

Sixty-ninth  
Legislative Assembly  
of North Dakota

## PROPOSED AMENDMENTS TO

### HOUSE BILL NO. 1386

Introduced by

Representatives Christy, Bahl, Berg, Conmy, Grindberg, Hoverson, Mitskog, J. Olson

Senators Boschee, Myrdal, Sickler, Thomas

- 1 A BILL for an Act to amend and reenact sections 12.1-27.2-01 and 12.1-27.2-04.1 of the North  
2 Dakota Century Code, relating to a prohibition on possessing certain computer-generated  
3 images; and to provide a penalty.

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

5 **SECTION 1. AMENDMENT.** Section 12.1-27.2-01 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **12.1-27.2-01. Definitions.**

8 As used in this chapter:

- 9 1. "Computer-generated image" means an image or visual representation created  
10 through the use of artificial intelligence or other computer program.  
11 2. "Minor" means an individual under eighteen years of age or any visual representation  
12 used, created, adapted, altered, or modified to appear to depict a minor by face,  
13 likeness, or other distinguishing characteristics.  
14 3. "Obscene sexual performance" means any performance which includes sexual  
15 conduct by a minor in any obscene material or obscene performance, as defined in  
16 section 12.1-27.1-01.  
17 ~~2.4.~~ "Performance" means any play, motion picture, photograph, dance, or other visual  
18 representation, or any part of a performance.

1     ~~3.5.~~ "Promote" means to procure, manufacture, issue, sell, give, provide, lend, mail,  
2             deliver, transfer, transmit, ship, transport, publish, distribute, circulate, disseminate,  
3             present, exhibit, or advertise.

4     ~~4.6.~~ "Sexual conduct" means actual or simulated:

5             a. Sexual intercourse;

6             b. Sodomy, as defined under section 12.1-27.1-01;

7             c. Sexual bestiality;

8             d. Masturbation;

9             e. Sadomasochistic abuse, as defined under section 12.1-27.1-01;

10            f. Lewd exhibition of the buttocks, breasts, or genitals;

11            g. Nude or partially denuded human figure, as defined in section 12.1-27.1-03.1, if  
12               depicted for the purpose of the sexual stimulation or the sexual gratification of  
13               any individual who may view such depiction; or

14            h. Physical contact with a person's clothed or unclothed genitals, pubic area,  
15               buttocks, or breasts. It is not necessary that the minor know that he or she is  
16               participating in the described conduct, or any aspect of it.

17     ~~5.7.~~ "Sexual performance" means any performance which includes sexual conduct by a  
18             minor.

19     ~~6.8.~~ "Simulated" means the explicit depiction of any of the conduct set forth in subsection 4  
20             which creates the appearance of actual sexual conduct and which exhibits any nude  
21             or partially denuded human figure, as defined in section 12.1-27.1-03.1.

22     **SECTION 2. AMENDMENT.** Section 12.1-27.2-04.1 of the North Dakota Century Code is  
23     amended and reenacted as follows:

24     **12.1-27.2-04.1. Possession of certain materials prohibited.**

25     ~~1.~~ A person is guilty of a class C felony if, knowing of its character and content, that  
26             person knowingly possesses any motion picture, computer-generated image,  
27             photograph, or other visual representation that includes sexual conduct by a minor.

28     ~~2.~~ An individual violating this section is guilty of a class B felony if:

29             ~~a.~~ The offense involved twenty or more images;

30             ~~b.~~ The offense involved sadistic or masochistic conduct or other depictions of  
31               violence;

- 1           c. The offense involved sexual bestiality:
- 2           d. The offense involves ~~a prepubescent minor or~~ a minor under twelve years of age:
- 3               or
- 4           e. The individual has previously been convicted of an offense subject to registration
- 5               under section 12.1-32-15.
- 6       3. An individual violating this section is guilty of a class A felony if the offense involved
- 7           sexual abuse or visual representation of ~~an infant or toddler~~ a minor under three years
- 8           of age.
- 9       4. This section does not impose liability on the provider of an interactive computer
- 10           service, as defined in 47 U.S.C. 230, or an internet service provider, cloud computer
- 11           provider, cybersecurity provider, communication service provider, or information
- 12           service or telecommunication service network, as defined in 47 U.S.C. 153, for any
- 13           content provided by another person.

