

PROPOSED AMENDMENT TO REENGROSSED SENTATE BILL NO. 2037

A BILL for an Act to create and enact three new sections to chapter 27-20.4 of the North Dakota Century Code, relating to juvenile court petitions, fitness to proceed in juvenile court proceedings, and collateral consequences the juvenile court may order; to amend and reenact sections 12.1-04.1-01, 12.1-04.1-20, and 12.1-17-01.2, subsection 2 of section 12.1-17-07.2, section 12.1-20-01, subsections 2 and 6 of section 12.1-31-03, sections 12.1-32-15 and 15.1-09-33.4, subsection 6 of section 27-20.2-01, subsection 3 of section 27-20.2-09, subsection 5 of section 27-20.4-11, subsection 1 of section 27-20.4-18, subsection 1 of section 27-20.4-20, and section 62.1-02-01 of the North Dakota Century Code, relating to lack of criminal responsibility, court jurisdiction distribution of intimate images without consent, domestic violence, criminality of a child regarding sex offenses, sale and use of tobacco by an individual under the age of twenty-one, child registration requirements, restitution, probation of a delinquent child, extracurricular activities for students, and persons not allowed to possess a firearm; to repeal sections 27-20.4-12, 27-20.4-13, and 27-20.4-19 of the North Dakota Century Code, relating to delinquency; to provide an appropriation; and to provide a penalty.

Page 4, starting on line 17:

SECTION 6. AMENDMENT. Subsection 2 of section 12.1-31-03 of the North Dakota Century Code is amended and reenacted as follows:

2. It is a noncriminal offense for an individual ~~under twenty-one~~eighteen to twenty years of age or older but under twenty-one years of age, and an infraction for an individual fourteen to seventeen years of age or older but under eighteen years of age, to purchase, possess, smoke, or use cigarettes, cigars, cigarette papers, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products. However, an individual under twenty-one years of age may purchase and possess tobacco, electronic smoking devices, or alternative nicotine products as part of a compliance survey program when acting with the permission of the individual's parent

or guardian and while acting under the supervision of any law enforcement authority. A state agency, city, county, board of health, tobacco, electronic smoking devices, or alternative nicotine products retailer, or association of tobacco, electronic smoking devices, or alternative nicotine products retailers may also conduct compliance surveys, after coordination with the appropriate local law enforcement authority.

Page 5, starting on line 1:

SECTION 7. AMENDMENT. Subsection 6 of section 12.1-31-03 of the North Dakota Century Code is amended and reenacted as follows:

6. An individual fourteen years of age or older but under eighteen years of age found to have violated subsection 2 or 4 ~~must pay a fee of twenty-five dollars~~has committed an infraction and must be sent to juvenile court. An individual eighteen years of age or older but under twenty-one years of age found to have violated subsection 2 or 4 must pay a fee of twenty-five dollars.
- a. Any individual who has been cited for a violation of subsection 2 or 4 may appear before a court of competent jurisdiction and pay the fee by the time scheduled for a hearing, or if bond has been posted, may forfeit the bond by not appearing at the scheduled time. An individual appearing at the time scheduled in the citation may make a statement in explanation of that individual's action and the judge may waive, reduce, or suspend the fee or bond, or both. If the individual cited follows the procedures of this subdivision, that individual has admitted the violation and has waived the right to a hearing on the issue of commission of the violation. The bond required to secure appearance before the court must be identical to the fee. This subdivision does not allow a citing officer to receive the fee or bond.
- b. If an individual cited for a violation of subsection 2 or 4 does not choose to follow the procedures provided under subdivision a, that

individual may request a hearing on the issue of the commission of the violation cited. The hearing must be held at the time scheduled in the citation or at some future time, not to exceed ninety days later, set at that first appearance. At the time of a request for a hearing on the issue on commission of the violation, the individual cited shall deposit with the court an appearance bond equal to the fee for the violation cited.

- c. The failure to post bond or to pay an assessed fee is punishable as a contempt of court, except an individual may not be imprisoned for the contempt.

Page 17, line 1, insert:

SECTION 10. AMENDMENT. Subsection 6 of section 27-20.2-01 of the North Dakota Century Code is amended and reenacted as follows:

- 6. "Child in need of services" means a child who in any of the foregoing instances is in need of treatment or rehabilitation:
 - a. Is habitually and without justification truant from school subject to compulsory school attendance and is absent from school without an authorized excuse more than three days during a school year;
 - b. Is habitually disobedient of the reasonable and lawful commands of the child's parent, guardian, or other custodian, including running away, and is ungovernable or who is willfully in a situation dangerous or injurious to the health, safety, or morals of the child or others;
 - c. Has committed an offense applicable only to a child, except for an offense committed by a minor fourteen years of age or older under subsection 2 of section 12.1-31-03 or an equivalent local ordinance or resolution; or
 - d. Is under the age of fourteen years and has purchased, possessed, smoked, or used tobacco, a tobacco-related product, an electronic smoking device, or an alternative nicotine product ~~in violation of~~

~~subsection 2 of section 12.1-31-03~~. As used in this subdivision, "electronic smoking device" and "alternative nicotine product" have the same meaning as in section 12.1-31-03; and

- e. In any of the foregoing instances is in need of treatment or rehabilitation.