

Introduced by

Representatives Streyle, Heilman, Holman

Senators Laffen, Sitte, Nelson

1 A BILL for an Act to amend and reenact subsection 9 of section 25-03.3-01 and section  
2 25-03.3-04 of the North Dakota Century Code, relating to retention of sexual offender case files  
3 and records and the definition of sexually predatory conduct.

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

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

7 9. "Sexually predatory conduct" means:

8 a. Engaging or attempting to engage in a sexual act or sexual contact with another  
9 individual, or causing or attempting to cause another individual to engage in a  
10 sexual act or sexual contact, if:

11 (1) The victim is compelled to submit by force or by threat of imminent death,  
12 serious bodily injury, or kidnapping directed toward the victim or any human  
13 being, or the victim is compelled to submit by any threat or coercion that  
14 would render ~~an individual of reasonable firmness~~ a person reasonably  
15 incapable of resisting;

16 (2) The victim's power to appraise or control the victim's conduct has been  
17 substantially impaired by the administration or employment, without the  
18 victim's knowledge, of intoxicants or other means for purposes of preventing  
19 resistance;

20 (3) The actor knows or should have known that the victim is unaware that a  
21 sexual act is being committed upon the victim;

22 (4) The victim is less than fifteen years old;

- 1           (5) The actor knows or should have known that the victim has a disability that  
2           substantially impairs the victim's understanding of the nature of the sexual  
3           act or contact;
- 4           (6) The victim is in official custody or detained in a treatment facility, health care  
5           facility, correctional facility, or other institution and is under the supervisory  
6           authority, disciplinary control, or care of the actor; or
- 7           (7) The victim is a minor and the actor is an adult; or
- 8           (8) The other individual is a person related to the actor within a degree of  
9           consanguinity within which marriages are declared incestuous and void by  
10          section 14-03-03 and the actor knows that; or
- 11          b. Engaging in or attempting to engage in sexual contact with another individual or  
12          causing or attempting to cause another individual to have sexual contact, if:
- 13          (1) The actor knows or should have known that the contact is offensive to the  
14          victim; or
- 15          (2) The victim is a minor, fifteen years of age or older, and the actor is the  
16          minor's parent, guardian, or is otherwise responsible for general supervision  
17          of the victim's welfare.

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

20          **25-03.3-04. Retention of records.**

21          Notwithstanding any other provision of law, all adult and juvenile case files and court  
22          records of an alleged offense defined by ~~section 12.1-20-03, 12.1-20-04, 12.1-20-05,~~  
23          ~~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  
24          made available to any state's attorney for purposes of investigation or proceedings pursuant to  
25          this chapter.