

**Sixty-second Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2011**

HOUSE BILL NO. 1464
(Representatives Streyle, Heilman, Holman)
(Senators Laffen, Sitte, Nelson)

AN ACT to amend and reenact subsection 9 of section 25-03.3-01 and section 25-03.3-04 of the North Dakota Century Code, relating to retention of sexual offender case files and records and the definition of sexually predatory conduct.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 9 of section 25-03.3-01 of the North Dakota Century Code is amended and reenacted as follows:

9. "Sexually predatory conduct" means:

- a. Engaging or attempting to engage in a sexual act or sexual contact with another individual, or causing or attempting to cause another individual to engage in a sexual act or sexual contact, if:
 - (1) The victim is compelled to submit by force or by threat of imminent death, serious bodily injury, or kidnapping directed toward the victim or any human being, or the victim is compelled to submit by any threat or coercion that would render ~~an individual of reasonable firmness~~ a person reasonably incapable of resisting;
 - (2) The victim's power to appraise or control the victim's conduct has been substantially impaired by the administration or employment, without the victim's knowledge, of intoxicants or other means for purposes of preventing resistance;
 - (3) The actor knows or should have known that the victim is unaware that a sexual act is being committed upon the victim;
 - (4) The victim is less than fifteen years old;
 - (5) The actor knows or should have known that the victim has a disability that substantially impairs the victim's understanding of the nature of the sexual act or contact;
 - (6) The victim is in official custody or detained in a treatment facility, health care facility, correctional facility, or other institution and is under the supervisory authority, disciplinary control, or care of the actor; ~~or~~
 - (7) The victim is a minor and the actor is an adult; or
 - (8) The other individual is a person related to the actor within a degree of consanguinity within which marriages are declared incestuous and void by section 14-03-03 and the actor knows that; or
- b. Engaging in or attempting to engage in sexual contact with another individual or causing or attempting to cause another individual to have sexual contact, if:
 - (1) The actor knows or should have known that the contact is offensive to the victim; or
 - (2) The victim is a minor, fifteen years of age or older, and the actor is the minor's parent, guardian, or is otherwise responsible for general supervision of the victim's welfare.

SECTION 2. AMENDMENT. Section 25-03.3-04 of the North Dakota Century Code is amended and reenacted as follows:

25-03.3-04. Retention of records.

Notwithstanding any other provision of law, all adult and juvenile case files and court records of an alleged offense defined by ~~section 12.1-20-03, 12.1-20-04, 12.1-20-05, 12.1-20-06, or 12.1-20-07~~ chapters 12.1-20 and 12.1-27.2 must be retained for fifty years and made available to any state's attorney for purposes of investigation or proceedings pursuant to this chapter.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-second Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1464.

House Vote: Yeas 94 Nays 0 Absent 0

Senate Vote: Yeas 46 Nays 0 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2011.

Approved at _____ M. on _____, 2011.

Governor

Filed in this office this _____ day of _____, 2011,

at _____ o'clock _____ M.

Secretary of State