscene language, knowingly exposes that individual's penis, vulva, or anus, or makes an obscene gesture;
- d. Obstructs vehicular or pedestrian traffic, or the use of a public facility;
- e. Persistently follows a person in or about a public place or places;
- f. While loitering in a public place for the purpose of soliciting sexual contact, the individual solicits the contact;
- g. Creates a hazardous, physically offensive, or seriously alarming condition by any act that serves no legitimate purpose; or
- h. Engages in harassing conduct by means of intrusive or unwanted acts, words, or gestures that are intended to adversely affect the safety, security, or privacy of another person."

Renumber accordingly

RETAKE

DATRUE

**2705 Twin City Dr
Mandan, ND 58554
701-663-8930**

1

- c. In a public place, uses abusive or obscene language, knowingly exposes that individual's penis, vulva, or anus, or makes an obscene gesture;
- d. Obstructs vehicular or pedestrian traffic, or the use of a public facility;
- e. Persistently follows a person in or about a public place or places;
- f. While loitering in a public place for the purpose of soliciting sexual contact, the individual solicits the contact;
- g. Creates a hazardous, physically offensive, or seriously alarming condition by any act that serves no legitimate purpose; or
- h. Engages in harassing conduct by means of intrusive or unwanted acts, words, or gestures that are intended to adversely affect the safety, security, or privacy of another person."

Renumber accordingly

2001 HOUSE JUDICIARY

SB 2035

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2035

House Judiciary Committee

☐ Conference Committee

Hearing Date 02--13-01

Tape Number	Side A	Side B	Meter #
TAPE I	x		01 to 2498
TAPE I		x	1097 to 1365
Committee Clerk Signature <i>Joan Diers</i>			

Minutes: Chairman DeKrey opened the hearing on SB 2035. Relating to sexual offenses, the luring of minors by computer and a statute of limitations for gross sexual imposition, relating to sexual offenses and disorderly conduct, relating to surreptitious intrusion and to provide a penalty.

Vonette Richter: Legislative Council (Criminal Justice Committee) went over the bill section by section and explained the changes that occur in each section of the bill.

Rep Delmore: On page 5 section 8, what was the third one?

Vonette Richter: Surreptitious intrusion, that is not new just being moved into this section.

Rep Klemin: In section four, line 30 on page 3, was there any discussion about how you go about proving that section.

Vonette Richter: I was not part of the discussion

Rep Klemin: In section five, was the penalty increased.

Vonette Richter: They are trying to address deviant sexual behavior as opposed to just a prank

Page 2

House Judiciary Committee

Bill/Resolution Number SB 2035

Hearing Date 02-13-01

Rep Klemin: where are the pranks now?

Vonette Richter: In the disorderly conduct section, section seven.

Chairman DeKrey: Are there any further questions, if not thank you for appearing

Jon Byers: Attorney General Office, there are two provisions that I would like to highlight. 1) the increased penalty of crimes of indecent exposure. I would like to explain, we have been advised for a number of years by treatment professionals that if there is a conviction of the 30 days, the penalty just wasn't long enough to get the person into treatment. Also another reason to start focusing on the crime of indecent exposure is that in a 1983 study, 35% of the rapist and child molesters begin their sexual patterns with hands off offenses. The second provision is the extension of statute limitations, right now we only have 3 years to prosecute from the time the crime occurs. Now with DNA coming into play and the possibility of coming up with a match years down the road, we need the extension.

Rep Klemin: Would you support DNA bill in Appropriations.

Jon Byer: The DNA bill makes other offenders besides sex offenders have to submit to the test. I can take a look at that.

Chairman DeKrey: If there are no other questions, thank you for appearing.

Bob Bennett: Assistant Attorney General, spoke in support of SB 2035. He talked about the reasons for engrossing the bill in the Senate.

Chairman DeKrey: If there are no further questions, thank you for appearing.

John Olson: appearing for the States Attorney Association, spoke in favor of SB 2035.

Ladd Erickson: Morton County States Attorney Office, on the Interim Committee, we made a number of changes since the first draft of the bill. Went over some of the provisions of the bill. I would ask the committee to support this bill.

Rep Delmore: In section four, if the person is not a minor is there a penalty for the internet, the computer?

Ladd Erickson: No.

Rep Delmore: In section seven, where we put the streakers?

Ladd Erickson: Correct.

Chairman DeKrey: If there are no further questions, thank you for appearing, anyone wishing to testify in support or in opposition. We will close the hearing on SB 2035.

COMMITTEE ACTION

Chairman DeKrey: we will take up SB 2035. Does anyone have a motion? Rep Delmore moved a DO PASS, seconded by Rep Kingsbury.

DISCUSSION

VICE CHR Kretschmar had the clerk call the roll on a DO PASS motion on SB 2035. The motion passes with 11 YES, 0 NO and 4 ABSENT. Carrier Rep Delmore.

Date: 02-13-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB-2035

House JUDICIARY Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep Delmore Seconded By Rep Kingsbury

Representatives	Yes	No	Representatives	Yes	No
CHR - Duane DeKrey	✓				
VICE CHR --Wm E Kretschmar	✓				
Rep Curtis E Brekke	✓				
Rep Lois Delmore	✓				
Rep Rachael Disrud	✓				
Rep Bruce Eckre	✓				
Rep April Fairfield					
Rep Bette Grande	✓				
Rep G. Jane Gunter	✓				
Rep Joyce Kingsbury	✓				
Rep Lawrence R. Klemin	✓				
Rep John Mahoney					
Rep Andrew G Maragos					
Rep Kenton Onstad	✓				
Rep Dwight Wrangham					

Total (Yes) 11 No 0

Absent 4

Floor Assignment Rep Delmore

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
February 13, 2001 12:16 p.m.

Module No: HR-26-3182
Carrier: Delmore
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2035: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS
(11 YEAS, 0 NAYS, 4 ABSENT AND NOT VOTING). SB 2035 was placed on the
Fourteenth order on the calendar.

2001 TESTIMONY

SB 2035

**SENATE BILL 2035 TESTIMONY
SENATE JUDICIARY COMMITTEE
JANUARY 15TH, 2001
FORT LINCOLN ROOM**

By Jonathan Byers, Assistant Attorney General

Chairman Traynor, Members of the Committee:

My name is Jonathan Byers and I appear on behalf of the Attorney General. I wish to testify in favor of Senate Bill 2035.

The Attorney General supports increased penalties for the crime of indecent exposure. For several years we have been advised by treatment professionals that many indecent exposure offenders were opting to serve 30 days in jail rather than attend sex offender treatment for 3 years. The possibility of one year in jail may make some of them re-think the decision to refuse treatment.

Longo & Groth found in a 1983 study that 35% of rapists and child molesters begin their sexual patterns by committing hands-off offenses. The rate would be much higher for stranger rapists considered separately.

It is important that a legislative history be created to establish the legislature's intent by limiting indecent exposure to those situations where there is lust, passion, or sexual desire. I assume it is not your intent to decriminalize streaking or mooning if it is simply done to harass or annoy. That means that people who expose themselves in public, with no sexual purpose behind it, would have to be prosecuted for the crime of disorderly conduct. The language is broad enough to encompass this conduct, as long a defendant is not able to make the argument that the legislature intended to decriminalize such conduct.

The Attorney General supports the extension of the statute of limitations for forcible rape cases. Nothing could be more frustrating than having the conclusive evidence, but not the statutory authority, to restrain a violent sexual offender.

I would be happy to answer any questions.

**GRAND FORKS COUNTY
STATES ATTORNEY**
JAMES T. ODEGARD
GRAND FORKS COUNTY COURTHOUSE

CRIMINAL DIVISION
THOMAS H. FALOK, JR.
J.E. ROCK BROWN
WARREN JOHNSON

TRAFFIC DIVISION
DAVID T. JONES
JUVENILE DIVISION
DAMON ANDERSON
CHILD SUPPORT
SONIA CLAPP

January 12, 2001

VIA FAX 667-3323

Ladd Erickson
Assistant State's Attorney
210 2nd Avenue NW
Mandan, ND 58554

RE: Legislative Change of the Definition of Sexual Contact
in Accordance with 12.1-20-02 NDCC

Dear Ladd:

I am enclosing a partial copy of two cases, one from Wisconsin another from Washington that dealt with the issue of penile ejaculation as a form of contact in sex offenses. I apologize that the copies are of poor quality.

This issue came up in a jury trial I had in September of 2000 (State v. Miller - 18-00-K-01307). The charge was Gross Sexual Imposition, in violation of Section 12.1-20-03(1)(d) of the North Dakota Century Code, alleging a sexual act. When the initial statement of the child was taken, the child stated that the Defendant touched his penis to her vulva and also ejaculated on her body.

At trial, the victim was somewhat traumatized and was only able to testify relative to the ejaculation. However, pursuant to 803(24) of the North Dakota Rules of Evidence, the Social Worker who initially interviewed the child was able to testify as to what the child told her about the penis touching the vulva.

The jury instructions provided the jury with the option of finding the Defendant guilty of the lesser included crime of sexual contact. During jury deliberations, the jury sent a question to the Court asking for the definition of contact and whether it included penile ejaculation. While the Court and counsel were researching this issue, the jury answered the question on their own.

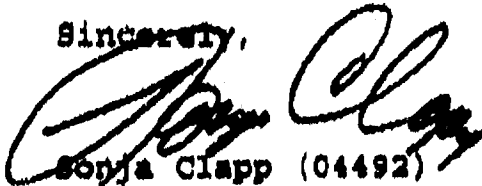
The case is now being appealed to the North Dakota Supreme Court, but I do not know what the issues will be as the appeal process has just started.

Based upon my experience in this case, I feel it is important for the North Dakota Legislature to consider amending the definition of sexual contact to include intentional penile ejaculation. I would be happy to assist you in any way

including appearing before the Legislature or a subcommittee to relay my experience.

Thank you for your attention to this matter.

Sincerely,



Sonja Clapp (04492)
Assistant State's Attorney

SC/ch
Enclosures

2035

For the record

1981

I am here to testify before the members of the Criminal Justice Committee regarding sexual offenses + proposed any penalty for misbehavior that rises to a criminal level. I am against Bill 2035 as presented —

12.1-20-04 changes criminal sexual imposition from a Class C felony to a Class B for the offender — sexually explicit vs taking off clothes

Section 12.1-20-05 an adult is charged with a Class A misdemeanor if the victim is 15 or older — it becomes a ^{Class C} felony if the adult is at least 22 years old + the victim is a minor 15 or older

~~to include~~ to include Counciling for the minor — young children will can be further traumatized by the extremist negative reactions from their parents + teachers —

Surreptitious Intimacy 12-1-20-12.2

part c a reasonable individual has an expectation of privacy in their dressing room in a department store — store employees sit behind the dressing room room + observe the person — this is to prevent shoplifting yet violates the civil of privacy — the person who violates any of these laws is labeled a sex offender This puts the person into the same category as a rapist or child molester

modification
/ ASK FOR

I would request ~~the~~ judiciary committee
to please send this bill back ^{to} to...
the Legislative Council for further
changes in the amendments with guidance
from the Alt Sen office

Alt Sen Wayne Stenger worked on
this bill while he was a Senator
represent South Park. Debate over sex crimes
This morning I met with him +
he agreed this bill needs to
be reviewed before his office.

There is a website for nudist resorts
+ nudist beaches - which I use -
some people confuse the nude adults
playing tennis & volleyball with sexually explicit
websites

There is a disclaimer on the website
stating the computer user must be 18
before entering the various nudist activity
departments - parents today are able
to set up barriers on their computer
to deny access to inappropriate websites
to their minor children -

curiosity
seduction
trigger
desires
leading to
physical
contact
intent of
adult to
be determined

... 2035 Part II

... When I use a tanning bed
... in Fargo, I expect my privacy to
... be respected. Yet even if I discovered
... a person in the next room was watching
... me, I would be offended yet not
... agree with punishing them on the
... same level as a rapist or as if
... the offender had groped or touched
... any intimate part of my own anatomy

... Equally I am offended when any
... employer places a camera in the
... employee bathroom which would observe
... my behavior of the employer in the
... lavatory area where ^{employee} they might change
... their clothes or take care of their
... monthly feminine needs.

... Table

		maximum penalty - +/n
Class C	- 5 years in jail	\$5,000 fine
Class B	10 years in jail	\$10,000 fine

I am concerned about this law + its
2034 impact on citizens who live in North Dakota
I am concerned when the nude body
is ^{sometimes} connected with sexual behavior rising
to the level of a crime punishable
with a jail term of longer than 1 year
or a fine higher than \$5000

Dept Human Services -

both parents supported the marriage

this man was ready
quit school / get a job
marry the girlfriend
+ give child a home

1999 states At Gen -

Wisconsin - 18 year old male 15 or 16 year old

2034 girl five pregnant - on trial

expertise - child molester - contact for sexual gratification

rape of an individual against their will

definition of a sexual predator sometimes

~~includes~~ ^{includes} nude adults with minor children

in the household into the same category

If the male is not the father of the

children - some authorities question the

adult males motives ~~REGARDING~~ his state of nudity

They tend to question their mental capabilities

+ stability in society as

physiat productive citizens

criteria - harm; emotional harm, +/or prevents

progress of achieving emotional health + responsibility develop

standard of healthy sexual behavior

+ develop a positive adult relationship

with another individual

and become or remain an employed person in

our communities + able to take care of themselves
+ their families

PROPOSED AMENDMENTS TO SENATE BILL 2035

Page 2, overstrike lines 1-7 and insert on line one:

"1. An adult who engages in, solicits with the intent to engage in, or causes another to engage in a sexual act with a minor, is guilty of a class A misdemeanor if the victim is a minor fifteen years of age or older. Violation of this section is a class C felony if an adult solicits with the intent to engage in a sexual act with a minor under age fifteen, or if the adult engages in or causes another to engage in a sexual act when the adult is at least twenty-two years of age and the victim is a minor fifteen years of age or older."

Page 2, line 17, after "a" insert "person the adult believes to be a minor"

Page 2, line 18, after "a" insert "person the adult believes to be a minor"

Page 2; line 23, after "older or the" insert "adult reasonably believes the"

4

PROPOSED AMENDMENTS TO SENATE BILL 2035

Page 1, line 4, after "sections" insert "subsection 4 of section 12.1-20-02,"

Page 1, line 6, after "offenses" insert ", and subsection 1 of section 12.1-31-01 of the North Dakota Century Code relating to disorderly conduct"

Page 1, after line 8, insert

"SECTION 1. AMENDMENT. Subsection 4 of section 12.1-20-02 of the North Dakota Century Code is amended and reenacted as follows:

4. "Sexual contact" means any touching, whether or not through the clothing or other covering, of the sexual or intimate parts of the person, or the penile ejaculation of ejaculate or emission of urine or feces upon any body part of the person, for the purpose of arousing or satisfying sexual or aggressive desires."

Page 4, after line 9, insert:

"SECTION 7. AMENDMENT. Subsection 1 of section 12.1-31-01 of the North Dakota Century Code is amended and reenacted as follows:

1. An individual is guilty of a class B misdemeanor if, with intent to harass, annoy, or alarm another person or in reckless disregard of the fact that another person is harassed, annoyed, or alarmed by the individual's behavior, the individual:
 - a. Engages in fighting, or in violent, tumultuous, or threatening behavior;
 - b. Makes unreasonable noise;
 - c. In a public place, uses abusive or obscene language, knowingly exposes that individual's penis, vulva, or anus, or makes an obscene gesture;
 - d. Obstructs vehicular or pedestrian traffic, or the use of a public facility;
 - e. Persistently follows a person in or about a public place or places;

- f. While loitering in a public place for the purpose of soliciting sexual contact, the individual solicits the contact;
- g. Creates a hazardous, physically offensive, or seriously alarming condition by any act that serves no legitimate purpose; or
- h. Engages in harassing conduct by means of intrusive or unwanted acts, words, or gestures that are intended to adversely affect the safety, security, or privacy of another person.

Renumber accordingly

Amendments to Section 2, Corruption of a Minor §12.1-20-05:

1. An adult who engages in, solicits with the intent to engage in, or causes another to engage in a sexual act with another person or who causes another person to engage in a sexual act a minor, is guilty of a class A misdemeanor if the other person victim is a minor fifteen years of age or older. Violation of this section is a class C felony if an adult solicits with the intent to engage in a sexual act with a minor under age fifteen, or is guilty of a class C felony if the adult engages in or causes another to engage in a sexual act when the adult is at least twenty-two years of age and the other person victim is a minor fifteen years of age or older.
2. ~~An adult who solicits a person under the age of fifteen years to engage in a sexual act or sexual contact is guilty of a class A misdemeanor~~ C felony.

Amendment to Section 3, Luring Minor by Computer, §12.1-20-05.1:

After "felony," on page 2, line 24 add: "The grade of offense under this section shall be determined by what age the adult reasonably believed the victims age was at the time of the violation."

Amendment to Section 4, Indecent exposure, §12.1-20-12.1.

Page 2, line 29, after "sexual" add "or emotional"

Amendment to Section 5, Surreptitious Intrusion, §12.1-20-12.2

Page 3, line 14, after "sexual" add "or emotional" - reason for mental state is to remove §.4 a person from partying and ~~isolation~~ sexual deviance.

Amendment to Disorderly Conduct, §12.1-31-01

§ 12.1-31-01. Disorderly conduct sex offender registration would be mandatory and includes indecent exposure, 10.9

1. An individual is guilty of a class B misdemeanor if, with intent to harass, annoy, or alarm another person or in reckless disregard of the fact that another person is harassed, annoyed, or alarmed by the individual's behavior, the individual:

- a. Engages in fighting, or in violent, tumultuous, or threatening behavior;
- b. Makes unreasonable noise;
- c. In a public place, uses abusive or obscene language, or makes an obscene gesture;
- d. Obstructs vehicular or pedestrian traffic, or the use of a public facility;
- e. Persistently follows a person in or about a public place or places;
- f. While loitering in a public place for the purpose of soliciting sexual contact, the individual solicits the contact;
- g. Creates a hazardous, physically offensive, or seriously alarming condition by any act that serves no legitimate purpose; or
- h. Engages in harassing conduct by means of intrusive or unwanted acts, words, or gestures that are intended to adversely affect the safety, security, or privacy of another person.
- i. Urinates or defecates in a public place, other than a restroom or bathroom designated for his or her sex, where he or she may be observed by the general public.
- j. Appears nude in a public place other than a restroom, bathroom, changing room, or similar facility, designated for his or her sex. Nude means that any portion of the pubic areas, anus, vulva, genitals or female breasts below the top of the areola is exposed to view of the general public.

2. This section does not apply to constitutionally protected activity. If an individual 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.

1 Amendment to § 12.1-20-02(4). Definitions

3 4. "Sexual contact" means any touching of the sexual or other intimate parts of the person for the
4 purpose of arousing or satisfying sexual or aggressive desires. It may be inferred from the details
5 of the incident and the acts themselves whether the touching was done for the purpose of
6 arousing or satisfying sexual or aggressive desires. In addition to other forms of sexual contact,
7 penile ejaculation of ejaculate or emission of urine or feces upon any body part of the person is a
8 touching of a sexual or intimate part of another person . Sexual contact may occur even though
9 there is clothing or other covering on the sexual or other intimate parts, naked contact is not
10 required.

Amendment to subsection 4 of section 12.1-20-02:

4. "Sexual contact" means any touching, whether or not through the clothing or other covering, of the sexual or intimate parts of the person, or the penile ejaculation of ejaculate or emission of urine or feces upon any body part of the person, for the purpose of arousing or satisfying sexual or aggressive desires.