

Sixty-ninth  
Legislative Assembly  
of North Dakota

**PROPOSED AMENDMENTS TO  
SECOND ENGROSSMENT**

**REENGROSSED SENATE BILL NO. 2037**

Introduced by

Legislative Management

(Juvenile Justice Committee)

1 A BILL for an Act to create and enact three new sections to chapter 27-20.4 of the North Dakota  
2 Century Code, relating to juvenile court petitions, fitness to proceed in juvenile court  
3 proceedings, and collateral consequences the juvenile court may order; to amend and reenact  
4 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,  
5 section 12.1-20-01, subsections 2 and 6 of section 12.1-31-03, sections 12.1-32-15 and  
6 15.1-09-33.4, subsection 6 of section 27-20.2-01, subsection 3 of section 27-20.2-09,  
7 subsection 5 of section 27-20.4-11, subsection 1 of section 27-20.4-18, subsection 1 of section  
8 27-20.4-20, and section 62.1-02-01 of the North Dakota Century Code, relating to lack of  
9 criminal responsibility, court jurisdiction, distribution of intimate images without consent,  
10 domestic violence, criminality of a child regarding sex offenses, sale and use of tobacco by an  
11 individual under the age of twenty-one, child registration requirements, restitution, probation of a  
12 delinquent child, extracurricular activities for students, and persons not allowed to possess a  
13 firearm; to repeal sections 27-20.4-12, 27-20.4-13, and 27-20.4-19 of the North Dakota Century  
14 Code, relating to delinquency; to provide an appropriation; and to provide a penalty.

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

**SECTION 1. AMENDMENT.** Section 12.1-04.1-01 of the North Dakota Century Code is  
amended and reenacted as follows:

**12.1-04.1-01. Standard for lack of criminal responsibility.**

1. An individual is not criminally responsible for criminal conduct if, as a result of mental  
disease or defect existing at the time the conduct occurs:

- 1 c. Actual emotional distress or harm is caused to the individual as a result of the  
2 distribution under this section.

3 **SECTION 5. AMENDMENT.** Section 12.1-20-01 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **12.1-20-01. General provisions.**

6 In sections 12.1-20-03 through 12.1-20-08:

- 7 1. When the criminality of conduct depends on a child's child being below the age of  
8 fifteen, it is no defense that the actor did not know the child's age, or reasonably  
9 believed the child to be older than fourteen.  
10 2. When criminality depends on the victim being a minor, it is an affirmative defense that  
11 the actor reasonably believed the victim to be an adult.  
12 3. When criminality depends on the victim being a minor fifteen years of age or older, the  
13 actor is guilty of an offense only if the actor is at least three years older than the minor.  
14 4. When criminality depends on the victim being below the age of fifteen, and the actor is  
15 a minor, the actor is guilty of an offense only if the actor is at least three years older  
16 than the victim.

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

- 19 2. It is a noncriminal offense for an individual ~~under twenty-one~~ eighteen to twenty years  
20 of age or older but under twenty-one years of age, and an infraction for an individual  
21 fourteen to seventeen years of age or older but under eighteen years of age, to  
22 purchase, possess, smoke, or use cigarettes, cigars, cigarette papers, snuff, tobacco  
23 in any other form in which it may be utilized for smoking or chewing, electronic  
24 smoking devices, or alternative nicotine products. However, an individual under  
25 twenty-one years of age may purchase and possess tobacco, electronic smoking  
26 devices, or alternative nicotine products as part of a compliance survey program when  
27 acting with the permission of the individual's parent or guardian and while acting under  
28 the supervision of any law enforcement authority. A state agency, city, county, board of  
29 health, tobacco, electronic smoking devices, or alternative nicotine products retailer, or  
30 association of tobacco, electronic smoking devices, or alternative nicotine products



1           retailers may also conduct compliance surveys, after coordination with the appropriate  
2           local law enforcement authority.

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

5           6.   An individual fourteen years of age or older but under eighteen years of age found to  
6           have violated subsection 2 or 4 ~~must pay a fee of twenty-five dollars~~ has committed an  
7           infraction and must be sent to juvenile court. An individual eighteen years of age or  
8           older but under twenty-one years of age found to have violated subsection 2 or 4 must  
9           pay a fee of twenty-five dollars.

10          a.   Any individual who has been cited for a violation of subsection 2 or 4 may appear  
11           before a court of competent jurisdiction and pay the fee by the time scheduled for  
12           a hearing, or if bond has been posted, may forfeit the bond by not appearing at  
13           the scheduled time. An individual appearing at the time scheduled in the citation  
14           may make a statement in explanation of that individual's action and the judge  
15           may waive, reduce, or suspend the fee or bond, or both. If the individual cited  
16           follows the procedures of this subdivision, that individual has admitted the  
17           violation and has waived the right to a hearing on the issue of commission of the  
18           violation. The bond required to secure appearance before the court must be  
19           identical to the fee. This subdivision does not allow a citing officer to receive the  
20           fee or bond.

21          b.   If an individual cited for a violation of subsection 2 or 4 does not choose to follow  
22           the procedures provided under subdivision a, that individual may request a  
23           hearing on the issue of the commission of the violation cited. The hearing must  
24           be held at the time scheduled in the citation or at some future time, not to exceed  
25           ninety days later, set at that first appearance. At the time of a request for a  
26           hearing on the issue on commission of the violation, the individual cited shall  
27           deposit with the court an appearance bond equal to the fee for the violation cited.

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

30           **SECTION 8. AMENDMENT.** Section 12.1-32-15 of the North Dakota Century Code is  
31 amended and reenacted as follows:



1           pertaining to a student of the school which are open to inspection by the principal  
2           under section 27-20.2-21.

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

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

23           **SECTION 11. AMENDMENT.** Subsection 3 of section 27-20.2-09 of the North Dakota  
24 Century Code is amended and reenacted as follows:

- 25          3. The giving of information and advice and any conditions imposed for the conduct and  
26          control of the child may not extend beyond six months from the day commenced  
27          unless extended by the court for an additional period not to exceed six months and  
28          does not authorize the detention of the child if not otherwise permitted by this chapter.  
29          For a driving-related offense, the conditions may include a restriction on the child's  
30          driving privileges as authorized under section ~~27-20.4-19~~1617 of this Act.