

**Sixtieth Legislative Assembly of North Dakota
In Regular Session Commencing Wednesday, January 3, 2007**

SENATE BILL NO. 2262
(Senators Hacker, Potter, Wanzek)
(Representatives DeKrey, Delmore, S. Kelsh)

AN ACT to amend and reenact section 12.1-06-05 of the North Dakota Century Code, relating to the renunciation of criminal intent; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-06-05 of the North Dakota Century Code is amended and reenacted as follows:

12.1-06-05. General provisions.

1. The definition of an offense in sections 12.1-06-01 to 12.1-06-04 ~~shall~~ does not apply to another offense also defined in sections 12.1-06-01 to 12.1-06-04.
2. Whenever "attempt" or "conspiracy" is made an offense outside this chapter, it ~~shall mean~~ means attempt or conspiracy, as the case may be, as defined in this chapter.
3.
 - a. ~~It~~ Other than as provided in subsection 4, in a prosecution under section 12.1-06-01, it is an affirmative defense that, under circumstances manifesting a voluntary and complete renunciation of ~~his~~ criminal intent, the defendant avoided the commission of the crime attempted by abandoning ~~his~~ any criminal effort and, if mere abandonment was insufficient to accomplish such avoidance, by taking further and affirmative steps which prevented the commission thereof.
 - b. ~~It~~ Other than as provided in subsection 4, in a prosecution under section 12.1-06-03 or 12.1-06-04, it is an affirmative defense that, under circumstances manifesting a voluntary and complete renunciation of ~~his~~ criminal intent, the defendant prevented the commission of the crime solicited or of the crime or crimes contemplated by the conspiracy.
 - c. A renunciation is not "voluntary and complete" within the meaning of this section if it is motivated in whole or in part by (1) a belief that a circumstance exists which increases the probability of detection or apprehension of the defendant or another participant in the criminal operation, or which makes more difficult the consummation of the crime, or (2) a decision to postpone the criminal conduct until another time or to substitute another victim, or another but similar objective.
4. An individual under the age of twenty-one is immune from prosecution under this chapter if:
 - a. The individual voluntarily and completely renounced the individual's criminal intent;
 - b. The individual is a student enrolled in an elementary school, middle school, or a high school in this state;
 - c. The offense would have resulted in:
 - (1) Harm to another student enrolled in an elementary school, middle school, or a high school in this state;
 - (2) Harm to an employee of a school district or a nonpublic school in this state; or

- (3) Damage to a school building or school property; and
- d. The renunciation was given to a law enforcement officer or to an administrator of a school or school district in this state before any harm to others or damage to property occurs.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixtieth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2262 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 45 Nays 0 Absent 2

President of the Senate

Secretary of the Senate

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 91 Nays 0 Absent 3

Speaker of the House

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2007.

Approved at _____ M. on _____, 2007.

Governor

Filed in this office this _____ day of _____, 2007,

at ___ o'clock _____ M.

Secretary of State