

CRIMINAL CODE

CHAPTER 128

HOUSE BILL NO. 1244

(Representatives Ruby, Bellew, Gruchalla, Kasper)
(Senators Dever, Hogue)

AN ACT to amend and reenact section 12.1-11-07 of the North Dakota Century Code, relating to defrauding a urine test.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-11-07 of the North Dakota Century Code is amended and reenacted as follows:

12.1-11-07. Fraudulent practice in urine testing. A person is guilty of a class A misdemeanor if that person willfully defrauds a urine test and the test is designed to detect the presence of a chemical substance or a controlled substance. A person is guilty of a class A misdemeanor if that person knowingly possesses, distributes, or assists in the use of a device, chemical, or real or artificial urine advertised or intended to be used to alter the outcome of a urine test.

Approved April 8, 2009
Filed April 9, 2009

CHAPTER 129**SENATE BILL NO. 2293**
(Senators Nething, Robinson, Wanzek)
(Representatives Headland, Pollert)

AN ACT to amend and reenact subsection 2 of section 12.1-17-01 of the North Dakota Century Code, relating to the assault of state hospital employees; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 12.1-17-01 of the North Dakota Century Code is amended and reenacted as follows:

2. The offense is:
 - a. A class C felony when the victim is a peace officer or correctional institution employee acting in an official capacity, which the actor knows to be a fact; an employee of the state hospital acting in the course and scope of employment, which the actor knows to be a fact, and the actor is an individual committed to or detained at the state hospital pursuant to chapter 25-03.3; a person engaged in a judicial proceeding; or a member of a municipal or volunteer fire department or emergency medical services personnel unit or emergency department worker in the performance of the member's duties.
 - b. A class B misdemeanor for the first offense when the victim is an actor's family or household member as defined in subsection 4 of section 14-07.1-01 and a class A misdemeanor for a second or subsequent offense when the victim is an actor's family or household member as defined in subsection 4 of section 14-07.1-01 and the actor has a prior conviction for simple assault under this section or an assault offense under section 12.1-17-01.1 or 12.1-17-02 involving the commission of domestic violence as defined in subsection 2 of section 14-07.1-01. For purposes of this subdivision, a prior conviction includes a conviction of any assault offense in which a finding of domestic violence was made under a law or ordinance of another state which is equivalent to this subdivision.
 - c. A class B misdemeanor except as provided in subdivision a or b.

Approved April 24, 2009
Filed April 29, 2009

CHAPTER 130**SENATE BILL NO. 2210**

(Senators Nelson, Lyson, Oehlke)
(Representatives Hawken, Pinkerton, Potter)

AN ACT to amend and reenact section 12.1-17-09 of the North Dakota Century Code, relating to the killing or injury of a law enforcement support animal; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-17-09 of the North Dakota Century Code is amended and reenacted as follows:

12.1-17-09. Killing or injury of ~~certified~~, law enforcement support dog animal - Definition - Penalty.

1. A person is guilty of a class A ~~misdemeanor~~ C felony and is subject to a civil penalty of up to ten thousand dollars if that person willfully and unjustifiably kills, shoots, tortures, torments, beats, kicks, strikes, mutilates, disables, or otherwise injures a ~~certified~~, law enforcement support ~~dog~~ animal.
2. A person is guilty of a class A misdemeanor and is subject to a civil penalty of up to five thousand dollars if that person willfully:
 - a. Harasses, taunts, or provokes a law enforcement support animal;
 - b. Interferes with a law enforcement support animal while the animal is working; or
 - c. Interferes with the individual handling the animal.
3. For purposes of this section, "~~certified~~, law enforcement support ~~dog~~ animal" means any ~~dog~~ animal used by or on behalf of a law enforcement officer in the performance of the officer's functions and duties, including crowd control, corrections, arson investigation, or search and rescue, regardless of whether the ~~dog~~ animal is on or off duty.
4. This section does not apply to a law enforcement officer or a veterinarian who terminates the life of a ~~certified~~, law enforcement support ~~dog~~ animal to relieve the ~~dog~~ animal of undue suffering and pain.

Approved April 8, 2009
Filed April 9, 2009

CHAPTER 131**HOUSE BILL NO. 1272**

(Representatives Griffin, Dahl, Delmore)
(Senators Nething, Olafson, Schneider)

AN ACT to amend and reenact sections 12.1-20-02, 12.1-20-03, and 12.1-20-04 of the North Dakota Century Code, relating to a sexual act or conduct through coercion.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

12.1-20-02. Definitions. In sections 12.1-20-03 through 12.1-20-12:

1. "Coercion" means to exploit fear or anxiety through intimidation, compulsion, domination, or control with the intent to compel conduct or compliance.
2. "Deviate sexual act" means any form of sexual contact with an animal, bird, or dead person.
- 2- 3. "Object" means anything used in commission of a sexual act other than the person of the actor.
- 3- 4. "Sexual act" means sexual contact between human beings consisting of contact between the penis and the vulva, the penis and the anus, the mouth and the penis, the mouth and the vulva, or any other portion of the human body and the penis, anus, or 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, the penis and the anus, any other portion of the human body and the anus or vulva, or an object and the anus, vulva, or penis of the victim, occurs upon penetration, however slight. Emission is not required.
- 4- 5. "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.

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

12.1-20-03. Gross sexual imposition - Penalty.

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. That person 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. 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 with intent to prevent resistance;
 - c. That person knows or has reasonable cause to believe 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. That person 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;
 - b. That person 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; or
 - c. That person knows or has reasonable cause to believe that the victim is unaware that sexual contact is being committed on the victim.
3. a. An offense under this section is a class AA felony if in the course of the offense the actor inflicts serious bodily injury upon the victim, if the actor's conduct violates subdivision a of subsection 1, or if the actor's conduct violates subdivision d of subsection 1 and the actor was at least twenty-two years of age at the time of the offense. For any conviction of a class AA felony under subdivision a of subsection 1, the court shall impose a minimum sentence of twenty years' imprisonment, with probation supervision to follow the incarceration. The court may deviate from the mandatory sentence if the court finds that the sentence would impose a manifest injustice as defined in section 39-01-01 and the defendant has accepted responsibility for the crime or cooperated with law enforcement. However, a defendant convicted of a class AA felony under this section may not be sentenced to serve less than five years of incarceration.
- b. Otherwise the offense is a class A felony.
4. If, as a result of injuries sustained during the course of an offense under this section, the victim dies, the offense is a class AA felony, for which the maximum penalty of life imprisonment without parole must be imposed.

SECTION 3. AMENDMENT. Section 12.1-20-04 of the North Dakota Century Code is amended and reenacted 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 B felony if the actor:

1. Compels the other person to submit by any threat or coercion that would render a person ~~of reasonable firmness~~ reasonably incapable of resisting; or
2. Engages in a sexual act or sexual contact with another, whether consensual or not, as part of an induction, initiation, ceremony, pledge, hazing, or qualification to become a member or an associate of any criminal street gang as defined in section 12.1-06.2-01.

Approved April 8, 2009
Filed April 9, 2009

CHAPTER 132**HOUSE BILL NO. 1365**

(Representatives Weiler, Nathe, Porter, Wrangham)

AN ACT to prohibit recyclers, scrap metal dealers, or scrapyard operators from purchasing certain beer kegs; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Purchase of beer kegs - Penalty. A recycler, scrap metal dealer, or scrapyard operator may not purchase a metal beer keg, whether damaged or undamaged, except from the brewer or the brewer's authorized representative, if:

1. The keg is clearly marked as the property of a brewery manufacturer; or
2. The keg's identification markings have been made illegible.

A person who willfully violates this section is guilty of a class B misdemeanor.

Approved April 8, 2009

Filed April 9, 2009

CHAPTER 133**HOUSE BILL NO. 1186**

(Representatives Delmore, DeKrey, Griffin, Mock)
(Senators Lyson, Nelson)

AN ACT to create and enact a new subsection to section 12.1-27.1-01 and section 12.1-27.1-03.3 of the North Dakota Century Code, relating to sexually expressive images; to repeal section 12.1-31-08 of the North Dakota Century Code, relating to possession or distribution of certain photographs or other visual representations; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 12.1-27.1-01 of the North Dakota Century Code is created and enacted as follows:

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

SECTION 2. Section 12.1-27.1-03.3 of the North Dakota Century Code is created and enacted as follows:

Creation, possession, or dissemination of sexually expressive images prohibited - Exception.

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

4. This section does not apply to any book, photograph, video recording, motion picture film, or other visual representation sold in the normal course of business through wholesale or retail outlets that possess a valid sales tax permit or used by an attorney, attorney's agent, or any other person obtaining evidence for a criminal investigation or pending civil action, or by a medical professional or a peace officer acting within that individual's scope of employment.

SECTION 3. REPEAL. Section 12.1-31-08 of the North Dakota Century Code is repealed.

Approved April 24, 2009
Filed April 29, 2009

CHAPTER 134**HOUSE BILL NO. 1336**

(Representatives Griffin, Delmore, Klemin)
(Senators Lyson, Potter, Schneider)

AN ACT to create and enact a new section to chapter 12.1-31.2 of the North Dakota Century Code, relating to the issuance of an order prohibiting contact; to amend and reenact subsection 1 of section 29-06-15 of the North Dakota Century Code, relating to an arrest without a warrant; to repeal section 14-07.1-13 of the North Dakota Century Code, relating to an order prohibiting contact; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 12.1-31.2 of the North Dakota Century Code is created and enacted as follows:

Order prohibiting contact.

1. If an individual who is charged with or arrested for a crime of violence or threat of violence, stalking, harassment, or a sex offense is released from custody before arraignment or trial, the court authorizing the release of the individual shall consider and may issue, if there is no outstanding restraining or protection order prohibiting the individual from having contact with the victim, an order prohibiting the individual from having contact with the victim. The order must contain the court's directives and must inform the individual that any violation of the order constitutes a criminal offense. The state's attorney shall provide a copy of the order to the victim. The court shall determine at the time of the individual's arraignment whether an order issued pursuant to this section will be extended. If the court issues an order pursuant to this section before the time the individual is charged, the order expires at the individual's arraignment or within seventy-two hours of issuance if charges against the individual are not filed.
2. If the court has probable cause to believe that the individual charged or arrested is likely to use, display, or threaten to use a firearm or dangerous weapon as defined in section 12.1-01-04 in any further act of violence, the court shall require that the individual surrender for safekeeping any firearm or specified dangerous weapon in or subject to the individual's immediate possession or control, to the sheriff of the county or chief of police of the city in which the individual resides.
3. Whenever an order prohibiting contact is issued, modified, extended, or terminated under this section, the clerk of court shall forward a copy of the order within one business day to the appropriate law enforcement agency specified in the order. Upon receipt of the copy of the order, the law enforcement agency shall enter the order for one year or until the date of expiration specified by the order into any information system available in the state that is used by law enforcement agencies to list outstanding warrants. The order is enforceable in any jurisdiction in this state.

4. An individual who violates a court order issued under this section is guilty of a class A misdemeanor.
5. A law enforcement officer shall arrest an individual without a warrant if the officer determines there is probable cause that the individual has committed the offense of violating an order prohibiting contact under this section, whether or not the violation was committed in the presence of the officer. A law enforcement officer who acts in good faith on probable cause and without malice is immune from any civil or criminal liability for making an arrest under this subsection.

SECTION 2. AMENDMENT. Subsection 1 of section 29-06-15 of the North Dakota Century Code is amended and reenacted as follows:

1. A law enforcement officer, without a warrant, may arrest a person:
 - a. For a public offense, committed or attempted in the officer's presence and for the purpose of this subdivision, a crime must be deemed committed or attempted in the officer's presence when what the officer observes through the officer's senses reasonably indicates to the officer that a crime was in fact committed or attempted in the officer's presence by the person arrested.
 - b. When the person arrested has committed a felony, although not in the officer's presence.
 - c. When a felony in fact has been committed, and the officer has reasonable cause to believe the person arrested to have committed it.
 - d. On a charge, made upon reasonable cause, of the commission of a felony by the party arrested.
 - e. For the public offenses, not classified as felonies and not committed in the officer's presence as provided for under section 29-06-15.1.
 - f. On a charge, made upon reasonable cause, of driving or being in actual physical control of a vehicle while under the influence of alcoholic beverages.
 - g. For the offense of violating a protection order under section 14-07.1-06, an order prohibiting contact under section ~~14-07.1-13~~ 1 of this Act, or for an assault involving domestic violence under section 14-07.1-11.
 - h. On a charge, made upon reasonable cause, of being under the influence of volatile chemical vapors in violation of section 19-03.1-22.1.

SECTION 3. REPEAL. Section 14-07.1-13 of the North Dakota Century Code is repealed.

CHAPTER 135**SENATE BILL NO. 2115**

(Judiciary Committee)

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

AN ACT to amend and reenact section 12.1-32-02 of the North Dakota Century Code, relating to sentencing alternatives.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

12.1-32-02. Sentencing alternatives - Credit for time in custody - Diagnostic testing.

1. Every person convicted of an offense who is sentenced by the court must be sentenced to one or a combination of the following alternatives, unless the sentencing alternatives are otherwise specifically provided in the statute defining the offense or sentencing is deferred under subsection 4:
 - a. Payment of the reasonable costs of the person's prosecution.
 - b. Probation.
 - c. A term of imprisonment, including intermittent imprisonment:
 - (1) In a state correctional facility in accordance with section 29-27-07, in a regional corrections center, or in a county jail, if convicted of a felony or a class A misdemeanor.
 - (2) In a county jail or in a regional corrections center, if convicted of a class B misdemeanor.
 - (3) In a facility or program deemed appropriate for the treatment of the individual offender, including available community-based programs.
 - (4) In the case of persons convicted of an offense who are under eighteen years of age at the time of sentencing, the court is limited to sentencing the minor defendant to a term of imprisonment in the custody of the department of corrections and rehabilitation.
 - d. A fine.
 - e. Restitution for damages resulting from the commission of the offense.
 - f. Restoration of damaged property or other appropriate work detail.

- g. Commitment to an appropriate licensed public or private institution for treatment of alcoholism, drug addiction, or mental disease or defect.
- h. Commitment to a sexual offender treatment program.

Except as provided by section 12.1-32-06.1, sentences imposed under this subsection may not exceed in duration the maximum sentences of imprisonment provided by section 12.1-32-01, section 12.1-32-09, or as provided specifically in a statute defining an offense. This subsection does not permit the unconditional discharge of an offender following conviction. A sentence under subdivision e or f must be imposed in the manner provided in section 12.1-32-08.

- 2. Credit against any sentence to a term of imprisonment must be given by the court to a defendant for all time spent in custody as a result of the criminal charge for which the sentence was imposed or as a result of the conduct on which such charge was based. "Time spent in custody" includes time spent in custody in a jail or mental institution for the offense charged, whether that time is spent prior to trial, during trial, pending sentence, or pending appeal. The total amount of credit the defendant is entitled to for time spent in custody must be stated in the criminal judgment.
- 3. A court may suspend the execution of all or a part of the sentence imposed. The court shall place the defendant on probation during the term of suspension.
- 4. A court, upon application or its own motion, may defer imposition of sentence. The court must place the defendant on probation during the period of deferment. An order deferring imposition of sentence is reviewable upon appeal from a verdict or judgment. In any subsequent prosecution, for any other offense, the prior conviction for which imposition of sentence is deferred may be pleaded and proved, and has the same effect as if probation had not been granted or the information or indictment dismissed under section 12.1-32-07.1.
- 5. A court may, prior to imposition of sentence, order the convicted offender committed to an appropriate licensed public or private institution for diagnostic testing for such period of time as may be necessary, but not to exceed thirty days. The court may, by subsequent order, extend the period of commitment for not to exceed thirty additional days. The court may also order such diagnostic testing without ordering commitment to an institution. Validity of a sentence must not be challenged on the ground that diagnostic testing was not performed pursuant to this subsection.
- 6. All sentences imposed must be accompanied by a written statement by the court setting forth the reasons for imposing the particular sentence. The statement must become part of the record of the case.
- 7. If an offender is sentenced to a term of imprisonment, that term of imprisonment commences at the time of sentencing, unless, upon motion of the defendant, the court orders the term to commence at some other time.

8. Unless otherwise specifically authorized in the statute defining the offense, a court may not include a minimum term of imprisonment as part of its sentence.
9. ~~Except as provided in section 62.1-02-04, a~~ A person who is convicted of a felony and sentenced to imprisonment for not more than one year is deemed to have been convicted of a misdemeanor. ~~However, if an order is entered revoking a~~ upon successful completion of the term of imprisonment and a term of probation imposed as a part of the sentence, ~~the person is deemed to have been convicted of a felony.~~ This subsection does not apply to a person convicted of violating subdivision a, b, or c of subsection 1 of section 19-03.1-23.
10. A court shall order a defendant to pay fifty dollars to the department of corrections and rehabilitation at the time a presentence investigation is initiated to partially defray the costs incurred by the department for the preparation of the presentence report. The court may also order that any additional costs incurred by the department relating to the presentence investigation and report be paid by the defendant at a rate of payment up to the full costs of conducting the investigation and preparing the report as established by the department.
11. Before sentencing a defendant on a felony charge under section 12.1-20-03, 12.1-20-03.1, 12.1-20-11, 12.1-27.2-02, 12.1-27.2-03, 12.1-27.2-04, or 12.1-27.2-05, a court shall order the department of corrections and rehabilitation to conduct a presentence investigation and to prepare a presentence report. A presentence investigation for a charge under section 12.1-20-03 must include a risk assessment. A court may order the inclusion of a risk assessment in any presentence investigation. In all felony or class A misdemeanor offenses, in which force, as defined in section 12.1-01-04, or threat of force is an element of the offense or in violation of section 12.1-22-02, or an attempt to commit the offenses, a court, unless a presentence investigation has been ordered, must receive a criminal record report before the sentencing of the defendant. Unless otherwise ordered by the court, the criminal record report must be conducted by the department of corrections and rehabilitation after consulting with the prosecuting attorney regarding the defendant's criminal record. The criminal record report must be in writing, filed with the court before sentencing, and made a part of the court's record of the sentencing proceeding.

Approved April 8, 2009
Filed April 9, 2009

CHAPTER 136

HOUSE BILL NO. 1334

(Representatives Griffin, Delmore, Klemin)
(Senators Lyson, Olafson, Schneider)

AN ACT to amend and reenact subsection 7 of section 12.1-32-15 of the North Dakota Century Code, relating to sexual offender registration.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁷⁷ **SECTION 1. AMENDMENT.** Subsection 7 of section 12.1-32-15 of the North Dakota Century Code is amended and reenacted as follows:

7. Registration consists of a written statement signed by the individual, giving the information required by the attorney general, and the fingerprints and photograph of the individual. An individual who is not required to provide a sample of blood and other body fluids under section 31-13-03 or by the individual's state or court of conviction or adjudication shall submit a sample of blood and other body fluids for inclusion in a centralized data base of DNA identification records under section 31-13-05. The collection, submission, testing and analysis of, and records produced from, samples of blood and other body fluids, are subject to chapter 31-13. Evidence of the DNA profile comparison is admissible in accordance with section 31-13-02. A report of the DNA analysis certified by the state crime laboratory is admissible in accordance with section 31-13-05. A district court shall order an individual who refuses to submit a sample of blood or other body fluids for registration purposes to show cause at a specified time and place why the individual should not be required to submit the sample required under this subsection. Within three days after registration, the registering law enforcement agency shall forward the statement, fingerprints, and photograph to the attorney general and shall submit the sample of the individual's blood and body fluids to the state crime laboratory. If an individual required to register pursuant to this section has a change in name, school, or residence or employment address, that individual shall inform in writing, at least ten days before the change, the law enforcement agency with whom that individual last registered of the individual's new name, school, residence address, or employment address. A change in school or employment address includes the termination of school or employment for which an individual required to register under this section shall inform in writing within five days of the termination the law enforcement agency with whom the individual last registered. The law enforcement agency, within three days after receipt of the information, shall forward it to the attorney general. The attorney general shall forward the appropriate registration

⁷⁷ Section 12.1-32-15 was also amended by section 1 of House Bill No. 1041, chapter 137, section 2 of House Bill No. 1416, chapter 121, and section 3 of Senate Bill No. 2209, chapter 139.

data to the law enforcement agency having local jurisdiction of the new place of residence, school, or employment. Upon a change of address, the individual required to register shall also register within three days at the law enforcement agency having local jurisdiction of the new place of residence, school, or employment. The individual registering under this section shall periodically confirm the information required under this subsection in a manner and at an interval determined by the attorney general. A law enforcement agency that has previously registered an offender may omit the fingerprint portion of the registration if that agency has a set of fingerprints on file for that individual and is personally familiar with and can visually identify the offender. These provisions also apply in any other state that requires registration.

Approved April 16, 2009
Filed April 17, 2009

CHAPTER 137

HOUSE BILL NO. 1041

(Legislative Council)
(Judiciary Committee)

AN ACT to amend and reenact subsection 13 of section 12.1-32-15 and sections 12.1-34-01, 12.1-34-02, 12.1-34-03, and 12.1-34-06 of the North Dakota Century Code, relating to the statewide automated victim information and notification system; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁷⁸ **SECTION 1. AMENDMENT.** Subsection 13 of section 12.1-32-15 of the North Dakota Century Code is amended and reenacted as follows:

13. Relevant and necessary conviction and registration information must be disclosed to the public by a law enforcement agency if the individual is a moderate or high risk and the agency determines that disclosure of the conviction and registration information is necessary for public protection. The attorney general shall develop guidelines for public disclosure of offender registration information. Public disclosure may include internet access if the offender:
 - a. Is required to register for a lifetime under subsection 8;
 - b. Has been determined to be a high risk to the public by the department, the attorney general, or the courts, according to guidelines developed by those agencies; or
 - c. Has been determined to be a high risk to the public by an agency of another state or the federal government.

If the offender has been determined to be a moderate risk, public disclosure must include, at a minimum, notification ~~to the victim~~ of the offense to the victim registered under chapter 12.1-34 and to any agency, civic organization, or group of persons who have characteristics similar to those of a victim of the offender. Upon request, law enforcement agencies may release conviction and registration information regarding low-risk, moderate-risk, or high-risk offenders.

SECTION 2. AMENDMENT. Section 12.1-34-01 of the North Dakota Century Code is amended and reenacted as follows:

12.1-34-01. Definitions. In this chapter, unless the context or subject matter otherwise requires:

⁷⁸ Section 12.1-32-15 was also amended by section 1 of House Bill No. 1334, chapter 136, section 2 of House Bill No. 1416, chapter 121, and section 3 of Senate Bill No. 2209, chapter 139.

1. "Court" means a forum established by law for the adjudication of juvenile petitions, criminal complaints, informations, or indictments.
2. "Crime" includes all felony offenses; class A misdemeanors, excluding violations of section 6-08-16.1 for no-account checks; all violations of chapters 12.1-17 and 12.1-20, including all corresponding violations of municipal ordinances; and any of the offenses in this subsection that may result in adjudication of delinquency.
3. "Crime of violence" means any crime in which force, as defined by section 12.1-01-04, or threat of force was used against the victim.
4. "Custodial authority" includes city jail, county jail, juvenile detention center, regional corrections center, halfway house, state penitentiary or Missouri River correctional center, state hospital, or any other inpatient mental health or treatment facility to which a criminal defendant may be sentenced or referred.
5. "Disposition" means the sentencing or determination of penalty or punishment to be imposed upon a person convicted of a crime or found delinquent or against whom a finding of sufficient facts for conviction or finding of delinquency is made.
6. "Family member" includes a spouse, child, sibling, parent, grandparent, legal guardian, or custodian of a victim.
7. "Prosecuting attorney" includes city attorney, state's attorney, attorney general, or their assistants.
8. "Registered victim" or "registered witness" means a victim or witness registered with the statewide automated victim information and notification system.
9. "System" means the statewide automated victim information and notification system.
10. "Victim" means a natural person who has suffered direct or threatened physical, financial, or emotional harm where there is probable cause to believe that the harm has been caused by the commission of a criminal act. The term "victim" includes the family members of a minor, incompetent, incapacitated, or deceased person.
9. 11. "Witness" means any person who has been or is expected to be summoned to testify for the prosecution whether or not any action or proceeding has yet been commenced.

SECTION 3. AMENDMENT. Section 12.1-34-02 of the North Dakota Century Code is amended and reenacted as follows:

12.1-34-02. Fair treatment standards for victims and witnesses. Victims and witnesses of crime must be afforded the following rights where applicable:

1. Informed by those entities that have contact with the victim or witness as to the availability of and the methods available for registration with the statewide automated victim information and notification system. Those entities include law enforcement, prosecuting attorneys, the courts, and

custodial authorities. A victim or witness who clearly objects to registration may not be required to register with the system.

2. Informed as to status of investigation. Victims and witnesses, upon request, must be informed by law enforcement authorities investigating a criminal case of the status of the investigation, except where the prosecuting attorney or law enforcement authority determines that to disclose such information would unreasonably interfere with the investigation, until such time as the alleged offender is apprehended or the investigation is closed.
- 2- 3. Informed as to criminal charges filed. Victims must be promptly informed by the prosecuting attorney of any criminal charges, arising from an incident in which the person was a victim, filed against any person arrested. The prosecuting attorney shall also provide a brief statement in nontechnical language of the procedural steps involved in the processing of a criminal case. Victims must also be informed by the prosecuting attorney of the pretrial status of each person arrested, including bail and any pretrial release conditions.
- 3- 4. Notice of pretrial release. ~~Victims~~

 - a. Registered victims must be given prompt notice by the law enforcement agency that has made an arrest in any case involving a crime of violence of any hearing in which the arrested person's pretrial release status will be determined. ~~If the alleged offender in a crime of violence is scheduled to be released prior to an appearance in court, the custodial authority shall give prompt notice must be given to the registered victim and witness or, if unavailable, to the arresting law enforcement agency, that shall provide the notice.~~
 - b. Victims who are not registered must be given prompt notice, by the law enforcement agency that has made an arrest in any case involving a crime of violence, of any hearing in which the arrested person's pretrial release status will be determined. If the alleged offender in a crime of violence is scheduled to be released before an appearance in court, the custodial authority shall give prompt notice to the victim and witness or, if unavailable, to the arresting law enforcement agency, which shall provide the notice to the victim or witness. The law enforcement agency or custodial authority may fulfill its obligation to notify by registering the victim with the system.
 - c. Victims and witnesses of crimes of violence must be informed by the prosecuting attorney of the methods for enforcing any pretrial release conditions including information as to the level of protection available from law enforcement in the case of harm, threats, or intimidation made to the victim or witness.
4. 5. Notice as to victims' and witnesses' participation in court proceedings. Victims must be informed by the prosecuting attorney of all court proceedings in a reasonable time prior to the proceedings. Witnesses must be informed by the prosecuting attorney of all court proceedings at which their presence is required in a reasonable time prior to the proceedings and informed in nontechnical language of the procedural

steps involved in the processing of a criminal case. Victims and witnesses must be notified by the prosecuting attorney of the cancellation of any scheduled court proceeding in sufficient time to prevent an unnecessary appearance in court. All victims and witnesses shall provide the prosecuting attorney with current information as to address and telephone number, such information to be kept confidential subject to other provisions of this chapter. The notice given by the prosecuting attorney to the victims and witnesses must be given by any means reasonably calculated to give prompt notice.

- ~~5-~~ 6. Services available. Victims and witnesses must be informed by the prosecuting attorney and arresting law enforcement agency of all appropriate and available public or private programs that provide counseling, treatment, or support for victims and witnesses, including rape crisis centers, victim and witness assistance programs, elderly victim services, victim assistance hot lines, social service agencies, and domestic violence programs. The prosecuting attorney and law enforcement authority shall advise victims eligible for services of the relevant provisions of chapter 54-23.4.
- ~~6-~~ 7. Employer intercession. Victims and witnesses upon request must be provided by the prosecuting attorney with appropriate employer intercession services to ensure that employers of victims and witnesses will cooperate with the criminal justice process in order to minimize an employee's loss of pay and other benefits resulting from court appearances.
- ~~7-~~ 8. Witness fee. Witnesses must be informed by the prosecuting attorney or the court of the procedures to be followed in order to apply for and receive any witness fee to which they are entitled under law.
- ~~8-~~ 9. Return of property. Victims shall have any personal property that was stolen or taken for evidentiary purposes, except contraband, property subject to evidentiary analysis, and property the ownership of which is disputed, returned by the court, prosecuting attorney, or law enforcement agency within ten days after its taking or recovery if it is not needed for law enforcement, prosecution, or defense purposes or as expeditiously as possible when the property is no longer needed for law enforcement, prosecution, or defense purposes. If there is a defendant, the prosecuting attorney shall notify the defendant of the intent to return the property to the owner. Upon a motion made by the defendant and upon good cause shown that the property contains exculpatory evidence of the defendant's innocence, the court may order the law enforcement personnel in possession of the property not to release it to the owner.
- ~~9-~~ 10. Waiting area. Victims and witnesses must be provided by prosecuting attorneys and defense attorneys as assisted by the court with a waiting area separate from the defendant, defendant's relatives and friends, and defense witnesses if such an area is available and the use of the area is practical. If a separate waiting area is not available or practical, the court shall provide other safeguards to minimize the victims' and witnesses' contact with the defendant, defendant's relatives and friends, and defense witnesses during court proceedings.

- ~~40.~~ 11. Protection of identifying information. Victims and witnesses may not be compelled to testify at any pretrial proceeding or at trial for purposes of identifying the victims' or witnesses' address, telephone number, place of employment, or other personal identification except for name without the victims' or witnesses' consent, unless there is a showing of good cause as determined by the court.
44. 12. Right to be present throughout trial. The victim must be informed by the prosecuting attorney of the victim's right to be present throughout the trial of the defendant, except as provided by rule 615 of the North Dakota Rules of Evidence.
- ~~42.~~ 13. Prompt disposition of case. Victims and witnesses must be informed by the prosecuting attorney of their rights to a prompt disposition of the cases in which they are involved as victims or witnesses as defined by the docket currency standards of the North Dakota supreme court.
- ~~43.~~ 14. Notice as to scheduling of hearing. ~~Victims~~ Registered victims must be informed ~~by the prosecuting attorney~~ of the date, time, and place of hearing at which a plea of guilty or not guilty will be entered and of a sentencing hearing. Victims who are not registered must be given the same information by the prosecuting attorney. The prosecuting attorney shall explain to and consult with the victim in nontechnical language details of any potential plea agreement or verdict.
44. 15. Victim impact statement. The victim must be informed by the prosecuting attorney, prior to sentencing, of the victim's right to submit or make a written impact statement to the court in any criminal case. If a presentence investigation is ordered, the probation officer assigned the report shall include this information in the report. This statement may include an explanation by the victim of the nature and extent of any physical, psychological, or emotional harm or trauma suffered by the victim; an explanation of the extent of any economic loss or property damage suffered by the victim; an opinion of the need for and extent of restitution; and the victim's recommendation for an appropriate sentence. The prosecuting attorney shall advise all victims that the presentence report is subject to review by the defendant and that the report will include the victim's statement. If the sentencing court does not order a presentence investigation, the victim may submit a written impact statement, under oath, to the office of the state's attorney which statement must be submitted to the sentencing court. The victim of violent crime may appear in court to make an oral crime impact statement at the sentencing of the defendant in appropriate circumstances at the discretion of the judge. This oral statement must be made under oath and is subject to cross-examination.
- ~~45.~~ 16. Notice of final disposition and parole procedures. ~~Victims~~ Registered victims and witnesses must be informed ~~by the prosecuting attorney~~ of the final disposition of any criminal case. Victims who are not registered must be given the same notice by the prosecuting attorney. The prosecuting attorney shall explain to the victim the parole process and pardon process and further advise the victim of the necessity of advising the custodial authority and the parole board and the pardon clerk of the victim's address in order for the victim to receive further information under other provisions of this chapter.

- ~~46.~~ 17. Prompt notice of custodial release. ~~Victims~~ Registered victims and witnesses must be informed by the ~~appropriate custodial authority~~ whenever a criminal defendant receives a temporary, provisional, or final release from custody or whenever the defendant escapes from custody. Victims who are not registered must be given the same notice by the appropriate custodial authority. Notification must include the transfer of the defendant to a work-release program, a community residential program, or transfer to a mental health facility. All notices to the registered victim and witnesses concerning this release information must be within a reasonable time prior to the defendant's release or transfer. The notice given by the custodial authority must be given by any means reasonably calculated to give prompt notice.
- ~~47.~~ 18. Participation in parole board and pardon decision. Victims may submit a written statement for consideration by the parole board, the governor, or the pardon advisory board, if one has been appointed, prior to the parole board, the governor, or the pardon advisory board taking any action on a defendant's request for parole or pardon. A victim statement made under this subsection is a confidential record and may be disclosed only to the parole board, the governor, the pardon advisory board, or their authorized representative. Victims of violent crimes may at the discretion of the parole board, the governor, or the pardon advisory board personally appear and address the parole board, the governor, or the pardon advisory board. Victim testimony and written statements under this subsection are confidential and may be disclosed only to the parole board, the governor, the pardon advisory board, or their authorized representative. ~~If the offender will make a personal appearance, notice~~ Notice must be given by the parole board or pardon clerk informing the registered victim of the pending review ~~and of the victim's rights under this section.~~ The registered victim must be provided notice of the decision of the parole board or of the governor and the recommendations of the pardon advisory board, if any, and, if applicable, notice of the date of the prisoner's release on parole or the prisoner's pardon, conditional pardon, reprieve, commutation, or remission of fine. Notice must be given within a reasonable time after the parole board or the governor makes a decision but in any event before the parolee's or pardoned prisoner's release from custody.
- ~~48.~~ 19. Victims and witnesses of crimes committed by juveniles are entitled to the same rights under this chapter in juvenile delinquency proceedings as in any other proceeding. In addition, every victim or a witness who is a minor is entitled to have that person's spouse, parent, guardian, and no more than two other designated adults present with that person during any juvenile delinquency proceedings.

SECTION 4. AMENDMENT. Section 12.1-34-03 of the North Dakota Century Code is amended and reenacted as follows:

12.1-34-03. Responsibilities of victims and witnesses. Victims and witnesses have all of the following responsibilities to aid in the prosecution of crime:

1. To make a timely report of the crime.
2. To cooperate with law enforcement authorities throughout the investigation, prosecution, and trial.

3. To testify at trial.
4. To notify the system, law enforcement authorities, prosecuting attorney, custodial authority, parole board, pardon clerk, and court, where appropriate, of any change of ~~address~~ contact information. ~~The address~~ All contact information provided to ~~these persons~~ must be kept confidential.

SECTION 5. AMENDMENT. Section 12.1-34-06 of the North Dakota Century Code is amended and reenacted as follows:

12.1-34-06. Statewide automated victim information and notification system.

1. The information technology department may establish a statewide automated victim information and notification system that ~~may be administered by the department of corrections and rehabilitation and must:~~
 - a. Permit a victim to register or update the victim's registration information for the system by calling a toll-free telephone number or accessing a public ~~web site~~ website.
 - b. Notify a registered victim by telephone, mail, or e-mail ~~when any of the following events affect an offender under the supervision or in the custody of the department of corrections and rehabilitation or other correctional facility in the state:~~
 - (1) ~~The offender is transferred or assigned to another facility.~~
 - (2) ~~The offender is transferred to the custody of another agency outside the state.~~
 - (3) ~~The offender is given a different security classification.~~
 - (4) ~~The offender is released on temporary leave or otherwise.~~
 - (5) ~~The offender is discharged.~~
 - (6) ~~The offender has escaped.~~
 - (7) ~~The offender has been served with a protective order that was requested by the victim in accordance with this chapter.~~
 - c. Notify a registered victim by telephone, mail, or e-mail when the offender has a scheduled court proceeding ~~at which the victim is entitled to be present,~~ a scheduled parole or pardon hearing review, or a change in the status of the offender's parole or probation status, including a change in the offender's address.
 - d. Notify a registered victim by telephone, mail, or e-mail when a registered sexual offender has updated the offender's registration information or failed to comply with any registration requirement.

- e. Notify a registered victim by telephone, mail, or e-mail when a protective order requested by the victim has been served upon the respondent.
 - f. Permit a victim to receive a status report for an offender under the supervision or in the custody of the department of corrections and rehabilitation or other correctional facility or for a registered sexual offender by calling the system on a toll-free telephone number or by accessing the system through a public ~~web site~~ website.
2. If a statewide automated victim information and notification system is established, the provision of offender and case data on a timely basis to the automated victim information and notification system satisfies any obligation under this chapter to notify a registered victim of an offender's custody and the status of the offender's scheduled court proceedings.
 3. If a statewide automated victim information and notification system is established, the ~~system operator~~ user agency shall ensure that an offender's information contained in the system is updated to timely notify a victim that an offender has been released or discharged or has escaped. The failure of the system to provide notice to the victim does not establish a cause of action by the victim against the state or any custodial authority.
 4. ~~Custodial~~ All affected entities, including custodial authorities, prosecuting attorneys, law enforcement agencies, courts, the attorney general's office, the pardon board, and the parole clerk, shall cooperate with the system operator in establishing and maintaining the statewide automated victim information and notification system.

SECTION 6. EFFECTIVE DATE. This Act becomes effective on the date the criminal justice information sharing board certifies to the legislative council that the statewide automated victim information and notification system is operational.

Approved April 24, 2009
Filed April 29, 2009

CHAPTER 138

SENATE BILL NO. 2216

(Senators Lyson, Fischer, Seymour)

(Representatives Delmore, S. Meyer, Mueller, Porter)

AN ACT to amend and reenact section 12.1-34-07 of the North Dakota Century Code, relating to reimbursement for medical screening examinations that precede child forensic medical examinations and acute forensic medical examinations; to provide an appropriation; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

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

SECTION 2. APPROPRIATION. There is appropriated out of any moneys in the insurance regulatory trust fund in the state treasury, not otherwise appropriated, the sum of \$410,000, or so much of the sum as may be necessary, to the attorney general for the purpose of reimbursing health care facilities and health care

professionals for the costs of performing preliminary medical screening examinations, child forensic medical examinations, and acute medical examinations on alleged victims of criminal sexual conduct, for the biennium beginning July 1, 2009, and ending June 30, 2011.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 22, 2009
Filed April 23, 2009

CHAPTER 139**SENATE BILL NO. 2209**

(Senators Dever, Miller, Nelson)
(Representatives Dahl, Delmore, Hawken)

AN ACT to create and enact a new chapter to title 12.1 of the North Dakota Century Code, relating to human trafficking; to amend and reenact subdivision f of subsection 2 of section 12.1-06.1-01 and subdivisions a and e of subsection 1 of section 12.1-32-15 of the North Dakota Century Code, relating to racketeering definitions and registration of offenders against children and sexual offenders; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Human trafficking - Penalty.

1. A person is guilty of human trafficking if the person:
 - a. Benefits financially or receives anything of value from knowing participation in human trafficking; or
 - b. Promotes, recruits, entices, harbors, transports, provides, or obtains by any means, or attempts to promote, recruit, entice, harbor, transport, provide, or obtain by any means, another person, knowing that the person will be subject to human trafficking.
2. An offense under this section is a class AA felony if the person subject to human trafficking is less than eighteen years of age. Otherwise, the offense is a class A felony.
3. If the person subject to human trafficking is under the age of eighteen years, it is no defense that the actor did not know the child's age or reasonably believed the child to be eighteen years of age or older.
4. In addition to any sentence or fine imposed for a conviction of an offense under this chapter, the court shall order the person convicted to make restitution to the victim of the crime.

Definitions. In this chapter:

1. "Debt bondage" means the status or condition of a debtor arising from a pledge by the debtor of the debtor's personal services or those of a person under the debtor's control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

2. "Forced labor or services" means labor or services that are performed or provided by another person and are obtained or maintained through an actor's:
- a. Threat, either implicit or explicit, scheme, plan, or pattern, or other action intended to cause a person to believe that, if the person did not perform or provide the labor or services:
 - (1) That person or another person would suffer bodily harm or physical restraint; or
 - (2) That any fact or alleged fact tending to cause shame or to subject any person to hatred, contempt, or ridicule would be exposed;
 - b. Physically restraining or threatening to physically restrain a person;
 - c. Abuse or threatened abuse of the legal process; or
 - d. Knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person.
- "Forced labor or services" does not mean labor or services required to be performed by a person in compliance with a court order or as a required condition of probation, parole, or imprisonment.
3. "Human trafficking" means labor trafficking or sex trafficking.
4. "Labor trafficking" means the promotion, recruitment, transportation, transfer, harboring, enticement, provision, obtaining, or receipt of a person by any means, whether a United States citizen or foreign national, for the purpose of:
- a. Debt bondage or forced labor or services;
 - b. Slavery or practices similar to slavery; or
 - c. The removal of organs through the use of coercion or intimidation.
5. "Sex trafficking" means the promotion, recruitment, transportation, transfer, harboring, enticement, provision, obtaining, or receipt of a person by any means, whether a United States citizen or foreign national, for the purpose of:
- a. Causing the person or another to engage in sexual acts or sexual conduct in violation of chapter 12.1-20; or
 - b. Violating chapter 12.1-27.1, 12.1-27.2, or 12.1-29.

SECTION 2. AMENDMENT. Subdivision f of subsection 2 of section 12.1-06.1-01 of the North Dakota Century Code is amended and reenacted as follows:

- f. "Racketeering" means any act including any criminal attempt, facilitation, solicitation, or conspiracy, committed for financial gain, which is chargeable or indictable under the laws of the state in which the act occurred and, if the act occurred in a state other than this state, would be chargeable or indictable under the laws of this state had the act occurred in this state and punishable by imprisonment for more than one year, regardless of whether such act is charged or indicted, involving:
- (1) Homicide.
 - (2) Robbery.
 - (3) Kidnapping.
 - (4) Forgery.
 - (5) Theft.
 - (6) Bribery.
 - (7) Gambling.
 - (8) Usury.
 - (9) Extortion.
 - (10) Unlawful delivery of controlled substances.
 - (11) Trafficking in explosives, weapons, or stolen property.
 - (12) Leading a criminal association.
 - (13) Obstructing or hindering criminal investigations or prosecutions.
 - (14) Asserting false claims including, but not limited to, false claims asserted through fraud or arson.
 - (15) Fraud.
 - (16) Sale of unregistered securities or real property securities and transactions involving such securities by unregistered dealers or salesmen.
 - (17) Obscenity.
 - (18) Child pornography.
 - (19) Prostitution.
 - (20) Human trafficking.

⁷⁹ **SECTION 3. AMENDMENT.** Subdivisions a and e of subsection 1 of section 12.1-32-15 of the North Dakota Century Code are amended and reenacted as follows:

- a. "A crime against a child" means a violation of chapter 12.1-16, section 12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04, subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01, 12.1-18-02, 12.1-18-05, chapter 12.1-29, or subdivision a of subsection 1 or subsection 2 of section 14-09-22, labor trafficking in violation of section 1 of this Act, or an equivalent offense from another court in the United States, a tribal court, or court of another country, in which the victim is a minor or is otherwise of the age required for the act to be a crime or an attempt to commit these offenses.
- e. "Sexual offender" means a person who has pled guilty to or been found guilty, including juvenile delinquent adjudications, of a violation of section 12.1-20-03, 12.1-20-03.1, 12.1-20-04, 12.1-20-05, 12.1-20-05.1, 12.1-20-06, 12.1-20-07 except for subdivision a, 12.1-20-11, 12.1-20-12.1, or 12.1-20-12.2, chapter 12.1-27.2, or subsection 2 of section 12.1-22-03.1, sex trafficking in violation of section 1 of this Act, or an equivalent offense from another court in the United States, a tribal court, or court of another country, or an attempt to commit these offenses.

Approved April 8, 2009
Filed April 9, 2009

⁷⁹ Section 12.1-32-15 was also amended by section 1 of House Bill No. 1041, chapter 137, section 1 of House Bill No. 1334, chapter 136, and section 2 of House Bill No. 1416, chapter 121.