

CRIMINAL CODE

CHAPTER 162

SENATE BILL NO. 2236
(Committee on Judiciary)
(At the request of the Attorney General)

CRIMINAL ATTEMPT AND CONSPIRACY

AN ACT to amend and reenact subsection 3 of section 12.1-06-01 and subsection 6 of section 12.1-06-04 of the North Dakota Century Code, relating to providing penalties for criminal attempt and conspiracy offenses.

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

SECTION 1. AMENDMENT. Subsection 3 of section 12.1-06-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Criminal attempt is an offense of the same class as the offense attempted, except that: a. an attempt to commit a class AA felony is a class A felony shall be and an attempt to commit a class A felony is a class B felony, and b. whenever it is established by a preponderance of the evidence at sentencing that the conduct constituting the attempt did not come dangerously close to commission of the crime, an attempt to commit a class B felony shall be a class C felony and an attempt to commit a class C felony shall be a class A misdemeanor.

SECTION 2. AMENDMENT. Subsection 6 of section 12.1-06-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. Conspiracy shall be subject to the penalties provided for attempt in subsection 3 of section 12.1-06-01 is an offense of the same class as the crime which was the objective of the conspiracy.

Approved March 4, 1983

CHAPTER 163

SENATE BILL NO. 2402
(Christensen)RACKETEER INFLUENCED AND CORRUPT
ORGANIZATIONS ACT

AN ACT to create a Racketeer Influenced and Corrupt Organizations Act providing definitions, offenses, civil remedies, judicial powers, investigation of records, and confidentiality; and to provide penalties.

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

SECTION 1. Definitions.

1. For the purpose of section 2 of this Act:
 - a. "Combination" means persons who collaborate in carrying on or furthering the activities or purposes of a criminal syndicate even though such persons may not know each other's identity or membership in the combination may change from time to time or one or more members may stand in a wholesaler-retailer or other arm's length relationship with others as to activities or dealings between or among themselves in an illicit operation.
 - b. "Criminal syndicate" means any combination of persons or enterprises engaging, or having the purpose of engaging, on a continuing basis in conduct which violates any one or more provisions of any felony statute of this state.
2. For the purposes of sections 3 through 7 of this Act, unless the context otherwise requires:
 - a. "Control" means the possession of a sufficient interest to permit substantial direction over the affairs of an enterprise.
 - b. "Enterprise" means any corporation, association, labor union, or other legal entity or any group of persons associated in fact although not a legal entity.

- c. "Financial institution" means any bank, trust company, savings and loan association, credit union, or money lender under the jurisdiction of the state department of banking and financial institutions or its commissioner, or the state banking board, or the state credit union board.
- d. "Racketeering" means any act including any criminal attempt, facilitation, solicitation, or conspiracy, committed for financial gain, which is chargeable or indictable under the laws of the state in which the act occurred and, if the act occurred in a state other than this state, would be chargeable or indictable under the laws of this state had the act occurred in this state and punishable by imprisonment for more than one year, regardless of whether such act is charged or indicted, involving:
- (1) Homicide.
 - (2) Robbery.
 - (3) Kidnapping.
 - (4) Forgery.
 - (5) Theft.
 - (6) Bribery.
 - (7) Gambling.
 - (8) Usury.
 - (9) Extortion.
 - (10) Dealing in narcotic drugs or dangerous drugs.
 - (11) Trafficking in explosives, weapons, or stolen property.
 - (12) Leading organized crime.
 - (13) Obstructing or hindering criminal investigations or prosecutions.
 - (14) Asserting false claims including, but not limited to, false claims asserted through fraud or arson.
 - (15) Fraud.
 - (16) Sale of unregistered securities or real property securities and transactions involving such securities by unregistered dealers or salesmen.

- (17) Obscenity.
 - (18) Child pornography.
 - (19) Prostitution.
- e. "Records" means any book, paper, writing, record, computer program, or other material.
3. For the purposes of section 8 of this Act:
- a. "Access" means to approach, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of a computer, computer system, or computer network.
 - b. "Computer" means an electronic device which performs logic, arithmetic, or memory functions by the manipulations of electronic or magnetic impulses and includes all input, output, processing, storage, software, or communication facilities which are connected or related to such a device in a system or network.
 - c. "Computer network" means the interconnection of communication lines with a computer through remote terminals or a complex consisting of two or more interconnected computers.
 - d. "Computer program" means a series of instructions or statements, in a form acceptable to a computer, which permits the functioning of a computer system in a manner designed to provide appropriate products from such computer system.
 - e. "Computer software" means a set of computer programs, procedures, and associated documentation concerned with the operation of a computer system.
 - f. "Computer system" means a set of related, connected, or unconnected computer equipment, devices, and software.
 - g. "Financial instrument" means any check, draft, money order, certificate of deposit, letter of credit, bill of exchange, credit card, marketable security, or any other written instrument which is transferable for value.
 - h. "Property" means financial instruments, information, including electronically produced data, computer software, and programs in either machine or human readable form, and anything of value.

- i. "Services" includes computer time, data processing, and storage functions.

SECTION 2. Leading organized crime - Classification.

1. A person commits leading organized crime by any of the following:
 - a. Intentionally organizing, managing, directing, supervising, or financing a criminal syndicate.
 - b. Knowingly inciting or inducing others to engage in violence or intimidation to promote or further the criminal objectives of a criminal syndicate.
 - c. Furnishing advice, assistance, or direction in the conduct, financing, or management of a criminal syndicate's affairs with the intent to promote or further the criminal objectives of a syndicate.
 - d. Intentionally promoting or furthering the criminal objectives of a syndicate by inducing or committing any act or omission by a public servant in violation of his official duty.
2. No person shall be convicted pursuant to this section on the basis of accountability as an accomplice unless he aids or participates in violating this section in one of the ways specified.
3. Leading organized crime is a class B felony.

SECTION 3. Illegal control of an enterprise - Illegally conducting an enterprise - Penalty.

1. A person is in illegal control of an enterprise if such person, through racketeering or its proceeds, acquires or maintains, by investment or otherwise, control of any enterprise.
2. A person is illegally conducting an enterprise if the person is employed or associated with any enterprise and conducts or participates in the conduct of that enterprise's affairs through racketeering.
3. A knowing violation of this section is a class B felony.

SECTION 4. Judicial powers over racketeering criminal cases. During the pendency of any criminal case charging an offense included in the definition of racketeering or a violation of section 3 of this Act, the court may, in addition to its other powers, issue an order pursuant to subsections 1 and 2 of section 5 of this Act. Upon conviction of a person for an offense included in the definition of racketeering or a violation of section 3 of this Act, the court may,

in addition to its other powers, issue an order pursuant to section 5 of this Act.

SECTION 5. Racketeering - Civil remedies.

1. A person who sustains injury to person, business, or property by racketeering or by a violation of section 3 of this Act may file an action in district court for the recovery of treble damages and the costs of the suit, including reasonable attorney fees. The state may file an action in behalf of those persons injured or to prevent, restrain, or remedy racketeering or a violation of section 3 of this Act.
2. The district court has jurisdiction to prevent, restrain, and remedy racketeering or a violation of section 3 of this Act after making provision for the rights of all innocent persons affected by such violation and after hearing or trial, as appropriate, by issuing appropriate orders.
3. Prior to a determination of liability orders may include entering restraining orders, receivership orders or prohibitions or other actions, including the acceptance of satisfactory performance bonds, in connection with any property or other interest subject to damages, forfeiture, or other restraints pursuant to this section.
4. Following a determination of liability orders may include:
 - a. Ordering any person to divest himself of any interests, direct or indirect, in any enterprise.
 - b. Imposing reasonable restrictions on the future activities or investments of any person, including prohibiting any person from engaging in the same type of endeavor as the enterprise engaged in, the activities of which affect the laws of this state, to the extent the constitutions of the United States and this state permit.
 - c. Ordering dissolution or reorganization of any enterprise.
 - d. Ordering the payment of treble damages and appropriate restitution to those persons injured by racketeering or a violation of section 3 of this Act.
 - e. Ordering the payment of all costs and expenses and reasonable attorneys' fees concerned with the prosecution and investigation of any offense included in the definition of racketeering or a violation of section 3 of this Act, civil and criminal, incurred by the state or county as appropriate to be paid to the

- general fund of the state or county which brings the action.
- f. Forfeiture, pursuant to chapter 32-14, to the state school fund of the state or county as appropriate under section 29-27-02.1 to the extent not already ordered to be paid in other damages;
 - (1) Any property or other interest acquired or maintained by a person in violation of section 3 of this Act.
 - (2) Any interest in, security of, claims against, or property or contractual right of any kind affording a source of influence over any enterprise which a person has established, operated, controlled, conducted, or participated in the conduct of in violation of section 3 of this Act.
 - (3) All proceeds traceable to an offense included in the definition of racketeering and all moneys, negotiable instruments, securities, and other things of value used or intended to be used to facilitate commission of the offense.
 - g. Payment to the state school fund of the state or county as appropriate under section 29-27-02.1 of an amount equal to the gain a person has acquired or maintained through an offense included in the definition of racketeering.
5. In addition to or in lieu of an action under this section the state may file an action for forfeiture to the state school fund of the state or county as appropriate under section 29-27-02.1, to the extent not already ordered paid pursuant to this section, of:
- a. Any interest acquired or maintained by a person in violation of section 3 of this Act.
 - b. Any interest in, security of, claims against, or property or contractual right of any kind affording a source of influence over any enterprise which a person has established, operated, controlled, conducted, or participated in the conduct of in violation of section 3 of this Act.
 - c. All proceeds traceable to an offense included in the definition of racketeering and all moneys, negotiable instruments, securities, and other things of value used or intended to be used to facilitate the commission of the offense.

6. A defendant convicted in any criminal proceeding shall be precluded from subsequently denying the essential allegations of the criminal offense of which he was convicted in any civil proceeding. For purposes of this subsection, a conviction may result from a verdict or plea including a no contest plea.
7. Notwithstanding any law to the contrary, the initiation of civil proceedings related to violations of any offense included in the definition of racketeering or a violation of section 3 of this Act shall be commenced within seven years of actual discovery of the violation.
8. This state may, in a civil action brought pursuant to this section, file with the clerk of the district court a certificate stating that the case is of special public importance. A copy of that certificate shall be furnished immediately by the clerk to the presiding judge of the district court in which the action is pending and, upon receipt of the copy, the judge shall immediately designate a judge to hear and determine the action. The judge designated shall promptly assign the action for hearing, participate in the hearings and determination, and cause the action to be expedited.
9. The standard of proof in actions brought pursuant to this section is the preponderance of the evidence.
10. A person other than the attorney general or state's attorney who files an action under this section shall serve notice and one copy of the pleading on the attorney general within thirty days after the action is filed with the district court. The notice shall identify the action, the person, and the person's attorney. Service of the notice does not limit or otherwise affect the right of the state to maintain an action under this section or intervene in a pending action nor does it authorize the person to name the state or the attorney general as a party to the action.
11. Except in cases filed by a state's attorney, the attorney general may, upon timely application, intervene in any civil action or proceeding brought pursuant to this section if the attorney general certifies that in his opinion the action is of special public importance. Upon intervention, the attorney general may assert any available claim and is entitled to the same relief as if the attorney general had instituted a separate action.
12. In addition to the state's right to intervene as a party in any action under this section, the attorney general may appear as amicus curiae in any proceeding in which a claim under this section has been asserted or in which a court is interpreting any provisions of this Act.

13. A civil action under this section is remedial and does not limit any other civil or criminal action. Civil remedies provided under this section are supplemental and not mutually exclusive.

SECTION 6. Racketeering lien - Content - Filing - Notice - Effect.

1. The state, upon filing a civil action under section 5 of this Act or upon charging an offense included in the definition of racketeering or a violation of section 3 of this Act, may file a racketeering lien. A filing fee or other charge is not required for filing a racketeering lien.
2. A racketeering lien shall be signed by the attorney general or the state's attorney representing the state in the action and set forth the following information:
 - a. The name of the defendant whose property, interests in property, or other interests are to be subject to the lien.
 - b. In the discretion of the attorney general or state's attorney filing the lien, any aliases or fictitious names of the defendant named in the lien.
 - c. If known to the attorney general or state's attorney filing the lien, the present residence or principal place of business of the person named in the lien.
 - d. A reference to the proceeding pursuant to which the lien is filed, including the name of the court, the title of the action, and the court's file number for the proceeding.
 - e. The name and address of the attorney representing the state in the proceeding pursuant to which the lien is filed.
 - f. A statement that the notice is being filed pursuant to this section.
 - g. The amount which the state claims in the action or, with respect to property or other interests which the state has requested forfeiture to the state or county, a description of the property or interests sought to be paid or forfeited.
 - h. If known to the attorney general or state's attorney filing the lien, a description of property which is subject to forfeiture to the state or property in which the defendant has an interest which is available to satisfy a judgment entered in favor of the state.

- i. Such other information as the attorney general or state's attorney filing the lien deems appropriate.
3. The attorney general or the state's attorney filing the lien may amend a lien filed under this section at any time by filing an amended racketeering lien in accordance with this section which identifies the prior lien amended.
4. The attorney general or the state's attorney filing the lien shall, as soon as practical after filing a racketeering lien, furnish to any person named in the lien a notice of the filing of the lien. Failure to furnish notice under this subsection does not invalidate or otherwise affect a racketeering lien filed in accordance with this section.
5. A racketeering lien is perfected against interests in personal property by filing the lien with the secretary of state, except that in the case of titled motor vehicles it shall be filed with the registrar of motor vehicles. A racketeering lien is perfected against interests in real property by filing the lien with the county register of deeds of the county in which the real property is located. The state may give additional notice of the lien.
6. The filing of a racketeering lien in accordance with this section creates a lien in favor of the state in:
 - a. Any interest of the defendant in real property situated in the county in which the lien is filed, then maintained or later acquired in the name of the defendant identified in the lien.
 - b. Any interest of the defendant in personal property situated in this state, then maintained or later acquired in the name of the defendant identified in the lien.
 - c. Any property identified in the lien to the extent of the defendant's interest in the property.
7. The filing of a racketeering lien under this section is notice to all persons dealing with the person or property identified in the lien of the state's claim. The lien created in favor of the state in accordance with this section is superior and prior to the claims or interests of any other person, except a person possessing:
 - a. A valid lien perfected prior to the filing of the racketeering lien.
 - b. In the case of real property, an interest acquired and recorded prior to the filing of the racketeering lien.

- c. In the case of personal property, an interest acquired prior to the filing of the racketeering lien.
8. Upon entry of judgment in favor of the state, the state may proceed to execute the judgment as in the case of any other judgment, except that in order to preserve the state's lien priority as provided in this section the state shall, in addition to notice as required by law, give at least thirty days' notice of execution to any person possessing at the time notice is given, an interest recorded after the date the state's lien was perfected.
9. Upon the entry of a final judgment in favor of the state providing for forfeiture of property to the state, the title of the state to the property:
 - a. In the case of real property, or a beneficial interest in real property, relates back to the date of filing the racketeering lien with the county register of deeds of the county where the real property is located, or if no racketeering lien is filed, then to the date of recording of the final judgment with the county register of deeds of the county where the real property is located.
 - b. In the case of personal property or a beneficial interest in personal property, relates back to the date the personal property was seized by the state, or the date of filing of a racketeering lien in accordance with this section, whichever is earlier, but if the property was not seized and no racketeering lien was filed then to the date the final judgment was filed with the secretary of state, or in the case of a titled motor vehicle, with the registrar of motor vehicles.
10. This section does not limit the right of the state to obtain any order or injunction, receivership, writ, attachment, garnishment, or other remedy authorized under section 5 of this Act or available under other applicable law.

SECTION 7. Racketeering - Investigation of records - Confidentiality - Court enforcement - Classification.

1. A custodian of the records of a financial institution shall, at no expense to the financial institution, produce for inspection or copying the records in the custody of the financial institution when requested to be inspected by the attorney general or a state's attorney authorized by the attorney general, provided the person requesting the information signs and submits a sworn statement to the custodian that the request is made in order to investigate racketeering or a violation of section 3 of this Act.

Records may be removed from the premises of the financial institution only for the purpose of copying the records and must be returned within forty-eight hours. The attorney general or an authorized state's attorney or any peace officer designated by an authorized state's attorney or the attorney general is prohibited from using or releasing such information except in the proper discharge of official duties. The furnishing of records in compliance with this section by a custodian of records is a bar to civil or criminal liability against the custodian or financial institution in any action brought alleging violation of the confidentiality of the records. The fact that records have been obtained may not be released in any way by the financial institution until ninety days after the release.

2. The attorney general or the authorized state's attorney may petition the district court for enforcement of this section in the event of noncompliance with the request for inspection. Enforcement shall be granted if the request is reasonable and the attorney general or the authorized state's attorney has reasonable grounds to believe the records sought to be inspected are relevant to a civil or criminal investigation of an offense included in the definition of racketeering or a violation of section 3 of this Act.
3. The investigation authority granted pursuant to the provisions of this section may not be exercised by a state's attorney in the absence of authorization by the attorney general.
4. Any person releasing information obtained pursuant to this section, except in the proper discharge of official duties, is guilty of a class B misdemeanor.

SECTION 8. Computer fraud - Classification - Penalty.

1. A person who commits computer fraud by accessing, altering, damaging, or destroying without authorization any computer, computer system, computer network, or any part of such computer, system, or network, with the intent to devise or execute any scheme or artifice to defraud or deceive, or control property or services by means of false or fraudulent pretenses, representations, or promises is guilty of a class B felony.
2. A person who commits computer fraud by intentionally and without authorization accessing, altering, damaging or destroying any computer, computer system, or computer network, or any computer software, program, or data contained in such computer, computer system, or computer network is guilty of a class C felony.

Approved April 14, 1983

CHAPTER 164

SENATE BILL NO. 2059
(Legislative Council)
(Interim Judiciary Committee)

HINDERING LAW ENFORCEMENT

AN ACT to amend and reenact subsection 2 of section 12.1-08-03 of the North Dakota Century Code, relating to the penalty for hindering law enforcement; and to declare an emergency.

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

SECTION 1. AMENDMENT. Subsection 2 of section 12.1-08-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Hindering law enforcement is a class C felony if the actor:
 - a. Knows of the conduct of the other and such conduct constitutes a class AA, class A, or class B felony; or
 - b. Knows that the other has been charged with or convicted of a crime and such crime is a class AA, class A, or class B felony.

Otherwise hindering law enforcement is a class A misdemeanor.

SECTION 2. EMERGENCY. This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved January 28, 1983

CHAPTER 165

SENATE BILL NO. 2138
(Committee on Judiciary)
(At the request of the Attorney General)

EXTREME EMOTIONAL DISTURBANCE

AN ACT to amend and reenact subsection 2 of section 12.1-16-02 of the North Dakota Century Code, relating to extreme emotional disturbance involving murder.

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

SECTION 1. AMENDMENT. Subsection 2 of section 12.1-16-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Causes the death of another human being under circumstances which would be murder, except that he causes the death under the influence of extreme emotional disturbance for which there is reasonable excuse. The reasonableness of the excuse shall be determined from the viewpoint of a person in his situation under the circumstances as he believes them to be. An extreme emotional disturbance is excusable, within the meaning of this subsection only, if it is occasioned by any substantial provocation, or a serious event, or situation for which the offender was not culpably responsible.

Approved March 4, 1983

CHAPTER 166

SENATE BILL NO. 2060
(Legislative Council)
(Interim Judiciary Committee)

TERRORIZING

AN ACT to amend and reenact section 12.1-17-04 of the North Dakota Century Code, relating to the crime of terrorizing.

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

SECTION 1. AMENDMENT. Section 12.1-17-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12.1-17-04. Terrorizing. A person is guilty of a class C felony if he-

1- ~~Threatens to commit any crime of violence or act dangerous to human life, or~~

2- ~~Falsely informs another that a situation dangerous to human life or commission of a crime of violence is imminent knowing that the information is false, with intent to keep place another human being in sustained fear for his that human being's or another's safety or to cause evacuation of a building, place of assembly, or facility of public transportation, or otherwise to cause serious disruption or public inconvenience, or in reckless disregard of the risk of causing such terror, disruption, or inconvenience, the person:~~

1. Threatens to commit any crime of violence or act dangerous to human life; or

2. Falsely informs another that a situation dangerous to human life or commission of a crime of violence is imminent knowing that the information is false.

Approved March 4, 1983

CHAPTER 167

HOUSE BILL NO. 1278
(Representatives A. Olson, Olafson)
(Senator Christensen)

SEX CRIMES INVOLVING A MINOR

AN ACT to amend and reenact section 12.1-20-04 of the North Dakota Century Code, relating to the penalty for sex crimes involving a minor.

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

SECTION 1. AMENDMENT. Section 12.1-20-04 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

12.1-20-04. Sexual imposition.

1. A person who engages in a sexual act or sexual contact with another, or who causes another to engage in a sexual act or sexual contact, is guilty of a ~~class C felony~~ an offense if ~~he the actor~~ compels the other person to submit by any threat that would render a person of reasonable firmness incapable of resisting.
2. The offense is a class C felony unless the victim is a minor, fifteen years of age or older, in which case it is a class B felony.

Approved March 25, 1983

CHAPTER 168

SENATE BILL NO. 2316
(Thane, Adams)

MORTGAGED PROPERTY SALE

AN ACT to amend and reenact section 12.1-23-08 of the North Dakota Century Code, relating to the penalties for selling mortgaged property.

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

SECTION 1. AMENDMENT. Section 12.1-23-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12.1-23-08. Defrauding secured creditors.

1. A person is guilty of an offense if he destroys, removes, conceals, encumbers, transfers, or otherwise deals with property subject to a security interest with intent to prevent collection of the debt represented by the security interest or if he makes false statements at the time of sale as to the existence of security interests or as to the ownership or location of such property in the certificate provided for under section 41-09-28.
2. The offense is a class A ~~misdemeanor~~ C felony if the property has a value exceeding five hundred dollars, and a class B A misdemeanor in all other cases. Value is to be determined as provided in subsection 7 6 of section 12.1-23-05.

Approved March 29, 1983

CHAPTER 169

SENATE BILL NO. 2500
(Stenehjem, Olson)

(Approved by the Committee on Delayed Bills)

SERVICE STATION SUNDAY CLOSING REQUIREMENTS

AN ACT to amend and reenact subsection 20 of section 12.1-30-03 of the North Dakota Century Code, relating to operation of certain businesses on Sunday; and to declare an emergency.

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

SECTION 1. AMENDMENT. Subsection 20 of section 12.1-30-03 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

20. Automobile Motor vehicle service stations that sell motor fuel and motor oil, and that customarily provide daily repair services or products for any of the following systems or parts of a motor vehicle:
- a. Air conditioning system.
 - b. Batteries.
 - c. Electrical system.
 - d. Engine cooling system.
 - e. Exhaust system.
 - f. Fuel system.
 - g. Tires and tubes.
 - h. Emergency work necessary for the safe and lawful operation of the motor vehicle.

SECTION 2. EMERGENCY. This Act is hereby declared to be an emergency measure and is in full force and effect from and after its passage and approval.

Approved April 13, 1983

CHAPTER 170

SENATE BILL NO. 2061
(Legislative Council)
(Interim Judiciary Committee)

MINIMUM PRISON TERMS FOR ARMED OFFENDERS

AN ACT to amend and reenact section 12.1-32-02.1 of the North Dakota Century Code, relating to minimum prison terms for armed offenders.

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

SECTION 1. AMENDMENT. Section 12.1-32-02.1 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

12.1-32-02.1. Minimum prison terms for armed offenders. Notwithstanding any other provisions of this title, minimum terms of imprisonment shall be imposed upon an offender and served without benefit of parole when, in the course of committing an offense, he inflicts or attempts to inflict bodily injury upon another, or threatens or menaces another with imminent bodily injury with a dangerous weapon, an explosive, or a firearm. Such minimum penalties shall apply only when possession of a dangerous weapon, an explosive, or a firearm has been charged and admitted or found to be true in the manner provided by law, and shall be imposed as follows:

1. If the offense for which the offender is convicted is a class A or class B felony, the court shall impose a minimum sentence of four years' imprisonment.
2. If the offense for which the offender is convicted is a class C felony, the court shall impose a minimum sentence of two years' imprisonment.

This section applies even when being armed is an element of the offense for which the offender is convicted.

Approved March 4, 1983