

2025 HOUSE JUDICIARY

HB 1351

2025 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Room JW327B, State Capitol

HB 1351
1/20/2025

A BILL for an Act to create and enact a new section to chapter 12.1-27.1 of the North Dakota Century Code, relating to prohibiting sexually explicit deep fake videos and images; to amend and reenact section 12.1-32-15 of the North Dakota Century Code, relating to sexual offenders and registration requirements; and to provide a penalty.

10:13 a.m. Chairman Klemin opened the hearing.

Members Present: Chairman Klemin, Vice-Chairman Karls, Vice-Chairman Vetter, Representatives Christianson, Hoverson, Johnston, McLeod, S. Olson, Satrom, Tveit, VanWinkle, Wolff, Schneider

Members Absent: Representative Henderson

Discussion Topics:

- Inclusion of fake people in deep fake pornography
- Penalties for possession of sexually explicit deep fake material

10:14 a.m. Representative Bernie Satrom, North Dakota Representative for District 12, introduced the bill.

10:19 a.m. Anna Frissell, Board member of the Children's Advocacy Centers of North Dakota and member of the Legislative Task Force, testified in favor and provided testimony #30262.

10:27 a.m. Terry Effertz, Tech ND, testified in favor.

Additional written testimony:

Nicolas Cullen, Bismarck, North Dakota, submitted testimony in favor #29903
Justin Hillman, Dakotas Advocate for NARSOL Dakotas, submitted testimony in favor #29959

Jacob Thormsen, Policy Analyst for North Dakota Family Alliance Legislative Action, submitted testimony in favor #30086

Kristie Wolff, Communications Coordinator for Central Dakota Forensic Nurse Examiners, submitted testimony in favor #20098

Andrew Varvel, Bismarck, North Dakota, submitted testimony in neutral #30074 Greg Kasowski, Director of the Children's Advocacy Centers of North Dakota, in favor #30095

10:29 a.m. Chairman Klemin closed the hearing.

Wyatt Armstrong, Committee Clerk

HB 1351
In Support Of

House Judiciary Committee,

I am writing to you in support of HB 1351. Sexually explicit videos and images, especially as minors (even if AI) require harsh prosecution. While I do not believe the penalty is harsh enough in this bill, it is a start in the right direction.

I recommend creating a harsher penalty via amendment. Even though this may be AI generated, it has the potential to create a lust for the real thing and could put our children in harms way. Therefore, I request a DO PASS. Thank you for your consideration.

Nicolas Cullen



RE: Support HB1351, but not Registration Requirements

Dear Members of the North Dakota House Judiciary Committee,

I am writing on behalf of the National Association of Rational Sexual Offense Laws (NARSOL) North Dakota Advocates regarding House Bill No. 1351, which proposes to prohibit sexually explicit deep fake videos and images and amend sexual offender registration requirements.

NARSOL strongly supports the bill's intent to prohibit sexually explicit deep fake videos and images. We recognize the serious harm that can be caused by such content, particularly when it involves minors. The creation and distribution of these materials is a concerning issue that deserves legislative attention and action.

However, we must express our opposition to the creation of a new registerable offense as proposed in this bill. Our position is based on extensive research and evidence regarding the ineffectiveness of sex offender registries. We urge the committee to consider the following points:

- Registries do not effectively deter crime or protect the public.
- Registries have little to no impact on recidivism rates among those required to register.
- Registration requirements create substantial obstacles for individuals attempting to reintegrate into society, often hindering their ability to find housing, employment, and support systems.
- The effects of registration extend beyond the individual, often causing undue hardship on family members, including children of registrants.
- The maintenance and enforcement of registries consume significant law enforcement and administrative resources that could be better utilized for more effective public safety measures.

We believe that the prohibition of sexually explicit deep fake videos and images can be effectively addressed without expanding the scope of the sex offender registry. Alternative approaches, such as diversion programs education programs, and support for victims, may prove more effective in combating this issue.

NARSOL respectfully requests that the committee reconsider the inclusion of this new offense as a registerable crime.

Thank you for your consideration of our position on this important issue.

Sincerely,

Justin L. Hillman
NARSOL Dakota's Advocates
jhillman@narsol.org

Cc: Brenda V. Jones, Executive Director (bjones@narsol.org)

House Judiciary Committee

House Bill 1351

Andrew Alexis Varvel

Written Testimony

Chairman Klemin and Members of the Committee:

My name is Andrew Alexis Varvel.

I live in Bismarck, District 47.

The reason why I am providing **NEUTRAL** testimony on this bill is this:

Deep-fake child pornography created by artificial intelligence is an especially heinous form of defamation. One could even regard this form of bullying to be a variety of virtual rape, as no child can consent to this. So obviously, this behavior should be criminalized.

What leaves me scratching my head are lines 21-23 from page 1 and lines 1-5 from page 2, from “affirmative defense” – what exactly are the beneficial purposes of a deep fake video of a minor, a living breathing minor, depicted as performing sex? Even creating a deep fake video to depict a sexual assault against a minor for purposes of illustration to a jury would probably create more problems than it solves.

Is this to protect those who are creating pornographic adaptations with artificial intelligence of *Lolita* or the works of the Marquis de Sade? What exactly is the bona fide research? What purpose would a member of the clergy have for creating deep-fake kiddie porn? I don't get it.

So, color me confused about this part of the legislation. Thank you.



Testimony in Support of House Bill 1351

Jacob Thomsen, Policy Analyst
North Dakota Family Alliance Legislative Action
January 20, 2025

Chairman Klemin and honorable members of the House Judiciary Committee,

North Dakota Family Alliance Legislative Action would like to testify in support of House Bill 1351 and respectfully request that you render a "DO PASS" on this bill with one requested amendment.

Our organization believes that human beings are created with inherent dignity and worth. Artificially manufactured sexually explicit images and videos violate a person's dignity and can significantly damage a person's self-worth and image among their peers. These images and videos are particularly damaging because the victim who this content is created of has no consent over the content's creation and distribution.

We support this bill because it seeks to protect the dignity and worth of people and protects against nonconsensual creation and distribution of artificially created sexually explicit images and videos.

While we support this bill, it has been brought to our attention that if this bill were to pass with only a Class A misdemeanor penalty, this bill would weaken the statutes against child sexual abuse material (CSAM). Currently, the possession of child sexual abuse material in 12.1-27.2-04.1 is a class C felony. If this bill passes, all the offenders will try to claim that the CSAM is a deep fake and not real material, and this will either result in the lower offense conviction or a not guilty verdict for an offender that possessed real sexual images of minors. Further, currently promoting a sexual performance by a minor in violation of 12.1-27.2-04 is a Class B Felony, and promoting an obscene performance by a minor in violation of 12.1-27.2-03 is a Class A Felony. A deep fake with a minor's image is just as emotionally and mentally damaging as using the child's real sexual image. Thus, please include an amendment of the penalty section from a Class A Misdemeanor to at least a Class C Felony.

For these reasons, North Dakota Family Alliance Legislative Action respectfully requests that you please vote House Bill 1351 out of committee with a "DO PASS" recommendation with the requested amendment.

Thank you for the opportunity to provide this testimony, and feel free to contact us if you have any questions.

Sincerely,

Jacob Thomsen
Policy Analyst
North Dakota Family Alliance Legislative Action



CHILDREN'S ADVOCACY CENTERS OF NORTH DAKOTA

House Judiciary Committee
Testimony In Support of House Bill #1351
1-20-24

Chairman Klemin and Members of the House Judiciary Committee,

My name is Greg Kasowski, Director of the Children's Advocacy Centers of North Dakota. I am here in support of House Bill 1351.

Our Children's Advocacy Centers work daily with children who have experienced child sexual abuse and other forms of child maltreatment. We see firsthand the devastating impact of these crimes. The emergence of AI-generated child sexually abusive materials (CSAM) represents a terrifying new frontier in child maltreatment.

Traditional CSAM involves the actual abuse of a child. AI-generated CSAM, while not involving a real-time physical act of abuse, is no less harmful. It creates hyper-realistic depictions of children engaged in sexual activity, which perpetuates the sexualization and exploitation of minors.

The Threat of AI-Generated CSAM:

- **Proliferation and Accessibility:** AI technology makes it easier and faster than ever before to create and disseminate this horrific material. Although some of the more popular generative AI platforms have set technological guardrails, the proverbial "cat is still out of the bag." Perpetrators with minimal technical skill have been able to generate countless images and videos of child sexual abuse already.
- **Normalization and Desensitization:** The widespread availability of AI-generated CSAM risks normalizing the sexualization of children. It also desensitizes our society to the harm of child sexual abuse, which can have devastating consequences. Condoning its presence is frightening.
- **May Lead to Hands-On Child Sexual Abuse:** Although no studies exist as to whether AI-generated CSAM consumption leads to hands-on child sexual abuse, studies have shown that a majority of perpetrators of *traditional* CSAM also conducted hands-on child sexual abuse.¹
- **Difficulty in Detection:** AI-generated CSAM can be incredibly realistic, making it difficult for even trained professionals to distinguish it from traditional CSAM. This poses significant challenges for law enforcement in identifying and prosecuting offenders.

¹ <https://www.tandfonline.com/doi/abs/10.1080/13552600.2014.886729>





**CHILDREN'S
ADVOCACY
CENTERS**
OF NORTH DAKOTA

Why Criminalization is Necessary:

- **Deterrence:** Criminalizing the creation, possession, and distribution of AI-generated CSAM sends a clear message that this type of content will not be tolerated in our society. It serves as a deterrent to potential offenders and reinforces the importance of protecting children in North Dakota.
- **Reduction in Vicarious Trauma:** Decreasing the proliferation of AI-generated CSAM would reduce the amount of secondary traumatic stress on the individuals working on the front lines, such as the Internet Crimes Against Children Taskforce (ICAC), prosecutors, and defense attorneys.
- **Protection of Children:** This legislation is essential for protecting children from the severe harm caused by the acceptance of this material. It recognizes that even without a physical act of abuse, the creation and dissemination of AI-generated CSAM constitutes a form of exploitation.
- **Holding Offenders Accountable:** Criminalizing this conduct provides law enforcement and prosecutors with the tools they need to investigate and prosecute those who create and distribute this harmful material.

In conclusion, by criminalizing AI-generated CSAM, we will send a clear message that we will not tolerate the normalization of child sexual abuse in any form in North Dakota.

Mr. Chairmen and members of the committee, I appreciate your time and consideration of this bill and will try to answer any questions.

Sincerely,

Greg Kasowski
Executive Director
Children's Advocacy Centers of North Dakota

Children's Advocacy Centers of North Dakota

www.CACND.org
director@cacnd.org
701.301.3701





**Kristie Wolff – Communications Coordinator
Central Dakota Forensic Nurse Examiners**

**Support HB 1351
House Judiciary Committee**

January 20, 2025

Chairman Klemin and members of the House Judiciary Committee, my name is Kristie Wolff, I am the Communications Coordinator for Central Dakota Forensic Nurse Examiners (CDFNE).

CDFNE is a North Dakota based non-profit organization providing forensic medical services to children and adult survivors of sexual violence, domestic violence, abuse, and neglect across 23 counties in western North Dakota. I am testifying today in support of HB 1351.

Through our work, we have witnessed firsthand the alarming rise of artificial intelligence (AI) technology based exploitation, particularly through the creation of “deepfakes.”

This form of abuse is profoundly harmful, enabling perpetrators to exploit, humiliate, or blackmail victims with content that is often indistinguishable from reality. The psychological toll on victims can be immense, as they are forced to defend their reputation and cope with the trauma of being exploited in such an invasive manner.

What makes this issue even more concerning is how accessible the technology has become. Creating deepfakes requires minimal technical expertise—anyone with a computer, the correct software, and images of an individual can generate convincing doctored content. This ease of access significantly increases the risk of exploitation.

The scope of the problem among young people is staggering. A 2024 survey conducted by The Center for Democracy & Technology revealed that 15% of K-12 students reported being aware of AI-generated non-consensual intimate images involving individuals from their school. This

translates to approximately 2.3 million public school students across the country being exposed to or affected by this issue.

This is a pressing problem that we believe demands action. We are aware of the multiple bills addressing this topic coming before this committee, therefore we urge the committee to use these bills as a framework to craft comprehensive legislation that protects North Dakotans from AI-enabled abuse and exploitation. Addressing the misuse of deepfake technology is critical to safeguarding the dignity, privacy, and safety of all individuals, particularly the most vulnerable in our state.

Thank you for your time and consideration.

Thank you,
Kristie Wolff
kristie.cdfne@midconetwork.com
701-751-4884

House Bills 1351- Computer-generated Images**House Judiciary Committee****January 20, 2025****Submitted by: Anna Frissell**

Honorable Chairman, distinguished members of the Judiciary Committee, North Dakota House of Representatives, thank you for the opportunity to testify today. My name is Anna Frissell and I am a board member of the Children's Advocacy Centers of North Dakota, as well as, a member of the Legislative Task Force for the Prevention of Child Sexual Abuse. I am also a past Executive Director of a North Dakota Children's Advocacy Center and a prosecutor in North Dakota and Minnesota. I wish to note my support for criminalizing the production, possession, distribution, promotion, etc., of certain computer-generated images depicting minors engaged in sexual conduct or a sexual performance.

After drafting House Bill 1351, Representative Satrom welcomed a discussion about this Bill, including a chance to voice concerns. The Bill had been submitted when I raised the below issues, but I understood that he was very interested in considering these concerns and others through robust testimony on the Bill.

House Bill 1351 carries a penalty of an A misdemeanor. Presently, 12.1-27.2-04.1, NDCC, Possession of Certain Materials Prohibited, carries a C Felony. I opine that this new "deep fake" statute should also be a C Felony, if not for the first conviction of an individual, then certainly for the second or third.

Likewise, I also feel that the categories of uses offered an affirmative defense in House Bill 1351 are not appropriate. These categories include literary, artistic, political, scientific, etc. Granted, the affirmative defense language mirrors present NDCC statutes (See for instance, 12.1-27.2-05, NDCC, Sexual Performance of a Minor) but I offer that these affirmative defenses should not be available for any of the crimes involving sexual conduct or sexual performance of minors, and certainly not for "deep fakes".

I do not believe that there is a situation where a person or entity should have an affirmative defense to these allegations when they are accused of having produced, possessed, distributed, promoted, advertised, selling, exhibiting, broadcasting or transmitting:

...a video recording, motion picture, electronic image or photograph created with the intent to deceive which appears to depict a minor engaging in sexual conduct or a sexual performance that did not occur in reality or that the minor did not actually perform, and whose appearance in it is the result of digitalization.

House Bill 1351 contemplates that these may be minors who are “identifiable” (See Section 1(4)) of House Bill 1351. Again, I cannot contemplate a situation where there should be an affirmative defense to these allegations if you have an identifiable minor in a “deep fake”.

Also, it is wrong for an identifiable minor to continue to be victimized by using these images for any of the purposes listed (literary, artistic, political, etc.) and at the very least the use of them should never be allowed without the express and written permission of the minor and their parent or guardian.

I understand that there may be situations where law enforcement or the criminal justice system will use the image, but if they require an affirmative defense and it is going to be specified in the statute, the list to whom it is available should be very limited.

The above testimony is asking for changes to a very important Bill, not questioning the need for the Bill. The need to legislate and criminalize this behavior is of paramount importance.

Thank you for the opportunity to submit testimony. Please contact me if I can be of further assistance.

Anna Frissell
annarrcac@yahoo.com

2025 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Room JW327B, State Capitol

HB 1351
1/27/2025

A BILL for an Act to create and enact a new section to chapter 12.1-27.1 of the North Dakota Century Code, relating to prohibiting sexually explicit deep fake videos and images; to amend and reenact section 12.1-32-15 of the North Dakota Century Code, relating to sexual offenders and registration requirements; and to provide a penalty.

4:02 p.m. Chairman Klemin opened the hearing.

Members Present: Chairman Klemin, Vice-Chairman Vetter, Representatives Christianson, Hoverson, Johnston, McLeod, S. Olson, Satrom, VanWinkle, Wolff, Schneider

Members Absent: Vice-Chairman Karls, Representatives Henderson, Tveit

Discussion Topics:

- Limitations of the bill
- Bill application to adults

4:04 p.m. Representative Schneider moved to Amend and strike page 1 lines 22-23.

4:07 p.m. Representative Satrom seconded the motion.

Representatives	Vote
Representative Lawrence R. Klemin	N
Representative Karen Karls	A
Representative Steve Vetter	Y
Representative Nels Christianson	N
Representative Donna Henderson	A
Representative Jeff Hoverson	N
Representative Daniel Johnston	N
Representative Carrie McLeod	N
Representative SuAnn Olson	N
Representative Bernie Satrom	N
Representative Mary Schneider	Y
Representative Bill Tveit	A
Representative Lori VanWinkle	N
Representative Christina Wolff	Y

4:11 p.m. Motion fails 3-8-3

4:21 p.m. Representative Satrom moved to Amend and replace the word "minor" with "individual" throughout section 1 of the bill.

4:21 p.m. Representative Johnston seconded the motion.

Representatives	Vote
Representative Lawrence R. Klemin	Y
Representative Karen Karls	A
Representative Steve Vetter	Y
Representative Nels Christianson	Y
Representative Donna Henderson	A
Representative Jeff Hoverson	Y
Representative Daniel Johnston	Y
Representative Carrie McLeod	Y
Representative SuAnn Olson	Y
Representative Bernie Satrom	Y
Representative Mary Schneider	Y
Representative Bill Tveit	A
Representative Lori VanWinkle	Y
Representative Christina Wolff	Y

4:26 p.m. Motion passed 11-0-3

4:31 p.m. Representative VanWinkle moved to Amend and remove the strike from lines 22-23 on page 1.

4:31 p.m. Representative Hoverson seconded the motion.

Representatives	Vote
Representative Lawrence R. Klemin	N
Representative Karen Karls	A
Representative Steve Vetter	Y
Representative Nels Christianson	N
Representative Donna Henderson	A
Representative Jeff Hoverson	N
Representative Daniel Johnston	Y
Representative Carrie McLeod	Y
Representative SuAnn Olson	Y
Representative Bernie Satrom	N
Representative Mary Schneider	Y
Representative Bill Tveit	A
Representative Lori VanWinkle	Y
Representative Christina Wolff	Y

4:35 p.m. Motion passed 7-4-3

4:37 p.m. Representative Vetter moved to Amend and strike subsection 3 page 1 lines 21-23 and page 2 lines 1-5.

4:37 p.m. Representative VanWinkle seconded the motion.

Representatives	Vote
Representative Lawrence R. Klemin	N
Representative Karen Karls	A
Representative Steve Vetter	Y
Representative Nels Christianson	N
Representative Donna Henderson	A
Representative Jeff Hoverson	Y
Representative Daniel Johnston	N
Representative Carrie McLeod	Y
Representative SuAnn Olson	Y
Representative Bernie Satrom	N
Representative Mary Schneider	Y
Representative Bill Tveit	A
Representative Lori VanWinkle	Y
Representative Christina Wolff	Y

4:46 p.m. Motion passed 7-4-3

4:47 p.m. Representative S. Olson moved a Do Pass as Amended.

4:47 p.m. Representative Vetter seconded the motion.

Representatives	Vote
Representative Lawrence R. Klemin	Y
Representative Karen Karls	A
Representative Steve Vetter	Y
Representative Nels Christianson	Y
Representative Donna Henderson	A
Representative Jeff Hoverson	Y
Representative Daniel Johnston	Y
Representative Carrie McLeod	Y
Representative SuAnn Olson	Y
Representative Bernie Satrom	Y
Representative Mary Schneider	Y
Representative Bill Tveit	A
Representative Lori VanWinkle	Y
Representative Christina Wolff	Y

4:49 p.m. Motion passed 11-0-3

4:50 p.m. Representative Johnston will carry the bill.

4:51 p.m. Chairman Klemin closed the hearing.

Wyatt Armstrong, Committee Clerk

January 27, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

HOUSE BILL NO. 1351

Introduced by

Representatives Satrom, Christy, Ostlie, Schneider

Senators Clemens, Conley

*JSB 1-27-25
10413*

1 A BILL for an Act to create and enact a new section to chapter 12.1-27.1 of the North Dakota
2 Century Code, relating to prohibiting sexually explicit deep fake videos and images; to amend
3 and reenact section 12.1-32-15 of the North Dakota Century Code, relating to sexual offenders
4 and registration requirements; and to provide a penalty.

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

6 **SECTION 1.** A new section to chapter 12.1-27.1 of the North Dakota Century Code is
7 created and enacted as follows:

8 **Sexually explicit deep fake videos or images prohibited - Penalty - Affirmative**
9 **defense -- Civil action.**

10 1. As used in this section:

11 a. "Sexual performance" means any performance that includes sexual conduct.

12 b. "Sexually explicit deep fake video or image" means any video recording, motion-
13 picture film, electronic image, or photograph created with the intent to deceive,
14 which appears to depict a minor an individual engaging in sexual conduct or a
15 sexual performance that did not occur in reality or that the minor individual did not
16 actually perform, and whose appearance in the video recording, motion-picture
17 film, electronic image, or photograph is a result of digitization.

18 2. It is a class A misdemeanor for a person to knowingly produce, possess, distribute,
19 promote, advertise, sell, exhibit, broadcast, or transmit a sexually explicit deep fake
20 video or image.

103 20813

3. ~~It is an affirmative defense to a prosecution under this section that:~~

~~a. The sexually explicit deep fake video or image has serious literary, artistic, political, or scientific value; or~~

~~b. The sexually explicit deep fake video or image was presented for bona fide medical, scientific, educational, religious, governmental, judicial, or other appropriate purpose by or to a physician, psychologist, sociologist, scientist, teacher, person pursuing bona fide studies or research, librarian, member of the clergy, attorney, law enforcement officer, or a judge.~~

~~4.~~ A depicted ~~minor~~ individual who is identifiable and who suffers harm from a person's violation of this section has a cause of action against the person if the person produced, possessed, distributed, promoted, advertised, sold, exhibited, broadcasted, or transmitted the sexually explicit deep fake video or image for the purpose of sexual arousal, sexual gratification, humiliation, degradation, or monetary or commercial gain.

a. The court may exclude or redact from all pleadings and documents filed in the action other identifying characteristics of the plaintiff under rule 3.4 of the North Dakota Rules of Court.

b. A plaintiff to whom subdivision a applies shall file with the court and serve on the defendant a confidential information form that includes the excluded or redacted plaintiff's name and other identifying characteristics.

c. The court may make further orders as necessary to protect the identity and privacy of a plaintiff.

5.4. In an action under subsection 4, a prevailing plaintiff may recover:

a. The greater of:

(1) Economic and noneconomic damages proximately caused by the defendant's violation of this section, including damages for emotional distress whether or not accompanied by other damages; or

(2) Statutory damages not to exceed ten thousand dollars against each defendant found liable under this section;

b. An amount equal to any monetary gain made by the defendant from the distribution, promotion, advertising, sale, exhibition, broadcasting, or transmission of the sexually explicit deep fake video or image; and

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1 c. Exemplary damages.

2 6.5. In an action under subsection 4, the court may award a prevailing plaintiff:

3 a. Reasonable attorney's fees and costs; and

4 b. Other remedies available by law, including injunctive relief.

5 7.6. This chapter does not affect or preclude any other right or remedy available under
6 federal law or a law of this state other than this section.

7 **SECTION 2. AMENDMENT.** Section 12.1-32-15 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **12.1-32-15. Offenders against children and sexual offenders - Sexually violent**
10 **predators - Registration requirement - Penalty.**

11 1. As used in this section:

12 a. "A crime against a child" means a violation of chapter 12.1-16, section
13 12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04,
14 subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01,
15 12.1-18-02, 12.1-18-05, chapter 12.1-29, or section 14-09-22, subsection 3 of
16 section 12.1-41-02, subsection 3 of section 12.1-41-03, or an equivalent offense
17 from another court in the United States, a tribal court, or court of another country,
18 in which the victim is a minor or is otherwise of the age required for the act to be
19 a crime or an attempt or conspiracy to commit these offenses.

20 b. "Department" means the department of corrections and rehabilitation.

21 c. "Homeless" means an individual who is physically present in this state, but is
22 living in a park, under a bridge, on the streets, in a vehicle or camper, or is
23 otherwise without a traditional dwelling, and also one who resides in this state but
24 does not maintain a permanent address. The term does not include individuals
25 who are temporarily domiciled or individuals residing in public or private shelters
26 that provide temporary living accommodations.

27 d. "Mental abnormality" means a congenital or acquired condition of an individual
28 that affects the emotional or volitional capacity of the individual in a manner that
29 predisposes that individual to the commission of criminal sexual acts to a degree
30 that makes the individual a menace to the health and safety of other individuals.

- 1 e. "Predatory" means an act directed at a stranger or at an individual with whom a
2 relationship has been established or promoted for the primary purpose of
3 victimization.
- 4 f. "Reside" means to live permanently or be situated for a considerable time in a
5 home or a particular place.
- 6 g. "Sexual offender" means a person who has pled guilty to or been found guilty,
7 including juvenile delinquent adjudications, of a violation of section 12.1-20-03,
8 12.1-20-03.1, 12.1-20-04, 12.1-20-05, 12.1-20-05.1, 12.1-20-06, 12.1-20-06.1,
9 12.1-20-07 except for subdivision a of subsection 1, 12.1-20-11, 12.1-20-12.1,
10 12.1-20-12.2, 12.1-20-12.3 except for subdivision a of subsection 1 and
11 subdivision b of subsection 1 if the offense involves only a demand for money,
12 section 1 of this Act, chapter 12.1-27.2, subsection 2 of section 12.1-22-03.1,
13 subdivision b of subsection 1 of section 12.1-41-02, section 12.1-41-04,
14 12.1-41-05, or 12.1-41-06, or an equivalent offense from another court in the
15 United States, a tribal court, or court of another country, or an attempt or
16 conspiracy to commit these offenses.
- 17 h. "Sexually dangerous individual" means an individual who meets the definition
18 specified in section 25-03.3-01.
- 19 i. "Temporarily domiciled" means staying or being physically present in this state for
20 more than thirty days in a calendar year or at a location for longer than ten
21 consecutive days, attending school for longer than ten days, or maintaining
22 employment in the jurisdiction for longer than ten days, regardless of the state of
23 the residence.
- 24 2. The court shall impose, in addition to any penalty provided by law, a requirement that
25 the individual register, within three days of coming into a county in which the individual
26 resides, is homeless, or within the period identified in this section that the individual
27 becomes temporarily domiciled. The individual must register with the chief of police of
28 the city of the individual's place of residence, or the sheriff of the county if the
29 individual resides in an area other than a city. A homeless individual shall register
30 every three days with the sheriff or chief of police of the jurisdiction in which the

Jan 5 2013

individual is physically present. The court shall require an individual to register by stating this requirement on the court records, if that individual:

- a. Has pled guilty or nolo contendere to, or been found guilty as a felonious sexual offender or an attempted felonious sexual offender, including juvenile delinquent adjudications of equivalent offenses unless the offense is listed in subdivision c.
- b. Has pled guilty or nolo contendere to, or been found guilty as a sexual offender for, a misdemeanor or attempted misdemeanor. The court may deviate from requiring an individual to register if the court first finds the individual is no more than three years older than the victim if the victim is a minor, the individual has not previously been convicted as a sexual offender or of a crime against a child, and the individual did not exhibit mental abnormality or predatory conduct in the commission of the offense.
- c. Is a juvenile found delinquent under subdivision d of subsection 1 of section 12.1-20-03, subdivision a of subsection 2 of section 12.1-20-03, or as a sexual offender for a misdemeanor. The court may deviate from requiring the juvenile to register if the court first finds the juvenile has not previously been convicted as a sexual offender or for a crime against a child, and the juvenile did not exhibit mental abnormality or predatory conduct in the commission of the offense.
- d. Has pled guilty or nolo contendere to, or been found guilty of, a crime against a child or an attempted crime against a child, including juvenile delinquent adjudications of equivalent offenses. Except if the offense is described in section 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 and the person is not the parent of the victim, the court may deviate from requiring an individual to register if the court first finds the individual has not previously been convicted as a sexual offender or for a crime against a child, and the individual did not exhibit mental abnormality or predatory conduct in the commission of the offense.
- e. Has pled guilty or nolo contendere, been found guilty, or been adjudicated delinquent of any crime against another individual which is not otherwise specified in this section if the court determines that registration is warranted by the nature of the crime and therefore orders registration for the individual. If the

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- 1 court orders an individual to register as an offender under this section, the
2 individual shall comply with all of the registration requirements in this chapter.
- 3 3. If a court has not ordered an individual to register in this state, an individual who
4 resides, is homeless, or is temporarily domiciled in this state shall register if the
5 individual:
- 6 a. Is incarcerated or is on probation or parole after July 31, 1995, for a crime
7 against a child described in section 12.1-29-02, or section 12.1-18-01 or
8 12.1-18-02 if the individual was not the parent of the victim, or as a sexual
9 offender;
- 10 b. Has pled guilty or nolo contendere to, or been adjudicated for or found guilty of,
11 an offense in a court of this state for which registration is mandatory under this
12 section or an offense from another court in the United States, a tribal court, or
13 court of another country equivalent to those offenses set forth in this section; or
- 14 c. Has pled guilty or nolo contendere to, or has been found guilty of, a crime against
15 a child or as a sexual offender for which registration is mandatory under this
16 section if the conviction occurred after July 31, 1985.
- 17 4. In its consideration of mental abnormality or predatory conduct, the court shall
18 consider the age of the offender, the age of the victim, the difference in ages of the
19 victim and offender, the circumstances and motive of the crime, the relationship of the
20 victim and offender, and the mental state of the offender. The court may order an
21 offender to be evaluated by a qualified counselor, psychologist, or physician before
22 sentencing. Except as provided under subdivision e of subsection 2, the court shall
23 state on the record in open court its affirmative finding for not requiring an offender to
24 register.
- 25 5. When an individual is required to register under this section, the official in charge of a
26 facility or institution where the individual required to register is confined, or the
27 department, shall, before the discharge, parole, or release of that individual, inform the
28 individual of the duty to register pursuant to this section. The official or the department
29 shall require the individual to read and sign a form as required by the attorney general,
30 stating that the duty of the individual to register has been explained to that individual.
31 The official in charge of the place of confinement, or the department, shall obtain the

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1 address where the individual expects to reside, attend school, or work upon discharge,
2 parole, or release and shall report the address to the attorney general. The official in
3 charge of the place of confinement, or the department, shall give three copies of the
4 form to the individual and shall send three copies to the attorney general no later than
5 forty-five days before the scheduled release of that individual. The attorney general
6 shall forward one copy to the law enforcement agency having jurisdiction where the
7 individual expects to reside, attend school, or work upon discharge, parole, or release,
8 one copy to the prosecutor who prosecuted the individual, and one copy to the court in
9 which the individual was prosecuted. All forms must be transmitted and received by
10 the law enforcement agency, prosecutor, and court thirty days before the discharge,
11 parole, or release of the individual.

12 6. An individual who is required to register pursuant to this section who is released on
13 probation or discharged upon payment of a fine must, before the release or discharge,
14 be informed of the duty to register under this section by the court in which that
15 individual is convicted. The court shall require the individual to read and sign a form as
16 required by the attorney general, stating that the duty of the individual to register under
17 this section has been explained to that individual. The court shall obtain the address
18 where the individual expects to reside, attend school, or work upon release or
19 discharge and shall report the address to the attorney general within three days. The
20 court shall give one copy of the form to the individual and shall send two copies to the
21 attorney general. The attorney general shall forward one copy to the appropriate law
22 enforcement agency having jurisdiction where the individual expects to reside, attend
23 school, or work upon discharge, parole, or release.

24 7. Registration consists of a written or electronic statement signed by the individual,
25 giving the information required by the attorney general, and the biometric data and
26 photograph of the individual. An individual who is not required to provide a sample of
27 blood and other body fluids under section 31-13-03 or by the individual's state or court
28 of conviction or adjudication shall submit a sample of blood and other body fluids for
29 inclusion in a centralized database of DNA identification records under section
30 31-13-05. The collection, submission, testing and analysis of, and records produced
31 from, samples of blood and other body fluids, are subject to chapter 31-13. Evidence

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1 of the DNA profile comparison is admissible in accordance with section 31-13-02. A
2 report of the DNA analysis certified by the state crime laboratory is admissible in
3 accordance with section 31-13-05. A district court shall order an individual who refuses
4 to submit a sample of blood or other body fluids for registration purposes to show
5 cause at a specified time and place why the individual should not be required to
6 submit the sample required under this subsection. Within three days after registration,
7 the registering law enforcement agency shall forward the statement, biometric data,
8 and photograph to the attorney general and shall submit the sample of the individual's
9 blood and body fluids to the state crime laboratory. If an individual required to register
10 under this section has a change in vehicle or computer online identity, the individual
11 shall register, within three days after the change, with the law enforcement agency
12 having local jurisdiction of the individual's place of residence of the individual's new
13 vehicle or computer online identity. If an individual required to register pursuant to this
14 section has a change in name, school, or residence or employment address, that
15 individual shall register, at least ten days before the change, with the law enforcement
16 agency having local jurisdiction of the individual's place of residence of the individual's
17 new name, school, residence address, or employment address. A change in school or
18 employment address includes the termination of school or employment for which an
19 individual required to register under this section, the individual shall register within
20 three days of the termination with the law enforcement agency having local jurisdiction
21 of the individual's place of residence. The law enforcement agency, within three days
22 after receipt of the information, shall forward it to the attorney general. The attorney
23 general shall forward the appropriate registration data to the law enforcement agency
24 having local jurisdiction of the new place of residence, school, or employment. Upon a
25 change of address, the individual required to register also shall register within three
26 days at the law enforcement agency having local jurisdiction of the new place of
27 residence. If an individual required to register in North Dakota, including in a tribal
28 registry, resides in another state or on tribal lands, that individual shall register
29 employment and school addresses and any changes in required registration
30 information with the law enforcement agency having local jurisdiction over the school
31 or employment address. The individual registering under this section shall periodically

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- 1 confirm the information required under this subsection in a manner and at an interval
2 determined by the attorney general. A law enforcement agency that has previously
3 registered an offender may omit the biometric data portion of the registration if that
4 agency has a set of biometric data on file for that individual and is personally familiar
5 with and can visually identify the offender. These provisions also apply in any other
6 state that requires registration.
- 7 8. An individual required to register under this section shall comply with the registration
8 requirement for the longer of the following periods:
- 9 a. A period of fifteen years after the date of sentence or order deferring or
10 suspending sentence upon a plea or finding of guilt or after release from
11 incarceration, whichever is later;
- 12 b. A period of twenty-five years after the date of sentence or order deferring or
13 suspending sentence upon a plea or finding of guilt or after release from
14 incarceration, whichever is later, if the offender is assigned a moderate risk by the
15 attorney general as provided in subsection 12; or
- 16 c. For the life of the individual, if that individual:
- 17 (1) On two or more occasions has pled guilty or nolo contendere to, or been
18 found guilty of a crime against a child or as a sexual offender. If all qualifying
19 offenses are misdemeanors, this lifetime provision does not apply unless a
20 qualifying offense was committed after August 1, 1999;
- 21 (2) Pleads guilty or nolo contendere to, or is found guilty of, an offense
22 committed after August 1, 1999, which is described in subdivision a of
23 subsection 1 of section 12.1-20-03, section 12.1-20-03.1, or subdivision d of
24 subsection 1 of section 12.1-20-03 if the person is an adult and the victim is
25 under age twelve, or section 12.1-18-01 if that individual is an adult other
26 than a parent of the victim, or an equivalent offense from another court in
27 the United States, a tribal court, or court of another country; or
- 28 (3) Is assigned a high risk by the attorney general as provided in subsection 12.
- 29 9. An individual required to register under this section who violates this section is guilty of
30 a class C felony. The failure of a homeless individual to register as required in
31 subsections 2 and 3 is prima facie evidence of a violation of this section. The clerk of

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1 court shall forward all warrants issued for a violation of this section to the county
2 sheriff, who shall enter all such warrants into the national crime information center
3 wanted person file. A court may not relieve an individual, other than a juvenile, who
4 violates this section from serving a term of at least ninety days in jail and completing
5 probation of one year.

6 10. When an individual is released on parole or probation and is required to register
7 pursuant to this section, but fails to do so within the time prescribed, the court shall
8 order the probation, or the parole board shall order the parole, of the individual
9 revoked.

10 11. If an individual required to register pursuant to this section is temporarily sent outside
11 the facility or institution where that individual is confined under conviction or sentence,
12 the local law enforcement agency having jurisdiction over the place where that
13 individual is being sent must be notified within a reasonable time period before that
14 individual is released from the facility or institution. This subsection does not apply to
15 any individual temporarily released under guard from the facility or institution in which
16 that individual is confined.

17 12. The attorney general, with the assistance of the department and the juvenile courts,
18 shall develop guidelines for the risk assessment of sexual offenders who are required
19 to register, with a low-risk, moderate-risk, or high-risk level being assigned to each
20 offender as follows:

21 a. The department shall conduct a risk assessment of sexual offenders who are
22 incarcerated in institutions under the control of the department and sexual
23 offenders who are on supervised probation. The department, in a timely manner,
24 shall provide the attorney general any information, including the offender's level
25 of risk and supporting documentation, concerning individuals required to be
26 registered under this section who are about to be released or placed into the
27 community.

28 b. The attorney general shall conduct a risk assessment of sexual offenders who
29 are not under the custody or supervision of the department. The attorney general
30 may adopt a law enforcement agency's previous assignment of risk level for an

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- 1 individual if the assessment was conducted in a manner substantially similar to
2 the guidelines developed under this subsection.
- 3 c. The juvenile courts or the agency having legal custody of a juvenile shall conduct
4 a risk assessment of juvenile sexual offenders who are required to register under
5 this section. The juvenile courts or the agency having legal custody of a juvenile
6 shall provide the attorney general any information, including the offender's level
7 of risk and supporting documentation, concerning juveniles required to register
8 and who are about to be released or placed into the community.
- 9 d. The attorney general shall notify the offender of the risk level assigned to that
10 offender. An offender may request a review of that determination with the attorney
11 general's sexual offender risk assessment committee and may present any
12 information that the offender believes may lower the assigned risk level.
- 13 13. An individual assessed as a high-risk sexual offender in accordance with
14 subsection 12, may not reside within five hundred feet [152.4 meters] of a public or
15 nonpublic preschool or elementary, middle, or high school.
- 16 14. Relevant and necessary conviction and registration information must be disclosed to
17 the public by a law enforcement agency if the individual is a moderate or high risk and
18 the agency determines that disclosure of the conviction and registration information is
19 necessary for public protection. The attorney general shall develop guidelines for
20 public disclosure of offender registration information. Public disclosure may include
21 internet access if the offender:
- 22 a. Is required to register for a lifetime under subsection 8;
23 b. Has been determined to be a high risk to the public by the department, the
24 attorney general, or the courts, according to guidelines developed by those
25 agencies; or
26 c. Has been determined to be a high risk to the public by an agency of another state
27 or the federal government.
- 28 If the offender has been determined to be a moderate risk, public disclosure must
29 include, at a minimum, notification of the offense to the victim registered under chapter
30 12.1-34 and to any agency, civic organization, or group of persons who have
31 characteristics similar to those of a victim of the offender. Upon request, law

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enforcement agencies may release conviction and registration information regarding low-risk, moderate-risk, or high-risk offenders.

15. A state officer, law enforcement agency, or public school district or governing body of a nonpublic school or any appointee, officer, or employee of those entities is not subject to civil or criminal liability for making risk determinations, allowing a sexual offender to attend a school function under section 12.1-20-25, or for disclosing or for failing to disclose information as permitted by this section.

16. If a juvenile is adjudicated delinquent and required or ordered to register as a sexual offender or as an offender against a child under this section, the juvenile shall comply with the registration requirements in this section. Notwithstanding any other provision of law, a law enforcement agency shall register a juvenile offender in the same manner as adult offenders and may release any relevant and necessary information on file to other law enforcement agencies, the department of health and human services, or the public if disclosure is necessary to protect public health or safety. The law enforcement agency shall release any relevant and necessary information on file to the superintendent or principal of the school the juvenile attends. The school administration shall notify others in similar positions if the juvenile transfers to another learning institution in or outside the state.

17. If an individual has been required to register as a sexual offender or an offender against a child under section 12.1-32-15 or former section 27-20-52.1 before August 1, 1999, the individual may petition the court to be removed from the offender list if registration is no longer mandatory for that individual. In considering the petition, the court shall comply with the requirements of this section.

18. A sexual offender who is currently assigned a moderate or high-risk level by the attorney general may not use a state park of this state as a residence or residential address to comply with the registration requirements of this section. Before arriving at a state park for overnight lodging or camping, a sexual offender who is assigned a moderate or high-risk level by the attorney general shall notify a parks and recreation department law enforcement officer at the state park where the sexual offender will be staying.

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- 1 19. When an individual who is required to register pursuant to this section plans to travel
- 2 outside of the United States, at least twenty-one days before the intended travel, the
- 3 individual shall inform the agency with which the individual last registered the
- 4 individual's residence address the details of the intended travel. Upon receipt of the
- 5 information from the registering law enforcement agency, the attorney general shall
- 6 report the travel to the United States marshal service.

**REPORT OF STANDING COMMITTEE
HB 1351**

Judiciary Committee (Rep. Klemin, Chairman) recommends **AMENDMENTS** ([25.0034.02001](#)) and when so amended, recommends **DO PASS** (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). HB 1351 was placed on the Sixth order on the calendar.

2025 SENATE JUDICIARY

HB 1351

2025 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee Peace Garden Room, State Capitol

HB 1351
3/18/2025

Relating to prohibiting sexually explicit deep fake videos and images and to sexual offenders and registration requirements; and to provide a penalty.

11:00 a.m. Chair Larson opened the hearing.

Members present:

Chair Larson, Vice Chairman Paulson, Senators: Castaneda, Cory, Luick, Myrdal, Braunberger.

Discussion Topics:

- Misdemeanor classifications
- Liability protections for service providers
- Privacy protection in digital communities
- Legislative history on sex crimes

11:00 a.m. Representative Satrom, District 12, introduced the bill.

11:03 a.m. Ladd Erickson, States Attorney, McLean Co, testified in favor and submitted testimony #42829.

11:15 a.m. Terry Effertz, Tech ND, testified in favor.

11:17 a.m. Anna Frissell, ND Youth Works & Children's Advocacy Centers, testified in favor and submitted testimony #42836.

11:18 a.m. Sara Behrens, Staff Attorney, ND Supreme Court, testified as neutral and submitted testimony #42541 and #42540.

11:22 a.m. Anna Frissell explained opposition to proposed amendments.

Additional written testimony:

Jacob Thomsen, Policy Analyst, North Dakota Family Alliance Legislative Action, submitted testimony in favor #42758.

11:23 a.m. Chair Larson closed the hearing.

Kendra McCann, Committee Clerk

House Bill 1351
Senate Judiciary Committee
Testimony Presented by Sara Behrens
March 18, 2025

Good morning Chair Larson, members of the committee. My name is Sara Behrens and I am a staff attorney with the State Court Administrator's Office. I am here today to offer an amendment to HB 1351.

The amendments are found on page 2, lines 3-8. The amendment clarifies that the court may require a party filing pleadings which include identifying characteristics of a plaintiff under this new chapter to redact those identifying characteristics. The change was made to "filing party" because it could be either the plaintiff or defendant filing a document containing plaintiff information. The party required to redact must file a redacted and unredacted version and serve it on all other parties.

Thank you for your consideration of these amendments.

25.0034.03000

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO**ENGROSSED HOUSE BILL NO. 1351****FIRST ENGROSSMENT**

Introduced by

Representatives Satrom, Christy, Ostlie, Schneider

Senators Clemens, Conley

- 1 A BILL for an Act to create and enact a new section to chapter 12.1-27.1 of the North Dakota
2 Century Code, relating to prohibiting sexually explicit deep fake videos and images; to amend
3 and reenact section 12.1-32-15 of the North Dakota Century Code, relating to sexual offenders
4 and registration requirements; and to provide a penalty.

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

- 6 SECTION 1. A new section to chapter 12.1-27.1 of the North Dakota Century Code is
7 created and enacted as follows:

8 **Sexually explicit deep fake videos or images prohibited - Penalty - Civil action.**

- 9 1. As used in this section:
- 10 a. "Sexual performance" means any performance that includes sexual conduct.
- 11 b. "Sexually explicit deep fake video or image" means any video recording, motion-
- 12 picture film, electronic image, or photograph created with the intent to deceive,
- 13 which appears to depict an individual engaging in sexual conduct or a sexual
- 14 performance that did not occur in reality or that the individual did not actually
- 15 perform, and whose appearance in the video recording, motion-picture film,
- 16 electronic image, or photograph is a result of digitization.
- 17 2. It is a class A misdemeanor for a person to knowingly produce, possess, distribute,
- 18 promote, advertise, sell, exhibit, broadcast, or transmit a sexually explicit deep fake
- 19 video or image.
- 20 3. A depicted individual who is identifiable and who suffers harm from a person's violation
- 21 of this section has a cause of action against the person if the person produced,
- 22 possessed, distributed, promoted, advertised, sold, exhibited, broadcasted, or

transmitted the sexually explicit deep fake video or image for the purpose of sexual arousal, sexual gratification, humiliation, degradation, or monetary or commercial gain.

a. The court may ~~exclude or~~ order the filing party to redact from all pleadings and documents filed in the action other identifying characteristics of the plaintiff ~~under rule 3.4 of the North Dakota Rules of Court.~~

b. A ~~plaintiff~~ party to whom subdivision a applies shall file with the court and serve on ~~the defendant~~ all other parties a redacted and unredacted version of the filing and a confidential information form that includes the ~~excluded or~~ redacted plaintiff's name and other identifying characteristics.

c. The court may make further orders as necessary to protect the identity and privacy of a plaintiff.

4. In an action under subsection 4, a prevailing plaintiff may recover:

a. The greater of:

(1) Economic and noneconomic damages proximately caused by the defendant's violation of this section, including damages for emotional distress whether or not accompanied by other damages; or

(2) Statutory damages not to exceed ten thousand dollars against each defendant found liable under this section;

b. An amount equal to any monetary gain made by the defendant from the distribution, promotion, advertising, sale, exhibition, broadcasting, or transmission of the sexually explicit deep fake video or image; and

c. Exemplary damages.

5. In an action under subsection 4, the court may award a prevailing plaintiff:

a. Reasonable attorney's fees and costs; and

b. Other remedies available by law, including injunctive relief.

6. This chapter does not affect or preclude any other right or remedy available under federal law or a law of this state other than this section.

SECTION 2. AMENDMENT. Section 12.1-32-15 of the North Dakota Century Code is amended and reenacted as follows:

12.1-32-15. Offenders against children and sexual offenders - Sexually violent predators - Registration requirement - Penalty.

1. As used in this section:

- a. "A crime against a child" means a violation of chapter 12.1-16, section 12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04, subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01, 12.1-18-02, 12.1-18-05, chapter 12.1-29, or section 14-09-22, subsection 3 of section 12.1-41-02, subsection 3 of section 12.1-41-03, or an equivalent offense from another court in the United States, a tribal court, or court of another country, in which the victim is a minor or is otherwise of the age required for the act to be a crime or an attempt or conspiracy to commit these offenses.
- b. "Department" means the department of corrections and rehabilitation.
- c. "Homeless" means an individual who is physically present in this state, but is living in a park, under a bridge, on the streets, in a vehicle or camper, or is otherwise without a traditional dwelling, and also one who resides in this state but does not maintain a permanent address. The term does not include individuals who are temporarily domiciled or individuals residing in public or private shelters that provide temporary living accommodations.
- d. "Mental abnormality" means a congenital or acquired condition of an individual that affects the emotional or volitional capacity of the individual in a manner that predisposes that individual to the commission of criminal sexual acts to a degree that makes the individual a menace to the health and safety of other individuals.
- e. "Predatory" means an act directed at a stranger or at an individual with whom a relationship has been established or promoted for the primary purpose of victimization.
- f. "Reside" means to live permanently or be situated for a considerable time in a home or a particular place.
- g. "Sexual offender" means a person who has pled guilty to or been found guilty, including juvenile delinquent adjudications, of a violation of section 12.1-20-03, 12.1-20-03.1, 12.1-20-04, 12.1-20-05, 12.1-20-05.1, 12.1-20-06, 12.1-20-06.1, 12.1-20-07 except for subdivision a of subsection 1, 12.1-20-11, 12.1-20-12.1, 12.1-20-12.2, 12.1-20-12.3 except for subdivision a of subsection 1 and subdivision b of subsection 1 if the offense involves only a demand for money, section 1 of this Act, chapter 12.1-27.2, subsection 2 of section 12.1-22-03.1, subdivision b of subsection 1 of section 12.1-41-02, section 12.1-41-04,

1 12.1-41-05, or 12.1-41-06, or an equivalent offense from another court in the
2 United States, a tribal court, or court of another country, or an attempt or
3 conspiracy to commit these offenses.

4 h. "Sexually dangerous individual" means an individual who meets the definition
5 specified in section 25-03.3-01.

6 i. "Temporarily domiciled" means staying or being physically present in this state for
7 more than thirty days in a calendar year or at a location for longer than ten
8 consecutive days, attending school for longer than ten days, or maintaining
9 employment in the jurisdiction for longer than ten days, regardless of the state of
10 the residence.

11 2. The court shall impose, in addition to any penalty provided by law, a requirement that
12 the individual register, within three days of coming into a county in which the individual
13 resides, is homeless, or within the period identified in this section that the individual
14 becomes temporarily domiciled. The individual must register with the chief of police of
15 the city of the individual's place of residence, or the sheriff of the county if the
16 individual resides in an area other than a city. A homeless individual shall register
17 every three days with the sheriff or chief of police of the jurisdiction in which the
18 individual is physically present. The court shall require an individual to register by
19 stating this requirement on the court records, if that individual:

20 a. Has pled guilty or nolo contendere to, or been found guilty as a felonious sexual
21 offender or an attempted felonious sexual offender, including juvenile delinquent
22 adjudications of equivalent offenses unless the offense is listed in subdivision c.

23 b. Has pled guilty or nolo contendere to, or been found guilty as a sexual offender
24 for, a misdemeanor or attempted misdemeanor. The court may deviate from
25 requiring an individual to register if the court first finds the individual is no more
26 than three years older than the victim if the victim is a minor, the individual has
27 not previously been convicted as a sexual offender or of a crime against a child,
28 and the individual did not exhibit mental abnormality or predatory conduct in the
29 commission of the offense.

30 c. Is a juvenile found delinquent under subdivision d of subsection 1 of section
31 12.1-20-03, subdivision a of subsection 2 of section 12.1-20-03, or as a sexual
32 offender for a misdemeanor. The court may deviate from requiring the juvenile to

- 1 register if the court first finds the juvenile has not previously been convicted as a
2 sexual offender or for a crime against a child, and the juvenile did not exhibit
3 mental abnormality or predatory conduct in the commission of the offense.
- 4 d. Has pled guilty or nolo contendere to, or been found guilty of, a crime against a
5 child or an attempted crime against a child, including juvenile delinquent
6 adjudications of equivalent offenses. Except if the offense is described in section
7 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 and the person is not the parent
8 of the victim, the court may deviate from requiring an individual to register if the
9 court first finds the individual has not previously been convicted as a sexual
10 offender or for a crime against a child, and the individual did not exhibit mental
11 abnormality or predatory conduct in the commission of the offense.
- 12 e. Has pled guilty or nolo contendere, been found guilty, or been adjudicated
13 delinquent of any crime against another individual which is not otherwise
14 specified in this section if the court determines that registration is warranted by
15 the nature of the crime and therefore orders registration for the individual. If the
16 court orders an individual to register as an offender under this section, the
17 individual shall comply with all of the registration requirements in this chapter.
- 18 3. If a court has not ordered an individual to register in this state, an individual who
19 resides, is homeless, or is temporarily domiciled in this state shall register if the
20 individual:
- 21 a. Is incarcerated or is on probation or parole after July 31, 1995, for a crime
22 against a child described in section 12.1-29-02, or section 12.1-18-01 or
23 12.1-18-02 if the individual was not the parent of the victim, or as a sexual
24 offender;
- 25 b. Has pled guilty or nolo contendere to, or been adjudicated for or found guilty of,
26 an offense in a court of this state for which registration is mandatory under this
27 section or an offense from another court in the United States, a tribal court, or
28 court of another country equivalent to those offenses set forth in this section; or
- 29 c. Has pled guilty or nolo contendere to, or has been found guilty of, a crime against
30 a child or as a sexual offender for which registration is mandatory under this
31 section if the conviction occurred after July 31, 1985.

- 1 4. In its consideration of mental abnormality or predatory conduct, the court shall
2 consider the age of the offender, the age of the victim, the difference in ages of the
3 victim and offender, the circumstances and motive of the crime, the relationship of the
4 victim and offender, and the mental state of the offender. The court may order an
5 offender to be evaluated by a qualified counselor, psychologist, or physician before
6 sentencing. Except as provided under subdivision e of subsection 2, the court shall
7 state on the record in open court its affirmative finding for not requiring an offender to
8 register.
- 9 5. When an individual is required to register under this section, the official in charge of a
10 facility or institution where the individual required to register is confined, or the
11 department, shall, before the discharge, parole, or release of that individual, inform the
12 individual of the duty to register pursuant to this section. The official or the department
13 shall require the individual to read and sign a form as required by the attorney general,
14 stating that the duty of the individual to register has been explained to that individual.
15 The official in charge of the place of confinement, or the department, shall obtain the
16 address where the individual expects to reside, attend school, or work upon discharge,
17 parole, or release and shall report the address to the attorney general. The official in
18 charge of the place of confinement, or the department, shall give three copies of the
19 form to the individual and shall send three copies to the attorney general no later than
20 forty-five days before the scheduled release of that individual. The attorney general
21 shall forward one copy to the law enforcement agency having jurisdiction where the
22 individual expects to reside, attend school, or work upon discharge, parole, or release,
23 one copy to the prosecutor who prosecuted the individual, and one copy to the court in
24 which the individual was prosecuted. All forms must be transmitted and received by
25 the law enforcement agency, prosecutor, and court thirty days before the discharge,
26 parole, or release of the individual.
- 27 6. An individual who is required to register pursuant to this section who is released on
28 probation or discharged upon payment of a fine must, before the release or discharge,
29 be informed of the duty to register under this section by the court in which that
30 individual is convicted. The court shall require the individual to read and sign a form as
31 required by the attorney general, stating that the duty of the individual to register under
32 this section has been explained to that individual. The court shall obtain the address

1 where the individual expects to reside, attend school, or work upon release or
2 discharge and shall report the address to the attorney general within three days. The
3 court shall give one copy of the form to the individual and shall send two copies to the
4 attorney general. The attorney general shall forward one copy to the appropriate law
5 enforcement agency having jurisdiction where the individual expects to reside, attend
6 school, or work upon discharge, parole, or release.

7 7. Registration consists of a written or electronic statement signed by the individual,
8 giving the information required by the attorney general, and the biometric data and
9 photograph of the individual. An individual who is not required to provide a sample of
10 blood and other body fluids under section 31-13-03 or by the individual's state or court
11 of conviction or adjudication shall submit a sample of blood and other body fluids for
12 inclusion in a centralized database of DNA identification records under section
13 31-13-05. The collection, submission, testing and analysis of, and records produced
14 from, samples of blood and other body fluids, are subject to chapter 31-13. Evidence
15 of the DNA profile comparison is admissible in accordance with section 31-13-02. A
16 report of the DNA analysis certified by the state crime laboratory is admissible in
17 accordance with section 31-13-05. A district court shall order an individual who refuses
18 to submit a sample of blood or other body fluids for registration purposes to show
19 cause at a specified time and place why the individual should not be required to
20 submit the sample required under this subsection. Within three days after registration,
21 the registering law enforcement agency shall forward the statement, biometric data,
22 and photograph to the attorney general and shall submit the sample of the individual's
23 blood and body fluids to the state crime laboratory. If an individual required to register
24 under this section has a change in vehicle or computer online identity, the individual
25 shall register, within three days after the change, with the law enforcement agency
26 having local jurisdiction of the individual's place of residence of the individual's new
27 vehicle or computer online identity. If an individual required to register pursuant to this
28 section has a change in name, school, or residence or employment address, that
29 individual shall register, at least ten days before the change, with the law enforcement
30 agency having local jurisdiction of the individual's place of residence of the individual's
31 new name, school, residence address, or employment address. A change in school or
32 employment address includes the termination of school or employment for which an

individual required to register under this section, the individual shall register within three days of the termination with the law enforcement agency having local jurisdiction of the individual's place of residence. The law enforcement agency, within three days after receipt of the information, shall forward it to the attorney general. The attorney general shall forward the appropriate registration data to the law enforcement agency having local jurisdiction of the new place of residence, school, or employment. Upon a change of address, the individual required to register also shall register within three days at the law enforcement agency having local jurisdiction of the new place of residence. If an individual required to register in North Dakota, including in a tribal registry, resides in another state or on tribal lands, that individual shall register employment and school addresses and any changes in required registration information with the law enforcement agency having local jurisdiction over the school or employment address. The individual registering under this section shall periodically confirm the information required under this subsection in a manner and at an interval determined by the attorney general. A law enforcement agency that has previously registered an offender may omit the biometric data portion of the registration if that agency has a set of biometric data on file for that individual and is personally familiar with and can visually identify the offender. These provisions also apply in any other state that requires registration.

8. An individual required to register under this section shall comply with the registration requirement for the longer of the following periods:
 - a. A period of fifteen years after the date of sentence or order deferring or suspending sentence upon a plea or finding of guilt or after release from incarceration, whichever is later;
 - b. A period of twenty-five years after the date of sentence or order deferring or suspending sentence upon a plea or finding of guilt or after release from incarceration, whichever is later, if the offender is assigned a moderate risk by the attorney general as provided in subsection 12; or
 - c. For the life of the individual, if that individual:
 - (1) On two or more occasions has pled guilty or nolo contendere to, or been found guilty of a crime against a child or as a sexual offender. If all qualifying

offenses are misdemeanors, this lifetime provision does not apply unless a qualifying offense was committed after August 1, 1999;

(2) Pleads guilty or nolo contendere to, or is found guilty of, an offense committed after August 1, 1999, which is described in subdivision a of subsection 1 of section 12.1-20-03, section 12.1-20-03.1, or subdivision d of subsection 1 of section 12.1-20-03 if the person is an adult and the victim is under age twelve, or section 12.1-18-01 if that individual is an adult other than a parent of the victim, or an equivalent offense from another court in the United States, a tribal court, or court of another country; or

(3) Is assigned a high risk by the attorney general as provided in subsection 12.

9. An individual required to register under this section who violates this section is guilty of a class C felony. The failure of a homeless individual to register as required in subsections 2 and 3 is prima facie evidence of a violation of this section. The clerk of court shall forward all warrants issued for a violation of this section to the county sheriff, who shall enter all such warrants into the national crime information center wanted person file. A court may not relieve an individual, other than a juvenile, who violates this section from serving a term of at least ninety days in jail and completing probation of one year.

10. When an individual is released on parole or probation and is required to register pursuant to this section, but fails to do so within the time prescribed, the court shall order the probation, or the parole board shall order the parole, of the individual revoked.

11. If an individual required to register pursuant to this section is temporarily sent outside the facility or institution where that individual is confined under conviction or sentence, the local law enforcement agency having jurisdiction over the place where that individual is being sent must be notified within a reasonable time period before that individual is released from the facility or institution. This subsection does not apply to any individual temporarily released under guard from the facility or institution in which that individual is confined.

12. The attorney general, with the assistance of the department and the juvenile courts, shall develop guidelines for the risk assessment of sexual offenders who are required

to register, with a low-risk, moderate-risk, or high-risk level being assigned to each offender as follows:

- a. The department shall conduct a risk assessment of sexual offenders who are incarcerated in institutions under the control of the department and sexual offenders who are on supervised probation. The department, in a timely manner, shall provide the attorney general any information, including the offender's level of risk and supporting documentation, concerning individuals required to be registered under this section who are about to be released or placed into the community.
- b. The attorney general shall conduct a risk assessment of sexual offenders who are not under the custody or supervision of the department. The attorney general may adopt a law enforcement agency's previous assignment of risk level for an individual if the assessment was conducted in a manner substantially similar to the guidelines developed under this subsection.
- c. The juvenile courts or the agency having legal custody of a juvenile shall conduct a risk assessment of juvenile sexual offenders who are required to register under this section. The juvenile courts or the agency having legal custody of a juvenile shall provide the attorney general any information, including the offender's level of risk and supporting documentation, concerning juveniles required to register and who are about to be released or placed into the community.
- d. The attorney general shall notify the offender of the risk level assigned to that offender. An offender may request a review of that determination with the attorney general's sexual offender risk assessment committee and may present any information that the offender believes may lower the assigned risk level.

13. An individual assessed as a high-risk sexual offender in accordance with subsection 12, may not reside within five hundred feet [152.4 meters] of a public or nonpublic preschool or elementary, middle, or high school.

14. Relevant and necessary conviction and registration information must be disclosed to the public by a law enforcement agency if the individual is a moderate or high risk and the agency determines that disclosure of the conviction and registration information is necessary for public protection. The attorney general shall develop guidelines for

public disclosure of offender registration information. Public disclosure may include internet access if the offender:

- a. Is required to register for a lifetime under subsection 8;
- b. Has been determined to be a high risk to the public by the department, the attorney general, or the courts, according to guidelines developed by those agencies; or
- c. Has been determined to be a high risk to the public by an agency of another state or the federal government.

If the offender has been determined to be a moderate risk, public disclosure must include, at a minimum, notification of the offense to the victim registered under chapter 12.1-34 and to any agency, civic organization, or group of persons who have characteristics similar to those of a victim of the offender. Upon request, law enforcement agencies may release conviction and registration information regarding low-risk, moderate-risk, or high-risk offenders.

15. A state officer, law enforcement agency, or public school district or governing body of a nonpublic school or any appointee, officer, or employee of those entities is not subject to civil or criminal liability for making risk determinations, allowing a sexual offender to attend a school function under section 12.1-20-25, or for disclosing or for failing to disclose information as permitted by this section.

16. If a juvenile is adjudicated delinquent and required or ordered to register as a sexual offender or as an offender against a child under this section, the juvenile shall comply with the registration requirements in this section. Notwithstanding any other provision of law, a law enforcement agency shall register a juvenile offender in the same manner as adult offenders and may release any relevant and necessary information on file to other law enforcement agencies, the department of health and human services, or the public if disclosure is necessary to protect public health or safety. The law enforcement agency shall release any relevant and necessary information on file to the superintendent or principal of the school the juvenile attends. The school administration shall notify others in similar positions if the juvenile transfers to another learning institution in or outside the state.

17. If an individual has been required to register as a sexual offender or an offender against a child under section 12.1-32-15 or former section 27-20-52.1 before August 1,

1 1999, the individual may petition the court to be removed from the offender list if
2 registration is no longer mandatory for that individual. In considering the petition, the
3 court shall comply with the requirements of this section.

4 18. A sexual offender who is currently assigned a moderate or high-risk level by the
5 attorney general may not use a state park of this state as a residence or residential
6 address to comply with the registration requirements of this section. Before arriving at
7 a state park for overnight lodging or camping, a sexual offender who is assigned a
8 moderate or high-risk level by the attorney general shall notify a parks and recreation
9 department law enforcement officer at the state park where the sexual offender will be
10 staying.

11 19. When an individual who is required to register pursuant to this section plans to travel
12 outside of the United States, at least twenty-one days before the intended travel, the
13 individual shall inform the agency with which the individual last registered the
14 individual's residence address the details of the intended travel. Upon receipt of the
15 information from the registering law enforcement agency, the attorney general shall
16 report the travel to the United States marshal service.



Testimony in Support of House Bill 1351

Jacob Thomsen, Policy Analyst
North Dakota Family Alliance Legislative Action
March 18, 2025

Madam Chair Larson and honorable members of the Senate Judiciary Committee,

North Dakota Family Alliance Legislative Action would like to testify in support of House Bill 1351 and respectfully request that you render a "DO PASS" on this bill with one requested amendment.

Our organization believes that human beings are created with inherent dignity and worth. Artificially manufactured sexually explicit images and videos violate a person's dignity and can significantly damage a person's self-worth and image among their peers. These images and videos are particularly damaging because the victim who this content is created of has no consent over the content's creation and distribution.

We support this bill because it seeks to protect the dignity and worth of people and protects against nonconsensual creation and distribution of artificially created sexually explicit images and videos.

While we support this bill, it has been brought to our attention that if this bill were to pass with only a Class A misdemeanor penalty, this bill would weaken the statutes against child sexual abuse material (CSAM). Currently, the possession of child sexual abuse material in 12.1-27.2-04.1 is a class C felony. If this bill passes, the offenders will likely try to claim that the CSAM is a deep fake and not real material, and this could result in the lower offense conviction or a not guilty verdict for an offender that possessed real sexual images of minors. Further, currently promoting a sexual performance by a minor in violation of 12.1-27.2-04 is a Class B Felony, and promoting an obscene performance by a minor in violation of 12.1-27.2-03 is a Class A Felony. A deep fake with a minor's image is just as emotionally and mentally damaging as using the child's real sexual image. Thus, please include an amendment of the penalty section from a Class A Misdemeanor to at least a Class C Felony.

For these reasons, North Dakota Family Alliance Legislative Action respectfully requests that you please vote House Bill 1351 out of committee with a "DO PASS" recommendation with the requested amendment.

Thank you for the opportunity to provide this testimony, and feel free to contact us if you have any questions.

Sincerely,

Jacob Thomsen
Policy Analyst
North Dakota Family Alliance Legislative Action

HB1351 - On page 1, strike lines 17-19: On page 3, strike section 1 of this act

12.1-27.1-01(13). As used in this chapter, "sexually expressive image" means a real or altered photograph or visual representation that exhibits a nude or partially denuded human figure, as defined in section 12.1-27.1-03.1, or sexual conduct.

12.1-27.1-03.3. Creation, possession, or dissemination of sexually expressive images prohibited - Exception.

1. A person is guilty of a class A misdemeanor if, knowing of its character and content, that person:

a. Without written consent from each individual who has a reasonable expectation of privacy in the image, surreptitiously creates or willfully possesses a sexually expressive image that was surreptitiously created; or

b. Distributes or publishes, electronically or otherwise, a sexually expressive image with the intent to cause emotional harm or humiliation to any individual depicted in the sexually expressive image who has a reasonable expectation of privacy in the image, or after being given notice by an individual or parent or guardian of the individual who is depicted in a sexually expressive image that the individual, parent, or guardian does not consent to the distribution or publication of the sexually expressive image.

2. A person is guilty of a class B misdemeanor if, knowing of its character and content, that person acquires and knowingly distributes any sexually expressive image that was created without the consent of the subject of the image.

3. This section does not authorize any act prohibited by any other law. If the sexually expressive image is of a minor and possession does not violate section 12.1-27.2-04.1, a parent or guardian of the minor may give permission for a person to possess or distribute the sexually expressive image.

4. This section does not apply to any book, photograph, video recording, motion picture film, or other visual representation sold in the normal course of business through wholesale or retail outlets that possess a valid sales tax permit or used by an attorney, attorney's agent, or any other person obtaining evidence for a criminal investigation or pending civil action, or by a medical professional or a peace officer acting within that individual's scope of employment

Senate Judiciary Committee

House Bill 1351

Testimony In Favor

Anna Frissell

Youthworks and Children's Advocacy Centers of North Dakota

Honorable Chair Larson, distinguished members of the Senate Judiciary Committee, thank you for the opportunity to testify today. My name is Anna Frissell and I am here as a representative of the Board of Children's Advocacy Centers of North Dakota, an employee of Youthworks of North Dakota, as well as a member of the Legislative Task Force for the Prevention of Child Sexual Abuse. I am also a past Executive Director of a North Dakota Children's Advocacy Center and a former prosecutor in North Dakota and Minnesota. I am testifying today in support of HB 1351, asking for the criminalization of the production, possession, distribution and promotion, etc., of computer-generated images depicting minors engaging in sexual conduct or a sexual performance.

The organizations that I am affiliated with work every day to protect kids and we support this bill. We see the damage done to young victims by the creation and dissemination of fake videos or images. We also recognize the value offered by the provisions of the bill offering a civil opportunity to collect damages and stop the behavior.

I know of a case where the young victim of a very sexually explicit computer-generated video ended up leaving the school she attended, leaving her friends, and school activities. Many of the accounts about the young victims that one hears of end with suicide. These images cause humiliation and real pain. The perpetrator likely using the "fake", either to humiliate or blackmail the victim or worse. This legislation takes steps to criminalize the generation of images that were created for no reason other than to do damage to another human being.

We would like to call attention to the proposed penalty in HB 1351 and ask for consideration of a more severe penalty level. The crime proposed in HB 1351 carries a penalty of an A misdemeanor. The North Dakota Century Code, 12.1-27.2-04.1, Possession of Certain Materials Prohibited, carries a C felony. The C felony charge is for knowingly possessing video, photography or other visual representation of sexual conduct of a minor (what we think of as "pornography" involving a minor). I suggest that the penalty for the crimes set forth in HB 1351 should also be a C felony for the first offense. In the alternative, if it is determined that the penalty will not be a C felony for the first offense, then the penalty should be enhanced from an A misdemeanor to a C felony, for a second similar offense.

There is every reason to believe that the dangers from the technology that produces computer-generated images is becoming more sophisticated, promising yet unimagined dangers. I thank the legislature for attacking this societal problem; using our criminal code to protect our youth and civil penalties to attempt to provide some remedies or financial redress for the wrongs done to them.

Thank you.

Anna Frissell
afrissell@youthworksnd.com

2025 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee

Peace Garden Room, State Capitol

HB 1351

3/18/2025

Relating to prohibiting sexually explicit deep fake videos and images and to sexual offenders and registration requirements; and to provide a penalty.

3:30 p.m. Chair Larson opened the hearing.

Members present:

Chair Larson, Vice Chairman Paulson, Senators: Castaneda, Cory, Luick, Myrdal, Braunberger.

Discussion Topics:

- Definition of deep fake images
- Legal penalties for violations
- Sexual offender registration requirements

3:30 p.m. Austin Gunderson, Legislative Council, testified as neutral and answered committee questions.

3:37 p.m. Committee discussion on image definitions, penalties, and registration changes.

3:43 p.m. Chair Larson adjourned the meeting.

Kendra McCann, Committee Clerk

2025 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee

Peace Garden Room, State Capitol

HB 1351

3/25/2025

Relating to prohibiting sexually explicit deep fake videos and images and to sexual offenders and registration requirements; and to provide a penalty.

10:35 a.m. Chair Larson opened the hearing.

Members present:

Chair Larson, Vice Chairman Paulson, Senators: Castaneda, Cory, Luick, Myrdal, Braunberger.

Discussion Topics:

- Legislative oversight
- Bill review process

10:37 a.m. Chair Larson introduced Austin Gunderson's combined proposed amendment LC# 25.0034.03002 from several previous testimonies and submitted testimony #43755.

10:40 a.m. Chair Larson closed the hearing.

Kendra McCann, Committee Clerk

25.0034.03002
Title.

Prepared by the Legislative Council
staff for Senator Larson
March 19, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO FIRST ENGROSSMENT

ENGROSSED HOUSE BILL NO. 1351

Introduced by

Representatives Satrom, Christy, Ostlie, Schneider

Senators Clemens, Conley

A BILL for an Act ~~to create and enact a new section to chapter 12.1-27.1 of the North Dakota Century Code, relating to prohibiting sexually explicit deep fake videos and images;~~ to amend and reenact ~~section~~ subsection 13 of section 12.1-27.1-01 and sections 12.1-27.1-03.3 and 12.1-32-15 of the North Dakota Century Code, relating to sexually expressive images, sexual offenders, and sexual offender registration requirements; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

~~SECTION 1. A new section to chapter 12.1-27.1 of the North Dakota Century Code is created and enacted as follows:~~

~~Sexually explicit deep fake videos or images prohibited - Penalty - Civil action.~~

~~1. As used in this section:~~

~~a. "Sexual performance" means any performance that includes sexual conduct.~~

~~b. "Sexually explicit deep fake video or image" means any video recording, motion picture film, electronic image, or photograph created with the intent to deceive, which appears to depict an individual engaging in sexual conduct or a sexual performance that did not occur in reality or that the individual did not actually perform, and whose appearance in the video recording, motion picture film, electronic image, or photograph is a result of digitization.~~

~~2. It is a class A misdemeanor for a person to knowingly produce, possess, distribute, promote, advertise, sell, exhibit, broadcast, or transmit a sexually explicit deep fake video or image.~~

- ~~3. A depicted individual who is identifiable and who suffers harm from a person's violation of this section has a cause of action against the person if the person produced, possessed, distributed, promoted, advertised, sold, exhibited, broadcasted, or transmitted the sexually explicit deep fake video or image for the purpose of sexual arousal, sexual gratification, humiliation, degradation, or monetary or commercial gain.~~
- ~~a. The court may exclude or redact from all pleadings and documents filed in the action other identifying characteristics of the plaintiff under rule 3.4 of the North Dakota Rules of Court.~~
- ~~b. A plaintiff to whom subdivision a applies shall file with the court and serve on the defendant a confidential information form that includes the excluded or redacted plaintiff's name and other identifying characteristics.~~
- ~~c. The court may make further orders as necessary to protect the identity and privacy of a plaintiff.~~
- ~~4. In an action under subsection 4, a prevailing plaintiff may recover:~~
- ~~a. The greater of:~~
- ~~(1) Economic and noneconomic damages proximately caused by the defendant's violation of this section, including damages for emotional distress whether or not accompanied by other damages; or~~
- ~~(2) Statutory damages not to exceed ten thousand dollars against each defendant found liable under this section;~~
- ~~b. An amount equal to any monetary gain made by the defendant from the distribution, promotion, advertising, sale, exhibition, broadcasting, or transmission of the sexually explicit deep fake video or image; and~~
- ~~c. Exemplary damages.~~
- ~~5. In an action under subsection 4, the court may award a prevailing plaintiff:~~
- ~~a. Reasonable attorney's fees and costs; and~~
- ~~b. Other remedies available by law, including injunctive relief.~~
- ~~6. This chapter does not affect or preclude any other right or remedy available under federal law or a law of this state other than this section.~~

SECTION 1. AMENDMENT. Subsection 13 of section 12.1-27.1-01 of the North Dakota Century Code is amended and reenacted as follows:

13. As used in this chapter, "sexually expressive image" means a real, altered, or computer-generated photograph or visual representation that exhibits a nude or partially denuded human figure, as defined in section 12.1-27.1-03.1, or sexual conduct.

SECTION 2. AMENDMENT. Section 12.1-27.1-03.3 of the North Dakota Century Code is amended and reenacted as follows:

12.1-27.1-03.3. Creation, possession, or dissemination of sexually expressive images prohibited - Exception - Civil action.

1. A person is guilty of a class A misdemeanor if, knowing of its character and content, that person:
 - a. Without written consent from each individual who has a reasonable expectation of privacy in the image, surreptitiously creates or willfully possesses a sexually expressive image that was surreptitiously created; or
 - b. Distributes or publishes, electronically or otherwise, a sexually expressive image with the intent to cause emotional harm or humiliation to any individual depicted in the sexually expressive image who has a reasonable expectation of privacy in the image, or after being given notice by an individual or parent or guardian of the individual who is depicted in a sexually expressive image that the individual, parent, or guardian does not consent to the distribution or publication of the sexually expressive image.
2. A person is guilty of a class B misdemeanor if, knowing of its character and content, that person acquires and knowingly distributes any sexually expressive image that was created without the consent of the subject of the image.
3. This section does not authorize any act prohibited by any other law. If the sexually expressive image is of a minor and possession does not violate section 12.1-27.2-04.1, a parent or guardian of the minor may give permission for a person to possess or distribute the sexually expressive image.
4. This section does not apply to any book, photograph, video recording, motion picture film, or other visual representation sold in the normal course of business through wholesale or retail outlets that possess a valid sales tax permit or used by an attorney, attorney's agent, or any other person obtaining evidence for a criminal investigation or

1 pending civil action, or by a medical professional or a peace officer acting within that
2 individual's scope of employment.

3 5. Nothing in this section may be construed to impose liability on a provider of an
4 interactive computer service, as defined under 47 U.S.C. 230, or an information
5 service or telecommunication service, as defined under 47 U.S.C. 153, for content
6 provided by another person.

7 6. A depicted individual who is identifiable and who suffers harm from a person's violation
8 of this section has a cause of action against the person if the person produced,
9 possessed, distributed, promoted, advertised, sold, exhibited, broadcasted, or
10 transmitted the sexually expressive image for the purpose of sexual arousal, sexual
11 gratification, humiliation, degradation, or monetary or commercial gain.

12 a. The court may order the filing party to redact from all pleadings and documents
13 filed in the action other identifying characteristics of the plaintiff.

14 b. A party to whom subdivision a applies shall file with the court and serve on all
15 other parties a redacted and unredacted version of the filing and a confidential
16 information form that includes the redacted plaintiff's name and other identifying
17 characteristics.

18 c. The court may make further orders as necessary to protect the identity and
19 privacy of a plaintiff.

20 7. In an action under subsection 6, a prevailing plaintiff may recover:

21 a. The greater of:

22 (1) Economic and noneconomic damages proximately caused by the
23 defendant's violation of this section, including damages for emotional
24 distress whether or not accompanied by other damages; or

25 (2) Statutory damages not to exceed ten thousand dollars against each
26 defendant found liable under this section;

27 b. An amount equal to any monetary gain made by the defendant from the
28 distribution, promotion, advertising, sale, exhibition, broadcasting, or transmission
29 of the sexually expressive image; and

30 c. Exemplary damages.

31 8. In an action under subsection 6, the court may award a prevailing plaintiff:

a. Reasonable attorney fees and costs; and

b. Other remedies available by law, including injunctive relief.

9. This chapter does not affect or preclude any other right or remedy available under federal law or a law of this state other than this section.

SECTION 3. AMENDMENT. Section 12.1-32-15 of the North Dakota Century Code is amended and reenacted as follows:

12.1-32-15. Offenders against children and sexual offenders - Sexually violent predators - Registration requirement - Penalty.

1. As used in this section:

- a. "A crime against a child" means a violation of chapter 12.1-16, section 12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04, subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01, 12.1-18-02, 12.1-18-05, chapter 12.1-29, or section 14-09-22, subsection 3 of section 12.1-41-02, subsection 3 of section 12.1-41-03, or an equivalent offense from another court in the United States, a tribal court, or court of another country, in which the victim is a minor or is otherwise of the age required for the act to be a crime or an attempt or conspiracy to commit these offenses.
- b. "Department" means the department of corrections and rehabilitation.
- c. "Homeless" means an individual who is physically present in this state, but is living in a park, under a bridge, on the streets, in a vehicle or camper, or is otherwise without a traditional dwelling, and also one who resides in this state but does not maintain a permanent address. The term does not include individuals who are temporarily domiciled or individuals residing in public or private shelters that provide temporary living accommodations.
- d. "Mental abnormality" means a congenital or acquired condition of an individual that affects the emotional or volitional capacity of the individual in a manner that predisposes that individual to the commission of criminal sexual acts to a degree that makes the individual a menace to the health and safety of other individuals.
- e. "Predatory" means an act directed at a stranger or at an individual with whom a relationship has been established or promoted for the primary purpose of victimization.

- 1 f. "Reside" means to live permanently or be situated for a considerable time in a
2 home or a particular place.
- 3 g. "Sexual offender" means a person who has pled guilty to or been found guilty,
4 including juvenile delinquent adjudications, of a violation of section 12.1-20-03,
5 12.1-20-03.1, 12.1-20-04, 12.1-20-05, 12.1-20-05.1, 12.1-20-06, 12.1-20-06.1,
6 12.1-20-07 except for subdivision a of subsection 1, 12.1-20-11, 12.1-20-12.1,
7 12.1-20-12.2, 12.1-20-12.3 except for subdivision a of subsection 1 and
8 subdivision b of subsection 1 if the offense involves only a demand for money,
9 section ~~1 of this Act~~ 12.1-27.1-03.3, chapter 12.1-27.2, subsection 2 of section
10 12.1-22-03.1, subdivision b of subsection 1 of section 12.1-41-02, section
11 12.1-41-04, 12.1-41-05, or 12.1-41-06, or an equivalent offense from another
12 court in the United States, a tribal court, or court of another country, or an attempt
13 or conspiracy to commit these offenses.
- 14 h. "Sexually dangerous individual" means an individual who meets the definition
15 specified in section 25-03.3-01.
- 16 i. "Temporarily domiciled" means staying or being physically present in this state for
17 more than thirty days in a calendar year or at a location for longer than ten
18 consecutive days, attending school for longer than ten days, or maintaining
19 employment in the jurisdiction for longer than ten days, regardless of the state of
20 the residence.
- 21 2. The court shall impose, in addition to any penalty provided by law, a requirement that
22 the individual register, within three days of coming into a county in which the individual
23 resides, is homeless, or within the period identified in this section that the individual
24 becomes temporarily domiciled. The individual must register with the chief of police of
25 the city of the individual's place of residence, or the sheriff of the county if the
26 individual resides in an area other than a city. A homeless individual shall register
27 every three days with the sheriff or chief of police of the jurisdiction in which the
28 individual is physically present. The court shall require an individual to register by
29 stating this requirement on the court records, if that individual:

- 1 a. Has pled guilty or nolo contendere to, or been found guilty as a felonious sexual
2 offender or an attempted felonious sexual offender, including juvenile delinquent
3 adjudications of equivalent offenses unless the offense is listed in subdivision c.
- 4 b. Has pled guilty or nolo contendere to, or been found guilty as a sexual offender
5 for, a misdemeanor or attempted misdemeanor. The court may deviate from
6 requiring an individual to register if the court first finds the individual is no more
7 than three years older than the victim if the victim is a minor, the individual has
8 not previously been convicted as a sexual offender or of a crime against a child,
9 and the individual did not exhibit mental abnormality or predatory conduct in the
10 commission of the offense.
- 11 c. Is a juvenile found delinquent under subdivision d of subsection 1 of section
12 12.1-20-03, subdivision a of subsection 2 of section 12.1-20-03, or as a sexual
13 offender for a misdemeanor. The court may deviate from requiring the juvenile to
14 register if the court first finds the juvenile has not previously been convicted as a
15 sexual offender or for a crime against a child, and the juvenile did not exhibit
16 mental abnormality or predatory conduct in the commission of the offense.
- 17 d. Has pled guilty or nolo contendere to, or been found guilty of, a crime against a
18 child or an attempted crime against a child, including juvenile delinquent
19 adjudications of equivalent offenses. Except if the offense is described in section
20 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 and the person is not the parent
21 of the victim, the court may deviate from requiring an individual to register if the
22 court first finds the individual has not previously been convicted as a sexual
23 offender or for a crime against a child, and the individual did not exhibit mental
24 abnormality or predatory conduct in the commission of the offense.
- 25 e. Has pled guilty or nolo contendere, been found guilty, or been adjudicated
26 delinquent of any crime against another individual which is not otherwise
27 specified in this section if the court determines that registration is warranted by
28 the nature of the crime and therefore orders registration for the individual. If the
29 court orders an individual to register as an offender under this section, the
30 individual shall comply with all of the registration requirements in this chapter.

- 1 3. If a court has not ordered an individual to register in this state, an individual who
2 resides, is homeless, or is temporarily domiciled in this state shall register if the
3 individual:
 - 4 a. Is incarcerated or is on probation or parole after July 31, 1995, for a crime
5 against a child described in section 12.1-29-02, or section 12.1-18-01 or
6 12.1-18-02 if the individual was not the parent of the victim, or as a sexual
7 offender;
 - 8 b. Has pled guilty or nolo contendere to, or been adjudicated for or found guilty of,
9 an offense in a court of this state for which registration is mandatory under this
10 section or an offense from another court in the United States, a tribal court, or
11 court of another country equivalent to those offenses set forth in this section; or
 - 12 c. Has pled guilty or nolo contendere to, or has been found guilty of, a crime against
13 a child or as a sexual offender for which registration is mandatory under this
14 section if the conviction occurred after July 31, 1985.
- 15 4. In its consideration of mental abnormality or predatory conduct, the court shall
16 consider the age of the offender, the age of the victim, the difference in ages of the
17 victim and offender, the circumstances and motive of the crime, the relationship of the
18 victim and offender, and the mental state of the offender. The court may order an
19 offender to be evaluated by a qualified counselor, psychologist, or physician before
20 sentencing. Except as provided under subdivision e of subsection 2, the court shall
21 state on the record in open court its affirmative finding for not requiring an offender to
22 register.
- 23 5. When an individual is required to register under this section, the official in charge of a
24 facility or institution where the individual required to register is confined, or the
25 department, shall, before the discharge, parole, or release of that individual, inform the
26 individual of the duty to register pursuant to this section. The official or the department
27 shall require the individual to read and sign a form as required by the attorney general,
28 stating that the duty of the individual to register has been explained to that individual.
29 The official in charge of the place of confinement, or the department, shall obtain the
30 address where the individual expects to reside, attend school, or work upon discharge,
31 parole, or release and shall report the address to the attorney general. The official in

1 charge of the place of confinement, or the department, shall give three copies of the
2 form to the individual and shall send three copies to the attorney general no later than
3 forty-five days before the scheduled release of that individual. The attorney general
4 shall forward one copy to the law enforcement agency having jurisdiction where the
5 individual expects to reside, attend school, or work upon discharge, parole, or release,
6 one copy to the prosecutor who prosecuted the individual, and one copy to the court in
7 which the individual was prosecuted. All forms must be transmitted and received by
8 the law enforcement agency, prosecutor, and court thirty days before the discharge,
9 parole, or release of the individual.

10 6. An individual who is required to register pursuant to this section who is released on
11 probation or discharged upon payment of a fine must, before the release or discharge,
12 be informed of the duty to register under this section by the court in which that
13 individual is convicted. The court shall require the individual to read and sign a form as
14 required by the attorney general, stating that the duty of the individual to register under
15 this section has been explained to that individual. The court shall obtain the address
16 where the individual expects to reside, attend school, or work upon release or
17 discharge and shall report the address to the attorney general within three days. The
18 court shall give one copy of the form to the individual and shall send two copies to the
19 attorney general. The attorney general shall forward one copy to the appropriate law
20 enforcement agency having jurisdiction where the individual expects to reside, attend
21 school, or work upon discharge, parole, or release.

22 7. Registration consists of a written or electronic statement signed by the individual,
23 giving the information required by the attorney general, and the biometric data and
24 photograph of the individual. An individual who is not required to provide a sample of
25 blood and other body fluids under section 31-13-03 or by the individual's state or court
26 of conviction or adjudication shall submit a sample of blood and other body fluids for
27 inclusion in a centralized database of DNA identification records under section
28 31-13-05. The collection, submission, testing and analysis of, and records produced
29 from, samples of blood and other body fluids, are subject to chapter 31-13. Evidence
30 of the DNA profile comparison is admissible in accordance with section 31-13-02. A
31 report of the DNA analysis certified by the state crime laboratory is admissible in

1 accordance with section 31-13-05. A district court shall order an individual who refuses
2 to submit a sample of blood or other body fluids for registration purposes to show
3 cause at a specified time and place why the individual should not be required to
4 submit the sample required under this subsection. Within three days after registration,
5 the registering law enforcement agency shall forward the statement, biometric data,
6 and photograph to the attorney general and shall submit the sample of the individual's
7 blood and body fluids to the state crime laboratory. If an individual required to register
8 under this section has a change in vehicle or computer online identity, the individual
9 shall register, within three days after the change, with the law enforcement agency
10 having local jurisdiction of the individual's place of residence of the individual's new
11 vehicle or computer online identity. If an individual required to register pursuant to this
12 section has a change in name, school, or residence or employment address, that
13 individual shall register, at least ten days before the change, with the law enforcement
14 agency having local jurisdiction of the individual's place of residence of the individual's
15 new name, school, residence address, or employment address. A change in school or
16 employment address includes the termination of school or employment for which an
17 individual required to register under this section, the individual shall register within
18 three days of the termination with the law enforcement agency having local jurisdiction
19 of the individual's place of residence. The law enforcement agency, within three days
20 after receipt of the information, shall forward it to the attorney general. The attorney
21 general shall forward the appropriate registration data to the law enforcement agency
22 having local jurisdiction of the new place of residence, school, or employment. Upon a
23 change of address, the individual required to register also shall register within three
24 days at the law enforcement agency having local jurisdiction of the new place of
25 residence. If an individual required to register in North Dakota, including in a tribal
26 registry, resides in another state or on tribal lands, that individual shall register
27 employment and school addresses and any changes in required registration
28 information with the law enforcement agency having local jurisdiction over the school
29 or employment address. The individual registering under this section shall periodically
30 confirm the information required under this subsection in a manner and at an interval
31 determined by the attorney general. A law enforcement agency that has previously

1 registered an offender may omit the biometric data portion of the registration if that
2 agency has a set of biometric data on file for that individual and is personally familiar
3 with and can visually identify the offender. These provisions also apply in any other
4 state that requires registration.

5 8. An individual required to register under this section shall comply with the registration
6 requirement for the longer of the following periods:

- 7 a. A period of fifteen years after the date of sentence or order deferring or
8 suspending sentence upon a plea or finding of guilt or after release from
9 incarceration, whichever is later;
- 10 b. A period of twenty-five years after the date of sentence or order deferring or
11 suspending sentence upon a plea or finding of guilt or after release from
12 incarceration, whichever is later, if the offender is assigned a moderate risk by the
13 attorney general as provided in subsection 12; or

14 c. For the life of the individual, if that individual:

15 (1) On two or more occasions has pled guilty or nolo contendere to, or been
16 found guilty of a crime against a child or as a sexual offender. If all qualifying
17 offenses are misdemeanors, this lifetime provision does not apply unless a
18 qualifying offense was committed after August 1, 1999;

19 (2) Pleads guilty or nolo contendere to, or is found guilty of, an offense
20 committed after August 1, 1999, which is described in subdivision a of
21 subsection 1 of section 12.1-20-03, section 12.1-20-03.1, or subdivision d of
22 subsection 1 of section 12.1-20-03 if the person is an adult and the victim is
23 under age twelve, or section 12.1-18-01 if that individual is an adult other
24 than a parent of the victim, or an equivalent offense from another court in
25 the United States, a tribal court, or court of another country; or

26 (3) Is assigned a high risk by the attorney general as provided in subsection 12.

27 9. An individual required to register under this section who violates this section is guilty of
28 a class C felony. The failure of a homeless individual to register as required in
29 subsections 2 and 3 is prima facie evidence of a violation of this section. The clerk of
30 court shall forward all warrants issued for a violation of this section to the county
31 sheriff, who shall enter all such warrants into the national crime information center

1 wanted person file. A court may not relieve an individual, other than a juvenile, who
2 violates this section from serving a term of at least ninety days in jail and completing
3 probation of one year.

4 10. When an individual is released on parole or probation and is required to register
5 pursuant to this section, but fails to do so within the time prescribed, the court shall
6 order the probation, or the parole board shall order the parole, of the individual
7 revoked.

8 11. If an individual required to register pursuant to this section is temporarily sent outside
9 the facility or institution where that individual is confined under conviction or sentence,
10 the local law enforcement agency having jurisdiction over the place where that
11 individual is being sent must be notified within a reasonable time period before that
12 individual is released from the facility or institution. This subsection does not apply to
13 any individual temporarily released under guard from the facility or institution in which
14 that individual is confined.

15 12. The attorney general, with the assistance of the department and the juvenile courts,
16 shall develop guidelines for the risk assessment of sexual offenders who are required
17 to register, with a low-risk, moderate-risk, or high-risk level being assigned to each
18 offender as follows:

19 a. The department shall conduct a risk assessment of sexual offenders who are
20 incarcerated in institutions under the control of the department and sexual
21 offenders who are on supervised probation. The department, in a timely manner,
22 shall provide the attorney general any information, including the offender's level
23 of risk and supporting documentation, concerning individuals required to be
24 registered under this section who are about to be released or placed into the
25 community.

26 b. The attorney general shall conduct a risk assessment of sexual offenders who
27 are not under the custody or supervision of the department. The attorney general
28 may adopt a law enforcement agency's previous assignment of risk level for an
29 individual if the assessment was conducted in a manner substantially similar to
30 the guidelines developed under this subsection.

c. The juvenile courts or the agency having legal custody of a juvenile shall conduct a risk assessment of juvenile sexual offenders who are required to register under this section. The juvenile courts or the agency having legal custody of a juvenile shall provide the attorney general any information, including the offender's level of risk and supporting documentation, concerning juveniles required to register and who are about to be released or placed into the community.

d. The attorney general shall notify the offender of the risk level assigned to that offender. An offender may request a review of that determination with the attorney general's sexual offender risk assessment committee and may present any information that the offender believes may lower the assigned risk level.

13. An individual assessed as a high-risk sexual offender in accordance with subsection 12, may not reside within five hundred feet [152.4 meters] of a public or nonpublic preschool or elementary, middle, or high school.

14. Relevant and necessary conviction and registration information must be disclosed to the public by a law enforcement agency if the individual is a moderate or high risk and the agency determines that disclosure of the conviction and registration information is necessary for public protection. The attorney general shall develop guidelines for public disclosure of offender registration information. Public disclosure may include internet access if the offender:

- a. Is required to register for a lifetime under subsection 8;
- b. Has been determined to be a high risk to the public by the department, the attorney general, or the courts, according to guidelines developed by those agencies; or
- c. Has been determined to be a high risk to the public by an agency of another state or the federal government.

If the offender has been determined to be a moderate risk, public disclosure must include, at a minimum, notification of the offense to the victim registered under chapter 12.1-34 and to any agency, civic organization, or group of persons who have characteristics similar to those of a victim of the offender. Upon request, law enforcement agencies may release conviction and registration information regarding low-risk, moderate-risk, or high-risk offenders.

- 1 15. A state officer, law enforcement agency, or public school district or governing body of a
2 nonpublic school or any appointee, officer, or employee of those entities is not subject
3 to civil or criminal liability for making risk determinations, allowing a sexual offender to
4 attend a school function under section 12.1-20-25, or for disclosing or for failing to
5 disclose information as permitted by this section.
- 6 16. If a juvenile is adjudicated delinquent and required or ordered to register as a sexual
7 offender or as an offender against a child under this section, the juvenile shall comply
8 with the registration requirements in this section. Notwithstanding any other provision
9 of law, a law enforcement agency shall register a juvenile offender in the same manner
10 as adult offenders and may release any relevant and necessary information on file to
11 other law enforcement agencies, the department of health and human services, or the
12 public if disclosure is necessary to protect public health or safety. The law enforcement
13 agency shall release any relevant and necessary information on file to the
14 superintendent or principal of the school the juvenile attends. The school
15 administration shall notify others in similar positions if the juvenile transfers to another
16 learning institution in or outside the state.
- 17 17. If an individual has been required to register as a sexual offender or an offender
18 against a child under section 12.1-32-15 or former section 27-20-52.1 before August 1,
19 1999, the individual may petition the court to be removed from the offender list if
20 registration is no longer mandatory for that individual. In considering the petition, the
21 court shall comply with the requirements of this section.
- 22 18. A sexual offender who is currently assigned a moderate or high-risk level by the
23 attorney general may not use a state park of this state as a residence or residential
24 address to comply with the registration requirements of this section. Before arriving at
25 a state park for overnight lodging or camping, a sexual offender who is assigned a
26 moderate or high-risk level by the attorney general shall notify a parks and recreation
27 department law enforcement officer at the state park where the sexual offender will be
28 staying.
- 29 19. When an individual who is required to register pursuant to this section plans to travel
30 outside of the United States, at least twenty-one days before the intended travel, the
31 individual shall inform the agency with which the individual last registered the

- 1 individual's residence address the details of the intended travel. Upon receipt of the
- 2 information from the registering law enforcement agency, the attorney general shall
- 3 report the travel to the United States marshal service.

2025 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee Peace Garden Room, State Capitol

HB 1351
3/25/2025

Relating to prohibiting sexually explicit deep fake videos and images and to sexual offenders and registration requirements; and to provide a penalty.

4:16 p.m. Chair Larson opened the hearing.

Members present:

Chair Larson, Vice Chairman Paulson, Senators: Castaneda, Cory, Luick, Myrdal, Braunberger.

Discussion Topics:

- Mandatory sex offender registration
- Judicial discretion in sentencing

4:18 p.m. Senator Cory updated committee on proposed amendment approvals from courts and Tech ND and submitted testimony #43810.

4:19 p.m. Travis Finck, Executive Director, ND Commission on Legal Counsel for Indigents, testified as neutral and answered committee questions.

4:20 p.m. Senator Paulson updated the committee on the amendment, Page 6 line 9 (deleting amendment).

4:21 p.m. Travis Finck, Executive Director, ND Commission on Legal Counsel for Indigents, explained the amendment.

4:25 p.m. Senator Cory moved amendment LC# 25.0034.03002 and to further amend removing amendment on page 6.

4:25 p.m. Senator Luick seconded.

4:26 p.m. Voice Vote - Motion Passed.

4:26 p.m. Sara Behrens, Attorney, ND Supreme Court, testified as neutral and further explained vote on amendment.

4:28 p.m. Senator Myrdal moved to Reconsider amendment LC# 25.0034.03002 with verbal amendment removing amendment on page 6.

4:28 p.m. Senator Braunberger seconded.

Senators	Vote
Senator Diane Larson	Y
Senator Bob Paulson	Y
Senator Ryan Braunberger	Y
Senator Jose L. Casteneda	Y
Senator Claire Cory	Y
Senator Larry Luick	Y
Senator Janne Myrdal	Y

Motion Passed 7-0-0.

4:30 p.m. Sara Behrens advised committee on changes for amendment.

4:33 p.m. Senator Castaneda moved Amendment LC# 25.0034.03002 and further amended to remove section 3 on page 5 from lines 5 to end of amendment.

4:33 p.m. Senator Cory seconded.

Voice Vote - Motion Passed.

4:34 p.m. Senator Cory moved a Do Pass as amended.

4:34 p.m. Senator Luick seconded the motion.

Senators	Vote
Senator Diane Larson	Y
Senator Bob Paulson	Y
Senator Ryan Braunberger	Y
Senator Jose L. Casteneda	Y
Senator Claire Cory	Y
Senator Larry Luick	Y
Senator Janne Myrdal	Y

Motion Passed 7-0-0.

4:34 p.m. Senator Cory will carry the bill.

4:35 p.m. Chair Larson adjourned the meeting.

Kendra McCann, Committee Clerk

March 25, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
FIRST ENGROSSMENT**

ENGROSSED HOUSE BILL NO. 1351

Introduced by

Representatives Satrom, Christy, Ostlie, Schneider

Senators Clemens, Conley

1 A BILL ~~for an Act to create and enact a new section to chapter 12.1-27.1 of the North Dakota~~
2 ~~Century Code, relating to prohibiting sexually explicit deep fake videos and images; to amend~~
3 ~~and reenact section 12.1-32-15 of the North Dakota Century Code, relating to sexual offenders~~
4 ~~and registration requirements; and to provide a penalty~~ for an Act to amend and reenact
5 subsection 13 of section 12.1-27.1-01 and section 12.1-27.1-03.3 of the North Dakota Century
6 Code, relating to sexually expressive images; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

8 ~~SECTION 1. A new section to chapter 12.1-27.1 of the North Dakota Century Code is~~
9 ~~created and enacted as follows:~~

10 ~~Sexually explicit deep fake videos or images prohibited – Penalty – Civil action.~~

11 ~~1. As used in this section:~~

12 ~~a. "Sexual performance" means any performance that includes sexual conduct.~~

13 ~~b. "Sexually explicit deep fake video or image" means any video recording, motion-~~
14 ~~picture film, electronic image, or photograph created with the intent to deceive,~~
15 ~~which appears to depict an individual engaging in sexual conduct or a sexual~~
16 ~~performance that did not occur in reality or that the individual did not actually~~
17 ~~perform, and whose appearance in the video recording, motion picture film,~~
18 ~~electronic image, or photograph is a result of digitization.~~

- ~~2. It is a class A misdemeanor for a person to knowingly produce, possess, distribute, promote, advertise, sell, exhibit, broadcast, or transmit a sexually explicit deep fake video or image.~~
- ~~3. A depicted individual who is identifiable and who suffers harm from a person's violation of this section has a cause of action against the person if the person produced, possessed, distributed, promoted, advertised, sold, exhibited, broadcasted, or transmitted the sexually explicit deep fake video or image for the purpose of sexual arousal, sexual gratification, humiliation, degradation, or monetary or commercial gain.~~
- ~~a. The court may exclude or redact from all pleadings and documents filed in the action other identifying characteristics of the plaintiff under rule 3.4 of the North Dakota Rules of Court.~~
- ~~b. A plaintiff to whom subdivision a applies shall file with the court and serve on the defendant a confidential information form that includes the excluded or redacted plaintiff's name and other identifying characteristics.~~
- ~~c. The court may make further orders as necessary to protect the identity and privacy of a plaintiff.~~
- ~~4. In an action under subsection 4, a prevailing plaintiff may recover:~~
- ~~a. The greater of:~~
- ~~(1) Economic and noneconomic damages proximately caused by the defendant's violation of this section, including damages for emotional distress whether or not accompanied by other damages; or~~
- ~~(2) Statutory damages not to exceed ten thousand dollars against each defendant found liable under this section;~~
- ~~b. An amount equal to any monetary gain made by the defendant from the distribution, promotion, advertising, sale, exhibition, broadcasting, or transmission of the sexually explicit deep fake video or image; and~~
- ~~c. Exemplary damages.~~
- ~~5. In an action under subsection 4, the court may award a prevailing plaintiff:~~
- ~~a. Reasonable attorney's fees and costs; and~~
- ~~b. Other remedies available by law, including injunctive relief.~~

~~6. This chapter does not affect or preclude any other right or remedy available under federal law or a law of this state other than this section.~~

~~SECTION 2. AMENDMENT. Section 12.1-32-15 of the North Dakota Century Code is amended and reenacted as follows:~~

~~12.1-32-15. Offenders against children and sexual offenders -- Sexually violent predators -- Registration requirement -- Penalty.~~

~~1. As used in this section:~~

~~a. "A crime against a child" means a violation of chapter 12.1-16, section 12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04, subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01, 12.1-18-02, 12.1-18-05, chapter 12.1-29, or section 14-09-22, subsection 3 of section 12.1-41-02, subsection 3 of section 12.1-41-03, or an equivalent offense from another court in the United States, a tribal court, or court of another country, in which the victim is a minor or is otherwise of the age required for the act to be a crime or an attempt or conspiracy to commit these offenses.~~

~~b. "Department" means the department of corrections and rehabilitation.~~

~~c. "Homeless" means an individual who is physically present in this state, but is living in a park, under a bridge, on the streets, in a vehicle or camper, or is otherwise without a traditional dwelling, and also one who resides in this state but does not maintain a permanent address. The term does not include individuals who are temporarily domiciled or individuals residing in public or private shelters that provide temporary living accommodations.~~

~~d. "Mental abnormality" means a congenital or acquired condition of an individual that affects the emotional or volitional capacity of the individual in a manner that predisposes that individual to the commission of criminal sexual acts to a degree that makes the individual a menace to the health and safety of other individuals.~~

~~e. "Predatory" means an act directed at a stranger or at an individual with whom a relationship has been established or promoted for the primary purpose of victimization.~~

~~f. "Reside" means to live permanently or be situated for a considerable time in a home or a particular place.~~

1 ~~g. "Sexual offender" means a person who has pled guilty to or been found guilty,~~
2 ~~including juvenile delinquent adjudications, of a violation of section 12.1 20-03,~~
3 ~~12.1 20-03.1, 12.1 20-04, 12.1 20-05, 12.1 20-05.1, 12.1 20-06, 12.1 20-06.1,~~
4 ~~12.1 20-07 except for subdivision a of subsection 1, 12.1 20-11, 12.1 20-12.1,~~
5 ~~12.1 20-12.2, 12.1 20-12.3 except for subdivision a of subsection 1 and~~
6 ~~subdivision b of subsection 1 if the offense involves only a demand for money,~~
7 ~~section 1 of this Act, chapter 12.1 27.2, subsection 2 of section 12.1 22-03.1,~~
8 ~~subdivision b of subsection 1 of section 12.1 41-02, section 12.1 41-04,~~
9 ~~12.1 41-05, or 12.1 41-06, or an equivalent offense from another court in the~~
10 ~~United States, a tribal court, or court of another country, or an attempt or~~
11 ~~conspiracy to commit these offenses.~~

12 ~~h. "Sexually dangerous individual" means an individual who meets the definition~~
13 ~~specified in section 25-03.3-01.~~

14 ~~i. "Temporarily domiciled" means staying or being physically present in this state for~~
15 ~~more than thirty days in a calendar year or at a location for longer than ten~~
16 ~~consecutive days, attending school for longer than ten days, or maintaining~~
17 ~~employment in the jurisdiction for longer than ten days, regardless of the state of~~
18 ~~the residence.~~

19 ~~2. The court shall impose, in addition to any penalty provided by law, a requirement that~~
20 ~~the individual register, within three days of coming into a county in which the individual~~
21 ~~resides, is homeless, or within the period identified in this section that the individual~~
22 ~~becomes temporarily domiciled. The individual must register with the chief of police of~~
23 ~~the city of the individual's place of residence, or the sheriff of the county if the~~
24 ~~individual resides in an area other than a city. A homeless individual shall register~~
25 ~~every three days with the sheriff or chief of police of the jurisdiction in which the~~
26 ~~individual is physically present. The court shall require an individual to register by~~
27 ~~stating this requirement on the court records, if that individual:~~

28 ~~a. Has pled guilty or nolo contendere to, or been found guilty as a felonious sexual~~
29 ~~offender or an attempted felonious sexual offender, including juvenile delinquent~~
30 ~~adjudications of equivalent offenses unless the offense is listed in subdivision c.~~

1 ~~_____ b. Has pled guilty or nolo contendere to, or been found guilty as a sexual offender~~
2 ~~for, a misdemeanor or attempted misdemeanor. The court may deviate from~~
3 ~~requiring an individual to register if the court first finds the individual is no more~~
4 ~~than three years older than the victim if the victim is a minor, the individual has~~
5 ~~not previously been convicted as a sexual offender or of a crime against a child,~~
6 ~~and the individual did not exhibit mental abnormality or predatory conduct in the~~
7 ~~commission of the offense.~~

8 ~~_____ c. Is a juvenile found delinquent under subdivision d of subsection 1 of section~~
9 ~~12.1 20 03, subdivision a of subsection 2 of section 12.1 20 03, or as a sexual~~
10 ~~offender for a misdemeanor. The court may deviate from requiring the juvenile to~~
11 ~~register if the court first finds the juvenile has not previously been convicted as a~~
12 ~~sexual offender or for a crime against a child, and the juvenile did not exhibit~~
13 ~~mental abnormality or predatory conduct in the commission of the offense.~~

14 ~~_____ d. Has pled guilty or nolo contendere to, or been found guilty of, a crime against a~~
15 ~~child or an attempted crime against a child, including juvenile delinquent~~
16 ~~adjudications of equivalent offenses. Except if the offense is described in section~~
17 ~~12.1 29 02, or section 12.1 18 01 or 12.1 18 02 and the person is not the parent~~
18 ~~of the victim, the court may deviate from requiring an individual to register if the~~
19 ~~court first finds the individual has not previously been convicted as a sexual~~
20 ~~offender or for a crime against a child, and the individual did not exhibit mental~~
21 ~~abnormality or predatory conduct in the commission of the offense.~~

22 ~~_____ e. Has pled guilty or nolo contendere, been found guilty, or been adjudicated~~
23 ~~delinquent of any crime against another individual which is not otherwise~~
24 ~~specified in this section if the court determines that registration is warranted by~~
25 ~~the nature of the crime and therefore orders registration for the individual. If the~~
26 ~~court orders an individual to register as an offender under this section, the~~
27 ~~individual shall comply with all of the registration requirements in this chapter.~~

28 ~~_____ 3. If a court has not ordered an individual to register in this state, an individual who~~
29 ~~resides, is homeless, or is temporarily domiciled in this state shall register if the~~
30 ~~individual:~~

- ~~a. Is incarcerated or is on probation or parole after July 31, 1995, for a crime against a child described in section 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 if the individual was not the parent of the victim, or as a sexual offender;~~
- ~~b. Has pled guilty or nolo contendere to, or been adjudicated for or found guilty of, an offense in a court of this state for which registration is mandatory under this section or an offense from another court in the United States, a tribal court, or court of another country equivalent to those offenses set forth in this section; or~~
- ~~c. Has pled guilty or nolo contendere to, or has been found guilty of, a crime against a child or as a sexual offender for which registration is mandatory under this section if the conviction occurred after July 31, 1985.~~
- ~~4. In its consideration of mental abnormality or predatory conduct, the court shall consider the age of the offender, the age of the victim, the difference in ages of the victim and offender, the circumstances and motive of the crime, the relationship of the victim and offender, and the mental state of the offender. The court may order an offender to be evaluated by a qualified counselor, psychologist, or physician before sentencing. Except as provided under subdivision e of subsection 2, the court shall state on the record in open court its affirmative finding for not requiring an offender to register.~~
- ~~5. When an individual is required to register under this section, the official in charge of a facility or institution where the individual required to register is confined, or the department, shall, before the discharge, parole, or release of that individual, inform the individual of the duty to register pursuant to this section. The official or the department shall require the individual to read and sign a form as required by the attorney general, stating that the duty of the individual to register has been explained to that individual. The official in charge of the place of confinement, or the department, shall obtain the address where the individual expects to reside, attend school, or work upon discharge, parole, or release and shall report the address to the attorney general. The official in charge of the place of confinement, or the department, shall give three copies of the form to the individual and shall send three copies to the attorney general no later than forty five days before the scheduled release of that individual. The attorney general~~

1 ~~shall forward one copy to the law enforcement agency having jurisdiction where the~~
2 ~~individual expects to reside, attend school, or work upon discharge, parole, or release,~~
3 ~~one copy to the prosecutor who prosecuted the individual, and one copy to the court in~~
4 ~~which the individual was prosecuted. All forms must be transmitted and received by~~
5 ~~the law enforcement agency, prosecutor, and court thirty days before the discharge,~~
6 ~~parole, or release of the individual.~~

7 ~~6. An individual who is required to register pursuant to this section who is released on~~
8 ~~probation or discharged upon payment of a fine must, before the release or discharge,~~
9 ~~be informed of the duty to register under this section by the court in which that~~
10 ~~individual is convicted. The court shall require the individual to read and sign a form as~~
11 ~~required by the attorney general, stating that the duty of the individual to register under~~
12 ~~this section has been explained to that individual. The court shall obtain the address~~
13 ~~where the individual expects to reside, attend school, or work upon release or~~
14 ~~discharge and shall report the address to the attorney general within three days. The~~
15 ~~court shall give one copy of the form to the individual and shall send two copies to the~~
16 ~~attorney general. The attorney general shall forward one copy to the appropriate law~~
17 ~~enforcement agency having jurisdiction where the individual expects to reside, attend~~
18 ~~school, or work upon discharge, parole, or release.~~

19 ~~7. Registration consists of a written or electronic statement signed by the individual,~~
20 ~~giving the information required by the attorney general, and the biometric data and~~
21 ~~photograph of the individual. An individual who is not required to provide a sample of~~
22 ~~blood and other body fluids under section 31-13-03 or by the individual's state or court~~
23 ~~of conviction or adjudication shall submit a sample of blood and other body fluids for~~
24 ~~inclusion in a centralized database of DNA identification records under section~~
25 ~~31-13-05. The collection, submission, testing and analysis of, and records produced~~
26 ~~from, samples of blood and other body fluids, are subject to chapter 31-13. Evidence~~
27 ~~of the DNA profile comparison is admissible in accordance with section 31-13-02. A~~
28 ~~report of the DNA analysis certified by the state crime laboratory is admissible in~~
29 ~~accordance with section 31-13-05. A district court shall order an individual who refuses~~
30 ~~to submit a sample of blood or other body fluids for registration purposes to show~~
31 ~~cause at a specified time and place why the individual should not be required to~~

1 submit the sample required under this subsection. Within three days after registration,
2 the registering law enforcement agency shall forward the statement, biometric data,
3 and photograph to the attorney general and shall submit the sample of the individual's
4 blood and body fluids to the state crime laboratory. If an individual required to register
5 under this section has a change in vehicle or computer online identity, the individual
6 shall register, within three days after the change, with the law enforcement agency
7 having local jurisdiction of the individual's place of residence of the individual's new
8 vehicle or computer online identity. If an individual required to register pursuant to this
9 section has a change in name, school, or residence or employment address, that
10 individual shall register, at least ten days before the change, with the law enforcement
11 agency having local jurisdiction of the individual's place of residence of the individual's
12 new name, school, residence address, or employment address. A change in school or
13 employment address includes the termination of school or employment for which an
14 individual required to register under this section, the individual shall register within
15 three days of the termination with the law enforcement agency having local jurisdiction
16 of the individual's place of residence. The law enforcement agency, within three days
17 after receipt of the information, shall forward it to the attorney general. The attorney
18 general shall forward the appropriate registration data to the law enforcement agency
19 having local jurisdiction of the new place of residence, school, or employment. Upon a
20 change of address, the individual required to register also shall register within three
21 days at the law enforcement agency having local jurisdiction of the new place of
22 residence. If an individual required to register in North Dakota, including in a tribal
23 registry, resides in another state or on tribal lands, that individual shall register
24 employment and school addresses and any changes in required registration
25 information with the law enforcement agency having local jurisdiction over the school
26 or employment address. The individual registering under this section shall periodically
27 confirm the information required under this subsection in a manner and at an interval
28 determined by the attorney general. A law enforcement agency that has previously
29 registered an offender may omit the biometric data portion of the registration if that
30 agency has a set of biometric data on file for that individual and is personally familiar

~~with and can visually identify the offender. These provisions also apply in any other state that requires registration.~~

~~8. An individual required to register under this section shall comply with the registration requirement for the longer of the following periods:~~

~~a. A period of fifteen years after the date of sentence or order deferring or suspending sentence upon a plea or finding of guilt or after release from incarceration, whichever is later;~~

~~b. A period of twenty five years after the date of sentence or order deferring or suspending sentence upon a plea or finding of guilt or after release from incarceration, whichever is later, if the offender is assigned a moderate risk by the attorney general as provided in subsection 12; or~~

~~c. For the life of the individual, if that individual:~~

~~(1) On two or more occasions has pled guilty or nolo contendere to, or been found guilty of a crime against a child or as a sexual offender. If all qualifying offenses are misdemeanors, this lifetime provision does not apply unless a qualifying offense was committed after August 1, 1999;~~

~~(2) Pleads guilty or nolo contendere to, or is found guilty of, an offense committed after August 1, 1999, which is described in subdivision a of subsection 1 of section 12.1-20-03, section 12.1-20-03.1, or subdivision d of subsection 1 of section 12.1-20-03 if the person is an adult and the victim is under age twelve, or section 12.1-18-01 if that individual is an adult other than a parent of the victim, or an equivalent offense from another court in the United States, a tribal court, or court of another country; or~~

~~(3) Is assigned a high risk by the attorney general as provided in subsection 12.~~

~~9. An individual required to register under this section who violates this section is guilty of a class C felony. The failure of a homeless individual to register as required in subsections 2 and 3 is prima facie evidence of a violation of this section. The clerk of court shall forward all warrants issued for a violation of this section to the county sheriff, who shall enter all such warrants into the national crime information center wanted person file. A court may not relieve an individual, other than a juvenile, who~~

~~violates this section from serving a term of at least ninety days in jail and completing probation of one year.~~

~~10. When an individual is released on parole or probation and is required to register pursuant to this section, but fails to do so within the time prescribed, the court shall order the probation, or the parole board shall order the parole, of the individual revoked.~~

~~11. If an individual required to register pursuant to this section is temporarily sent outside the facility or institution where that individual is confined under conviction or sentence, the local law enforcement agency having jurisdiction over the place where that individual is being sent must be notified within a reasonable time period before that individual is released from the facility or institution. This subsection does not apply to any individual temporarily released under guard from the facility or institution in which that individual is confined.~~

~~12. The attorney general, with the assistance of the department and the juvenile courts, shall develop guidelines for the risk assessment of sexual offenders who are required to register, with a low risk, moderate risk, or high risk level being assigned to each offender as follows:~~

~~a. The department shall conduct a risk assessment of sexual offenders who are incarcerated in institutions under the control of the department and sexual offenders who are on supervised probation. The department, in a timely manner, shall provide the attorney general any information, including the offender's level of risk and supporting documentation, concerning individuals required to be registered under this section who are about to be released or placed into the community.~~

~~b. The attorney general shall conduct a risk assessment of sexual offenders who are not under the custody or supervision of the department. The attorney general may adopt a law enforcement agency's previous assignment of risk level for an individual if the assessment was conducted in a manner substantially similar to the guidelines developed under this subsection.~~

~~c. The juvenile courts or the agency having legal custody of a juvenile shall conduct a risk assessment of juvenile sexual offenders who are required to register under~~

~~this section. The juvenile courts or the agency having legal custody of a juvenile shall provide the attorney general any information, including the offender's level of risk and supporting documentation, concerning juveniles required to register and who are about to be released or placed into the community.~~

~~d. The attorney general shall notify the offender of the risk level assigned to that offender. An offender may request a review of that determination with the attorney general's sexual offender risk assessment committee and may present any information that the offender believes may lower the assigned risk level.~~

~~13. An individual assessed as a high risk sexual offender in accordance with subsection 12, may not reside within five hundred feet [152.4 meters] of a public or nonpublic preschool or elementary, middle, or high school.~~

~~14. Relevant and necessary conviction and registration information must be disclosed to the public by a law enforcement agency if the individual is a moderate or high risk and the agency determines that disclosure of the conviction and registration information is necessary for public protection. The attorney general shall develop guidelines for public disclosure of offender registration information. Public disclosure may include internet access if the offender:~~

~~a. Is required to register for a lifetime under subsection 8;~~

~~b. Has been determined to be a high risk to the public by the department, the attorney general, or the courts, according to guidelines developed by those agencies; or~~

~~c. Has been determined to be a high risk to the public by an agency of another state or the federal government.~~

~~If the offender has been determined to be a moderate risk, public disclosure must include, at a minimum, notification of the offense to the victim registered under chapter 12.1-34 and to any agency, civic organization, or group of persons who have characteristics similar to those of a victim of the offender. Upon request, law enforcement agencies may release conviction and registration information regarding low-risk, moderate-risk, or high-risk offenders.~~

~~15. A state officer, law enforcement agency, or public school district or governing body of a nonpublic school or any appointee, officer, or employee of those entities is not subject~~

~~to civil or criminal liability for making risk determinations, allowing a sexual offender to attend a school function under section 12.1-20-25, or for disclosing or for failing to disclose information as permitted by this section.~~

~~16. If a juvenile is adjudicated delinquent and required or ordered to register as a sexual offender or as an offender against a child under this section, the juvenile shall comply with the registration requirements in this section. Notwithstanding any other provision of law, a law enforcement agency shall register a juvenile offender in the same manner as adult offenders and may release any relevant and necessary information on file to other law enforcement agencies, the department of health and human services, or the public if disclosure is necessary to protect public health or safety. The law enforcement agency shall release any relevant and necessary information on file to the superintendent or principal of the school the juvenile attends. The school administration shall notify others in similar positions if the juvenile transfers to another learning institution in or outside the state.~~

~~17. If an individual has been required to register as a sexual offender or an offender against a child under section 12.1-32-15 or former section 27-20-52.1 before August 1, 1999, the individual may petition the court to be removed from the offender list if registration is no longer mandatory for that individual. In considering the petition, the court shall comply with the requirements of this section.~~

~~18. A sexual offender who is currently assigned a moderate or high risk level by the attorney general may not use a state park of this state as a residence or residential address to comply with the registration requirements of this section. Before arriving at a state park for overnight lodging or camping, a sexual offender who is assigned a moderate or high risk level by the attorney general shall notify a parks and recreation department law enforcement officer at the state park where the sexual offender will be staying.~~

~~19. When an individual who is required to register pursuant to this section plans to travel outside of the United States, at least twenty-one days before the intended travel, the individual shall inform the agency with which the individual last registered the individual's residence address the details of the intended travel. Upon receipt of the~~

~~information from the registering law enforcement agency, the attorney general shall
report the travel to the United States marshal service.~~

SECTION 1. AMENDMENT. Subsection 13 of section 12.1-27.1-01 of the North Dakota Century Code is amended and reenacted as follows:

13. As used in this chapter, "sexually expressive image" means a real, altered, or computer-generated photograph or visual representation that exhibits a nude or partially denuded human figure, as defined in section 12.1-27.1-03.1, or sexual conduct.

SECTION 2. AMENDMENT. Section 12.1-27.1-03.3 of the North Dakota Century Code is amended and reenacted as follows:

12.1-27.1-03.3. Creation, possession, or dissemination of sexually expressive images prohibited - Exception - Civil action.

1. A person is guilty of a class A misdemeanor if, knowing of its character and content, that person:
 - a. Without written consent from each individual who has a reasonable expectation of privacy in the image, surreptitiously creates or willfully possesses a sexually expressive image that was surreptitiously created; or
 - b. Distributes or publishes, electronically or otherwise, a sexually expressive image with the intent to cause emotional harm or humiliation to any individual depicted in the sexually expressive image who has a reasonable expectation of privacy in the image, or after being given notice by an individual or parent or guardian of the individual who is depicted in a sexually expressive image that the individual, parent, or guardian does not consent to the distribution or publication of the sexually expressive image.
2. A person is guilty of a class B misdemeanor if, knowing of its character and content, that person acquires and knowingly distributes any sexually expressive image that was created without the consent of the subject of the image.
3. This section does not authorize any act prohibited by any other law. If the sexually expressive image is of a minor and possession does not violate section 12.1-27.2-04.1, a parent or guardian of the minor may give permission for a person to possess or distribute the sexually expressive image.

1 4. This section does not apply to any book, photograph, video recording, motion picture
2 film, or other visual representation sold in the normal course of business through
3 wholesale or retail outlets that possess a valid sales tax permit or used by an attorney,
4 attorney's agent, or any other person obtaining evidence for a criminal investigation or
5 pending civil action, or by a medical professional or a peace officer acting within that
6 individual's scope of employment.

7 5. Nothing in this section may be construed to impose liability on a provider of an
8 interactive computer service, as defined under 47 U.S.C. 230, or an information
9 service or telecommunication service, as defined under 47 U.S.C. 153, for content
10 provided by another person.

11 6. A depicted individual who is identifiable and who suffers harm from a person's violation
12 of this section has a cause of action against the person if the person produced,
13 possessed, distributed, promoted, advertised, sold, exhibited, broadcasted, or
14 transmitted the sexually expressive image for the purpose of sexual arousal, sexual
15 gratification, humiliation, degradation, or monetary or commercial gain.

16 a. The court may order the filing party to redact from all pleadings and documents
17 filed in the action other identifying characteristics of the plaintiff.

18 b. A party to whom subdivision a applies shall file with the court and serve on all
19 other parties a redacted and unredacted version of the filing and a confidential
20 information form that includes the redacted plaintiff's name and other identifying
21 characteristics.

22 c. The court may make further orders as necessary to protect the identity and
23 privacy of a plaintiff.

24 7. In an action under subsection 6, a prevailing plaintiff may recover:

25 a. The greater of:

26 (1) Economic and noneconomic damages proximately caused by the
27 defendant's violation of this section, including damages for emotional
28 distress whether or not accompanied by other damages; or

29 (2) Statutory damages not to exceed ten thousand dollars against each
30 defendant found liable under this section;

- 1 b. An amount equal to any monetary gain made by the defendant from the
- 2 distribution, promotion, advertising, sale, exhibition, broadcasting, or transmission
- 3 of the sexually expressive image; and
- 4 c. Exemplary damages.
- 5 8. In an action under subsection 6, the court may award a prevailing plaintiff:
- 6 a. Reasonable attorney fees and costs; and
- 7 b. Other remedies available by law, including injunctive relief.
- 8 9. This chapter does not affect or preclude any other right or remedy available under
- 9 federal law or a law of this state other than this section.

**REPORT OF STANDING COMMITTEE
ENGROSSED HB 1351**

Judiciary Committee (Sen. Larson, Chairman) recommends **AMENDMENTS** **(25.0034.03003)** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT OR EXCUSED AND NOT VOTING). HB 1351 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

25.0034.03002
Title.

Prepared by the Legislative Council
staff for Senator Larson
March 19, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO FIRST ENGROSSMENT

ENGROSSED HOUSE BILL NO. 1351

Introduced by

Representatives Satrom, Christy, Ostlie, Schneider

Senators Clemens, Conley

A BILL for an Act ~~to create and enact a new section to chapter 12.1-27.1 of the North Dakota Century Code, relating to prohibiting sexually explicit deep fake videos and images;~~ to amend and reenact ~~section~~ subsection 13 of section 12.1-27.1-01 and sections 12.1-27.1-03.3 and 12.1-32-15 of the North Dakota Century Code, relating to sexually expressive images, sexual offenders, and sexual offender registration requirements; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

~~SECTION 1. A new section to chapter 12.1-27.1 of the North Dakota Century Code is created and enacted as follows:~~

~~Sexually explicit deep fake videos or images prohibited - Penalty - Civil action.~~

~~1. As used in this section:~~

~~a. "Sexual performance" means any performance that includes sexual conduct.~~

~~b. "Sexually explicit deep fake video or image" means any video recording, motion picture film, electronic image, or photograph created with the intent to deceive, which appears to depict an individual engaging in sexual conduct or a sexual performance that did not occur in reality or that the individual did not actually perform, and whose appearance in the video recording, motion picture film, electronic image, or photograph is a result of digitization.~~

~~2. It is a class A misdemeanor for a person to knowingly produce, possess, distribute, promote, advertise, sell, exhibit, broadcast, or transmit a sexually explicit deep fake video or image.~~

- ~~3. A depicted individual who is identifiable and who suffers harm from a person's violation of this section has a cause of action against the person if the person produced, possessed, distributed, promoted, advertised, sold, exhibited, broadcasted, or transmitted the sexually explicit deep fake video or image for the purpose of sexual arousal, sexual gratification, humiliation, degradation, or monetary or commercial gain.~~
- ~~a. The court may exclude or redact from all pleadings and documents filed in the action other identifying characteristics of the plaintiff under rule 3.4 of the North Dakota Rules of Court.~~
- ~~b. A plaintiff to whom subdivision a applies shall file with the court and serve on the defendant a confidential information form that includes the excluded or redacted plaintiff's name and other identifying characteristics.~~
- ~~c. The court may make further orders as necessary to protect the identity and privacy of a plaintiff.~~
- ~~4. In an action under subsection 4, a prevailing plaintiff may recover:~~
- ~~a. The greater of:~~
- ~~(1) Economic and noneconomic damages proximately caused by the defendant's violation of this section, including damages for emotional distress whether or not accompanied by other damages; or~~
- ~~(2) Statutory damages not to exceed ten thousand dollars against each defendant found liable under this section;~~
- ~~b. An amount equal to any monetary gain made by the defendant from the distribution, promotion, advertising, sale, exhibition, broadcasting, or transmission of the sexually explicit deep fake video or image; and~~
- ~~c. Exemplary damages.~~
- ~~5. In an action under subsection 4, the court may award a prevailing plaintiff:~~
- ~~a. Reasonable attorney's fees and costs; and~~
- ~~b. Other remedies available by law, including injunctive relief.~~
- ~~6. This chapter does not affect or preclude any other right or remedy available under federal law or a law of this state other than this section.~~

SECTION 1. AMENDMENT. Subsection 13 of section 12.1-27.1-01 of the North Dakota Century Code is amended and reenacted as follows:

13. As used in this chapter, "sexually expressive image" means a real, altered, or computer-generated photograph or visual representation that exhibits a nude or partially denuded human figure, as defined in section 12.1-27.1-03.1, or sexual conduct.

SECTION 2. AMENDMENT. Section 12.1-27.1-03.3 of the North Dakota Century Code is amended and reenacted as follows:

12.1-27.1-03.3. Creation, possession, or dissemination of sexually expressive images prohibited - Exception - Civil action.

1. A person is guilty of a class A misdemeanor if, knowing of its character and content, that person:
 - a. Without written consent from each individual who has a reasonable expectation of privacy in the image, surreptitiously creates or willfully possesses a sexually expressive image that was surreptitiously created; or
 - b. Distributes or publishes, electronically or otherwise, a sexually expressive image with the intent to cause emotional harm or humiliation to any individual depicted in the sexually expressive image who has a reasonable expectation of privacy in the image, or after being given notice by an individual or parent or guardian of the individual who is depicted in a sexually expressive image that the individual, parent, or guardian does not consent to the distribution or publication of the sexually expressive image.
2. A person is guilty of a class B misdemeanor if, knowing of its character and content, that person acquires and knowingly distributes any sexually expressive image that was created without the consent of the subject of the image.
3. This section does not authorize any act prohibited by any other law. If the sexually expressive image is of a minor and possession does not violate section 12.1-27.2-04.1, a parent or guardian of the minor may give permission for a person to possess or distribute the sexually expressive image.
4. This section does not apply to any book, photograph, video recording, motion picture film, or other visual representation sold in the normal course of business through wholesale or retail outlets that possess a valid sales tax permit or used by an attorney, attorney's agent, or any other person obtaining evidence for a criminal investigation or

1 pending civil action, or by a medical professional or a peace officer acting within that
2 individual's scope of employment.

3 5. Nothing in this section may be construed to impose liability on a provider of an
4 interactive computer service, as defined under 47 U.S.C. 230, or an information
5 service or telecommunication service, as defined under 47 U.S.C. 153, for content
6 provided by another person.

7 6. A depicted individual who is identifiable and who suffers harm from a person's violation
8 of this section has a cause of action against the person if the person produced,
9 possessed, distributed, promoted, advertised, sold, exhibited, broadcasted, or
10 transmitted the sexually expressive image for the purpose of sexual arousal, sexual
11 gratification, humiliation, degradation, or monetary or commercial gain.

12 a. The court may order the filing party to redact from all pleadings and documents
13 filed in the action other identifying characteristics of the plaintiff.

14 b. A party to whom subdivision a applies shall file with the court and serve on all
15 other parties a redacted and unredacted version of the filing and a confidential
16 information form that includes the redacted plaintiff's name and other identifying
17 characteristics.

18 c. The court may make further orders as necessary to protect the identity and
19 privacy of a plaintiff.

20 7. In an action under subsection 6, a prevailing plaintiff may recover:

21 a. The greater of:

22 (1) Economic and noneconomic damages proximately caused by the
23 defendant's violation of this section, including damages for emotional
24 distress whether or not accompanied by other damages; or

25 (2) Statutory damages not to exceed ten thousand dollars against each
26 defendant found liable under this section;

27 b. An amount equal to any monetary gain made by the defendant from the
28 distribution, promotion, advertising, sale, exhibition, broadcasting, or transmission
29 of the sexually expressive image; and

30 c. Exemplary damages.

31 8. In an action under subsection 6, the court may award a prevailing plaintiff:

a. Reasonable attorney fees and costs; and

b. Other remedies available by law, including injunctive relief.

9. This chapter does not affect or preclude any other right or remedy available under federal law or a law of this state other than this section.

SECTION 3. AMENDMENT. Section 12.1-32-15 of the North Dakota Century Code is amended and reenacted as follows:

12.1-32-15. Offenders against children and sexual offenders - Sexually violent predators - Registration requirement - Penalty.

1. As used in this section:

- a. "A crime against a child" means a violation of chapter 12.1-16, section 12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04, subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01, 12.1-18-02, 12.1-18-05, chapter 12.1-29, or section 14-09-22, subsection 3 of section 12.1-41-02, subsection 3 of section 12.1-41-03, or an equivalent offense from another court in the United States, a tribal court, or court of another country, in which the victim is a minor or is otherwise of the age required for the act to be a crime or an attempt or conspiracy to commit these offenses.
- b. "Department" means the department of corrections and rehabilitation.
- c. "Homeless" means an individual who is physically present in this state, but is living in a park, under a bridge, on the streets, in a vehicle or camper, or is otherwise without a traditional dwelling, and also one who resides in this state but does not maintain a permanent address. The term does not include individuals who are temporarily domiciled or individuals residing in public or private shelters that provide temporary living accommodations.
- d. "Mental abnormality" means a congenital or acquired condition of an individual that affects the emotional or volitional capacity of the individual in a manner that predisposes that individual to the commission of criminal sexual acts to a degree that makes the individual a menace to the health and safety of other individuals.
- e. "Predatory" means an act directed at a stranger or at an individual with whom a relationship has been established or promoted for the primary purpose of victimization.

- 1 f. "Reside" means to live permanently or be situated for a considerable time in a
2 home or a particular place.
- 3 g. "Sexual offender" means a person who has pled guilty to or been found guilty,
4 including juvenile delinquent adjudications, of a violation of section 12.1-20-03,
5 12.1-20-03.1, 12.1-20-04, 12.1-20-05, 12.1-20-05.1, 12.1-20-06, 12.1-20-06.1,
6 12.1-20-07 except for subdivision a of subsection 1, 12.1-20-11, 12.1-20-12.1,
7 12.1-20-12.2, 12.1-20-12.3 except for subdivision a of subsection 1 and
8 subdivision b of subsection 1 if the offense involves only a demand for money,
9 section ~~1 of this Act~~ 12.1-27.1-03.3, chapter 12.1-27.2, subsection 2 of section
10 12.1-22-03.1, subdivision b of subsection 1 of section 12.1-41-02, section
11 12.1-41-04, 12.1-41-05, or 12.1-41-06, or an equivalent offense from another
12 court in the United States, a tribal court, or court of another country, or an attempt
13 or conspiracy to commit these offenses.
- 14 h. "Sexually dangerous individual" means an individual who meets the definition
15 specified in section 25-03.3-01.
- 16 i. "Temporarily domiciled" means staying or being physically present in this state for
17 more than thirty days in a calendar year or at a location for longer than ten
18 consecutive days, attending school for longer than ten days, or maintaining
19 employment in the jurisdiction for longer than ten days, regardless of the state of
20 the residence.
- 21 2. The court shall impose, in addition to any penalty provided by law, a requirement that
22 the individual register, within three days of coming into a county in which the individual
23 resides, is homeless, or within the period identified in this section that the individual
24 becomes temporarily domiciled. The individual must register with the chief of police of
25 the city of the individual's place of residence, or the sheriff of the county if the
26 individual resides in an area other than a city. A homeless individual shall register
27 every three days with the sheriff or chief of police of the jurisdiction in which the
28 individual is physically present. The court shall require an individual to register by
29 stating this requirement on the court records, if that individual:

- 1 a. Has pled guilty or nolo contendere to, or been found guilty as a felonious sexual
2 offender or an attempted felonious sexual offender, including juvenile delinquent
3 adjudications of equivalent offenses unless the offense is listed in subdivision c.
- 4 b. Has pled guilty or nolo contendere to, or been found guilty as a sexual offender
5 for, a misdemeanor or attempted misdemeanor. The court may deviate from
6 requiring an individual to register if the court first finds the individual is no more
7 than three years older than the victim if the victim is a minor, the individual has
8 not previously been convicted as a sexual offender or of a crime against a child,
9 and the individual did not exhibit mental abnormality or predatory conduct in the
10 commission of the offense.
- 11 c. Is a juvenile found delinquent under subdivision d of subsection 1 of section
12 12.1-20-03, subdivision a of subsection 2 of section 12.1-20-03, or as a sexual
13 offender for a misdemeanor. The court may deviate from requiring the juvenile to
14 register if the court first finds the juvenile has not previously been convicted as a
15 sexual offender or for a crime against a child, and the juvenile did not exhibit
16 mental abnormality or predatory conduct in the commission of the offense.
- 17 d. Has pled guilty or nolo contendere to, or been found guilty of, a crime against a
18 child or an attempted crime against a child, including juvenile delinquent
19 adjudications of equivalent offenses. Except if the offense is described in section
20 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 and the person is not the parent
21 of the victim, the court may deviate from requiring an individual to register if the
22 court first finds the individual has not previously been convicted as a sexual
23 offender or for a crime against a child, and the individual did not exhibit mental
24 abnormality or predatory conduct in the commission of the offense.
- 25 e. Has pled guilty or nolo contendere, been found guilty, or been adjudicated
26 delinquent of any crime against another individual which is not otherwise
27 specified in this section if the court determines that registration is warranted by
28 the nature of the crime and therefore orders registration for the individual. If the
29 court orders an individual to register as an offender under this section, the
30 individual shall comply with all of the registration requirements in this chapter.

- 1 3. If a court has not ordered an individual to register in this state, an individual who
2 resides, is homeless, or is temporarily domiciled in this state shall register if the
3 individual:
- 4 a. Is incarcerated or is on probation or parole after July 31, 1995, for a crime
5 against a child described in section 12.1-29-02, or section 12.1-18-01 or
6 12.1-18-02 if the individual was not the parent of the victim, or as a sexual
7 offender;
- 8 b. Has pled guilty or nolo contendere to, or been adjudicated for or found guilty of,
9 an offense in a court of this state for which registration is mandatory under this
10 section or an offense from another court in the United States, a tribal court, or
11 court of another country equivalent to those offenses set forth in this section; or
- 12 c. Has pled guilty or nolo contendere to, or has been found guilty of, a crime against
13 a child or as a sexual offender for which registration is mandatory under this
14 section if the conviction occurred after July 31, 1985.
- 15 4. In its consideration of mental abnormality or predatory conduct, the court shall
16 consider the age of the offender, the age of the victim, the difference in ages of the
17 victim and offender, the circumstances and motive of the crime, the relationship of the
18 victim and offender, and the mental state of the offender. The court may order an
19 offender to be evaluated by a qualified counselor, psychologist, or physician before
20 sentencing. Except as provided under subdivision e of subsection 2, the court shall
21 state on the record in open court its affirmative finding for not requiring an offender to
22 register.
- 23 5. When an individual is required to register under this section, the official in charge of a
24 facility or institution where the individual required to register is confined, or the
25 department, shall, before the discharge, parole, or release of that individual, inform the
26 individual of the duty to register pursuant to this section. The official or the department
27 shall require the individual to read and sign a form as required by the attorney general,
28 stating that the duty of the individual to register has been explained to that individual.
29 The official in charge of the place of confinement, or the department, shall obtain the
30 address where the individual expects to reside, attend school, or work upon discharge,
31 parole, or release and shall report the address to the attorney general. The official in

1 charge of the place of confinement, or the department, shall give three copies of the
2 form to the individual and shall send three copies to the attorney general no later than
3 forty-five days before the scheduled release of that individual. The attorney general
4 shall forward one copy to the law enforcement agency having jurisdiction where the
5 individual expects to reside, attend school, or work upon discharge, parole, or release,
6 one copy to the prosecutor who prosecuted the individual, and one copy to the court in
7 which the individual was prosecuted. All forms must be transmitted and received by
8 the law enforcement agency, prosecutor, and court thirty days before the discharge,
9 parole, or release of the individual.

10 6. An individual who is required to register pursuant to this section who is released on
11 probation or discharged upon payment of a fine must, before the release or discharge,
12 be informed of the duty to register under this section by the court in which that
13 individual is convicted. The court shall require the individual to read and sign a form as
14 required by the attorney general, stating that the duty of the individual to register under
15 this section has been explained to that individual. The court shall obtain the address
16 where the individual expects to reside, attend school, or work upon release or
17 discharge and shall report the address to the attorney general within three days. The
18 court shall give one copy of the form to the individual and shall send two copies to the
19 attorney general. The attorney general shall forward one copy to the appropriate law
20 enforcement agency having jurisdiction where the individual expects to reside, attend
21 school, or work upon discharge, parole, or release.

22 7. Registration consists of a written or electronic statement signed by the individual,
23 giving the information required by the attorney general, and the biometric data and
24 photograph of the individual. An individual who is not required to provide a sample of
25 blood and other body fluids under section 31-13-03 or by the individual's state or court
26 of conviction or adjudication shall submit a sample of blood and other body fluids for
27 inclusion in a centralized database of DNA identification records under section
28 31-13-05. The collection, submission, testing and analysis of, and records produced
29 from, samples of blood and other body fluids, are subject to chapter 31-13. Evidence
30 of the DNA profile comparison is admissible in accordance with section 31-13-02. A
31 report of the DNA analysis certified by the state crime laboratory is admissible in

1 accordance with section 31-13-05. A district court shall order an individual who refuses
2 to submit a sample of blood or other body fluids for registration purposes to show
3 cause at a specified time and place why the individual should not be required to
4 submit the sample required under this subsection. Within three days after registration,
5 the registering law enforcement agency shall forward the statement, biometric data,
6 and photograph to the attorney general and shall submit the sample of the individual's
7 blood and body fluids to the state crime laboratory. If an individual required to register
8 under this section has a change in vehicle or computer online identity, the individual
9 shall register, within three days after the change, with the law enforcement agency
10 having local jurisdiction of the individual's place of residence of the individual's new
11 vehicle or computer online identity. If an individual required to register pursuant to this
12 section has a change in name, school, or residence or employment address, that
13 individual shall register, at least ten days before the change, with the law enforcement
14 agency having local jurisdiction of the individual's place of residence of the individual's
15 new name, school, residence address, or employment address. A change in school or
16 employment address includes the termination of school or employment for which an
17 individual required to register under this section, the individual shall register within
18 three days of the termination with the law enforcement agency having local jurisdiction
19 of the individual's place of residence. The law enforcement agency, within three days
20 after receipt of the information, shall forward it to the attorney general. The attorney
21 general shall forward the appropriate registration data to the law enforcement agency
22 having local jurisdiction of the new place of residence, school, or employment. Upon a
23 change of address, the individual required to register also shall register within three
24 days at the law enforcement agency having local jurisdiction of the new place of
25 residence. If an individual required to register in North Dakota, including in a tribal
26 registry, resides in another state or on tribal lands, that individual shall register
27 employment and school addresses and any changes in required registration
28 information with the law enforcement agency having local jurisdiction over the school
29 or employment address. The individual registering under this section shall periodically
30 confirm the information required under this subsection in a manner and at an interval
31 determined by the attorney general. A law enforcement agency that has previously

1 registered an offender may omit the biometric data portion of the registration if that
2 agency has a set of biometric data on file for that individual and is personally familiar
3 with and can visually identify the offender. These provisions also apply in any other
4 state that requires registration.

5 8. An individual required to register under this section shall comply with the registration
6 requirement for the longer of the following periods:

- 7 a. A period of fifteen years after the date of sentence or order deferring or
8 suspending sentence upon a plea or finding of guilt or after release from
9 incarceration, whichever is later;
- 10 b. A period of twenty-five years after the date of sentence or order deferring or
11 suspending sentence upon a plea or finding of guilt or after release from
12 incarceration, whichever is later, if the offender is assigned a moderate risk by the
13 attorney general as provided in subsection 12; or
- 14 c. For the life of the individual, if that individual:
- 15 (1) On two or more occasions has pled guilty or nolo contendere to, or been
16 found guilty of a crime against a child or as a sexual offender. If all qualifying
17 offenses are misdemeanors, this lifetime provision does not apply unless a
18 qualifying offense was committed after August 1, 1999;
- 19 (2) Pleads guilty or nolo contendere to, or is found guilty of, an offense
20 committed after August 1, 1999, which is described in subdivision a of
21 subsection 1 of section 12.1-20-03, section 12.1-20-03.1, or subdivision d of
22 subsection 1 of section 12.1-20-03 if the person is an adult and the victim is
23 under age twelve, or section 12.1-18-01 if that individual is an adult other
24 than a parent of the victim, or an equivalent offense from another court in
25 the United States, a tribal court, or court of another country; or
- 26 (3) Is assigned a high risk by the attorney general as provided in subsection 12.

27 9. An individual required to register under this section who violates this section is guilty of
28 a class C felony. The failure of a homeless individual to register as required in
29 subsections 2 and 3 is prima facie evidence of a violation of this section. The clerk of
30 court shall forward all warrants issued for a violation of this section to the county
31 sheriff, who shall enter all such warrants into the national crime information center

1 wanted person file. A court may not relieve an individual, other than a juvenile, who
2 violates this section from serving a term of at least ninety days in jail and completing
3 probation of one year.

4 10. When an individual is released on parole or probation and is required to register
5 pursuant to this section, but fails to do so within the time prescribed, the court shall
6 order the probation, or the parole board shall order the parole, of the individual
7 revoked.

8 11. If an individual required to register pursuant to this section is temporarily sent outside
9 the facility or institution where that individual is confined under conviction or sentence,
10 the local law enforcement agency having jurisdiction over the place where that
11 individual is being sent must be notified within a reasonable time period before that
12 individual is released from the facility or institution. This subsection does not apply to
13 any individual temporarily released under guard from the facility or institution in which
14 that individual is confined.

15 12. The attorney general, with the assistance of the department and the juvenile courts,
16 shall develop guidelines for the risk assessment of sexual offenders who are required
17 to register, with a low-risk, moderate-risk, or high-risk level being assigned to each
18 offender as follows:

19 a. The department shall conduct a risk assessment of sexual offenders who are
20 incarcerated in institutions under the control of the department and sexual
21 offenders who are on supervised probation. The department, in a timely manner,
22 shall provide the attorney general any information, including the offender's level
23 of risk and supporting documentation, concerning individuals required to be
24 registered under this section who are about to be released or placed into the
25 community.

26 b. The attorney general shall conduct a risk assessment of sexual offenders who
27 are not under the custody or supervision of the department. The attorney general
28 may adopt a law enforcement agency's previous assignment of risk level for an
29 individual if the assessment was conducted in a manner substantially similar to
30 the guidelines developed under this subsection.

c. The juvenile courts or the agency having legal custody of a juvenile shall conduct a risk assessment of juvenile sexual offenders who are required to register under this section. The juvenile courts or the agency having legal custody of a juvenile shall provide the attorney general any information, including the offender's level of risk and supporting documentation, concerning juveniles required to register and who are about to be released or placed into the community.

d. The attorney general shall notify the offender of the risk level assigned to that offender. An offender may request a review of that determination with the attorney general's sexual offender risk assessment committee and may present any information that the offender believes may lower the assigned risk level.

13. An individual assessed as a high-risk sexual offender in accordance with subsection 12, may not reside within five hundred feet [152.4 meters] of a public or nonpublic preschool or elementary, middle, or high school.

14. Relevant and necessary conviction and registration information must be disclosed to the public by a law enforcement agency if the individual is a moderate or high risk and the agency determines that disclosure of the conviction and registration information is necessary for public protection. The attorney general shall develop guidelines for public disclosure of offender registration information. Public disclosure may include internet access if the offender:

- a. Is required to register for a lifetime under subsection 8;
- b. Has been determined to be a high risk to the public by the department, the attorney general, or the courts, according to guidelines developed by those agencies; or
- c. Has been determined to be a high risk to the public by an agency of another state or the federal government.

If the offender has been determined to be a moderate risk, public disclosure must include, at a minimum, notification of the offense to the victim registered under chapter 12.1-34 and to any agency, civic organization, or group of persons who have characteristics similar to those of a victim of the offender. Upon request, law enforcement agencies may release conviction and registration information regarding low-risk, moderate-risk, or high-risk offenders.

- 1 15. A state officer, law enforcement agency, or public school district or governing body of a
2 nonpublic school or any appointee, officer, or employee of those entities is not subject
3 to civil or criminal liability for making risk determinations, allowing a sexual offender to
4 attend a school function under section 12.1-20-25, or for disclosing or for failing to
5 disclose information as permitted by this section.
- 6 16. If a juvenile is adjudicated delinquent and required or ordered to register as a sexual
7 offender or as an offender against a child under this section, the juvenile shall comply
8 with the registration requirements in this section. Notwithstanding any other provision
9 of law, a law enforcement agency shall register a juvenile offender in the same manner
10 as adult offenders and may release any relevant and necessary information on file to
11 other law enforcement agencies, the department of health and human services, or the
12 public if disclosure is necessary to protect public health or safety. The law enforcement
13 agency shall release any relevant and necessary information on file to the
14 superintendent or principal of the school the juvenile attends. The school
15 administration shall notify others in similar positions if the juvenile transfers to another
16 learning institution in or outside the state.
- 17 17. If an individual has been required to register as a sexual offender or an offender
18 against a child under section 12.1-32-15 or former section 27-20-52.1 before August 1,
19 1999, the individual may petition the court to be removed from the offender list if
20 registration is no longer mandatory for that individual. In considering the petition, the
21 court shall comply with the requirements of this section.
- 22 18. A sexual offender who is currently assigned a moderate or high-risk level by the
23 attorney general may not use a state park of this state as a residence or residential
24 address to comply with the registration requirements of this section. Before arriving at
25 a state park for overnight lodging or camping, a sexual offender who is assigned a
26 moderate or high-risk level by the attorney general shall notify a parks and recreation
27 department law enforcement officer at the state park where the sexual offender will be
28 staying.
- 29 19. When an individual who is required to register pursuant to this section plans to travel
30 outside of the United States, at least twenty-one days before the intended travel, the
31 individual shall inform the agency with which the individual last registered the

- 1 individual's residence address the details of the intended travel. Upon receipt of the
- 2 information from the registering law enforcement agency, the attorney general shall
- 3 report the travel to the United States marshal service.