

2025 SENATE JUDICIARY

SB 2037

2025 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee Peace Garden Room, State Capitol

SB 2037
1/14/2025
9:52 a.m.

Relating to juvenile court petitions, fitness to proceed in juvenile court proceedings, and collateral consequences the juvenile court may order, lack of criminal responsibility, court jurisdiction, distribution of intimate images without consent, domestic violence, criminality of a child regarding sex offenses, sale and use of tobacco by an individual under the age of twenty-one, child registration requirements, restitution, probation of a delinquent child, extracurricular activities for students, and persons not allowed to possess a firearm, relating to delinquency; and to provide a penalty.

9:52 a.m. Chair Larson opened the hearing.

Members Present: Chair Larson, Vice-Chair Paulson, Senators Braunberger, Castaneda, Cory, Luick, Myrdal.

Discussion Topics:

- Student Misconduct
- Collateral Consequences
- Tobacco Laws
- Juvenile Court Proceedings
- Sexual Offender Registration

9:52 a.m. Senator Cory introduced the bill and testified in favor.

9:54 a.m. Travis Finck, Executive Director, ND Commission on Legal Counsel for Indigents, testified in favor and submitted testimony #28819.

10:16 a.m. Seth O'Neill, ND Domestic & Sexual Violence Coalition, testified in opposition and submitted testimony #28832.

10:19 a.m. Austin Gunderson, Counsel for Legislative Council, testified as neutral.

Additional Written Testimony:

Heather Austin, Executive Director, Tobacco Free ND , submitted testimony as neutral #28887.

10:20 a.m. Chair Larson closed the hearing.

Kendra McCann, Committee Clerk

Bill Draft relating to juvenile court proceedings, collateral consequences the juvenile court may order, delinquent acts, and child registration requirements

Senate Judiciary Committee

69th Legislative Assembly

Testimony of Travis W. Finck in support of SB 2037

January 14, 2025



N.D.C.C. 12.1-04: Criminal Responsibility

☐ Sections 1: page 1

- ☐ Clearly provides a child ten years of age or older may be assessed for criminal responsibility

3. An individual ten years of age or older may be assessed for criminal responsibility under this chapter.

☐ Section 2: page 2

- ☐ Allows for the Juvenile Court to retain jurisdiction of a child who is found to not be adjudicated by reason of lack of criminal responsibility

1. Unless earlier discharged by order of the court pursuant to section 12.1-04.1-22, 12.1-04.1-24, or 12.1-04.1-25, an individual found not guilty by reason of lack of criminal responsibility is subject to the jurisdiction of the court for a period equal to the maximum term of imprisonment that could have been imposed for the most serious crime of which the individual was charged but found not guilty by reason of lack of criminal responsibility. In a juvenile proceeding, a child not adjudicated by reason of lack of criminal responsibility is subject to the jurisdiction of the court for one year.
2. Upon expiration of its jurisdiction under this chapter or earlier discharge by its order, the court may order that a proceeding for involuntary commitment be initiated pursuant to chapter 25-03.1. In a juvenile proceeding, the court may order an investigation into whether a child in need of protection proceedings should be initiated.

N.D.C.C 12.1-17-01.2: Domestic Violence

☐ Section 3: page 2

5. This section does not apply to an individual under the age of eighteen unless the victim is or was in a dating relationship with the individual.

☐ Change makes Domestic Violence no longer apply as an offense to juveniles unless the victim is or was in a dating relationship with the individual

☐ Reason for this change is that the Domestic Violence offense is commonly used in situations for juveniles where it doesn't apply the same way for adults

☐ Juveniles are often taken to detention for this offense when other options would be appropriate

N.D.C.C. 12.1-17-07.2(2): Distribution of Intimate Images

❑ Section 4: page 3

2. A person commits the offense of distribution of intimate images if the person knowingly or intentionally distributes to any third party any intimate image of an individual ~~eighteen years of age or older, if:~~

❑ Takes away age requirement of the victim being over the age of eighteen

❑ Distribution of intimate images only applied to images of an adult, this would now equally prohibit this conduct whether the victim is a juvenile or an adult

N.D.C.C. 12.1-20-01(1) and (4): Gross Sexual Imposition

□ Section 5: page 3-4

□ Subsection (1) is just a grammatical to match the rest of this section

1. When the criminality of conduct depends on a child's child being below the age of fifteen, it is no defense that the actor did not know the child's age, or reasonably believed the child to be older than fourteen.

□ Subsection (4) allows for children under and around the age of fifteen to not being charged with a felonies for engaging in consensual sexual conduct if they are within a three-year age gap.

4. When criminality depends on the victim being below the age of fifteen, and the actor is a minor, the actor is guilty of an offense only if the actor is at least three years older than the victim.

N.D.C.C. 12.1-31-03(2) and (6): Tobacco

☐ Section 6: page 4

2. It is a noncriminal offense for an individual under twenty-one eighteen to twenty years of age, and an infraction for an individual fourteen to seventeen years of age, to purchase, possess, smoke, or use cigarettes, cigars, cigarette papers, snuff, tobacco

☐ Changes offense level for minor possessing tobacco from a noncriminal offense to an infraction

- ☐ Changes jurisdiction from adult court to juvenile court

☐ Section 7: page 4-5 : clarifies subsection (1), states where to send cases and what the penalties are for adults

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

N.D.C.C. 12.1-32-15: Offender Registration

□ Section 8, Page 5-6: Juveniles have been treated very similar to adults for registering as sexual offender, which often was mandatory

- 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.~~

□ Page 11 lines 3-8: Courts were allowed to deviate, but presumption was to register

- 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.~~

N.D.C.C. 12.1-32-15: Sexual Offender Registration Cont. (section 8)

☐ Page 8 Provides the New language:

☐ Sexual offender registration would now always be discretionary for juveniles

e. Is a child who has been adjudicated delinquent of an offense which would classify the child as a sexual offender, the prosecutor requested the court to consider sexual offender registration, and the court determines the child:

(1) Exhibited a mental abnormality or predatory conduct in the commission of the offense; or

(2) Previously has been adjudicated as a sexual offender.

☐ Page 8 line 30: This will also take away administrative registration for when a court hasn't ordered someone to register in North Dakota

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

N.D.C.C. 12.1-32-15: Child and discretionary registration

□ Section 10: page 8 lines 4-5 and lines 11-12

□ Children will no longer be required to register an offender against children

~~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

□ Children will no longer be required to register for offenses that are not sexual in nature

~~e.d.~~ Has pled guilty or nolo contendere, ~~or~~ 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

N.D.C.C. 15-09-33.4: Student Misconduct

□ Section 9: page 15

□ School board were required to suspend kids from participating in activities if the committed certain crimes, now will be discretionary:

1. The board of a school district ~~shall~~ may prohibit a student from participating in any extracurricular activity if:
 - a. The student has pled guilty to or been convicted of a criminal offense and sentenced under section 12.1-32-02.1 or pled guilty or been convicted of an offense specified in subsection 1 of section 12.1-32-09.1;

□ Added that school boards can suspend a student if there is a judicial no contact order

- (4) Any other order issued against the student prohibiting contact with a student or employee of the school which is signed by a district judge or a judicial referee within a delinquency or criminal case;

Driving Privileges in Juvenile Adjudications

❑ Section 10: page 16-17

- ❑ Cleans up driving privileges reference. For any juvenile adjudications, collateral consequences will all be in new section of law created in section 16 of this bill, rather than referring to other chapters

“For a driving-related offense, the conditions may include a restriction on the child's driving privileges as authorized under section 27-20.4-1916 of this Act.”

❑ Section 13: this is similar to Section 10 except it is in the informal agreements

“An informal agreement may not extend beyond six months from the day the agreement was agreed upon. An extension may be granted by the court for an additional period not to exceed six months. An extension may not authorize the detention of the child if not otherwise permitted by this chapter. For a driving-related offense, the agreement may include a restriction on the child's driving privileges as allowed under section ~~27-20.4-1916~~ of this Act.”

New N.D.C.C. section titled Petition

□ Section 11: page 17

□ Reorganized and combined sections, substantive change is in subsection (3) that petitions would no longer contain the adult classification level

1. A petition alleging delinquency under this chapter must be reviewed by the director, the court, or other person designated by the director and authorized by the court to determine whether the filing of the petition is in the best interest of the public and the child.
2. The state's attorney shall prepare, file, and serve a petition alleging delinquent conduct on the parties. The juvenile court shall conduct an inquiry into and provide the last known address of the parents or legal guardian of the child in the referral to the state's attorney.
3. A petition alleging delinquent conduct may not include the adult class level of the offense unless the offense level is a necessary element of the delinquent conduct.

New N.D.C.C. section requiring the Court to ascertain the Child is Fit and Criminally Responsible

□ Section 12: page 17

Fitness to proceed - Lack of criminal responsibility.

In any juvenile court proceeding, the court shall determine whether the child;

1. Is fit to proceed in accordance with title 27; and
2. Lacked criminal responsibility for the commission of an offense in accordance with chapter 12.1 - 04.1.

We have an amendment on this after further conversation with the DHHS, and it has been submitted:

In any juvenile court proceeding **where fitness to proceed or criminal responsibility are at issue**, the court shall determine whether the child;

Clean Up Provisions

❑ Section 14: page 18

- ❑ This change simply corrects a previous error in referring back to the consequences section referencing probation for adjudications in delinquent matters

“A probation order entered by the court must place the child under the supervision of the director, unless the child is over eighteen years of age and the child's risk and needs require supervision by the department of corrections and rehabilitation under subsection 13 of section ~~27-20.4-15~~ 27-20.4-17.”

❑ Section 15: Page 18

- ❑ Again, this is a simple clean up pushing the reference for paying restitution in the potential consequence of juvenile adjudications.

“In addition to a child being ordered to make restitution under section ~~27-20.4-16~~ 27-20.4-17, a parent of a child adjudged delinquent may be ordered to make restitution on the child's behalf in an amount not exceeding five thousand dollars.

New N.D.C.C section: Collateral Consequences

- ❑ Section 16: page 18
- ❑ New consolidated century code section in the juvenile code where collateral consequences are found:
 - ❑ A child may be ordered to register as a sexual offender under section 12.1 - 32 -15
 - ❑ A child may be prohibited from possessing a firearm in accordance with section 62.1 - 02 - 01
 - ❑ If a child is adjudicated delinquent of an offense that would be a class A misdemeanor or a felony if the offense were committed by an adult, the juvenile court may suspend the child's driving privileges
 - ❑ A child may be prohibited from participating in extracurricular activities in accordance with section 15.1 - 09 - 33.4 .

N.D.C.C. 62.1-02-01: Firearms

❑ Section 17: page 19-21

❑ Creates new subsections to define when a juvenile who committed a crime loses their firearms rights

❑ Substantive change is that a juvenile who commits a non-violent felony will not lose their firearm rights

- e. A child who has been adjudicated delinquent of a felony offense involving violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an equivalent felony offense of another state or the federal government is prohibited from owning a firearm or having one in possession from the date of adjudication and continuing for ten years after the date of adjudication.
- f. A child who has been adjudicated of a class A misdemeanor offense involving violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an equivalent offense of another state or the federal government, and the offense was committed while using or possessing a firearm, a dangerous weapon, a destructive device, or an explosive is prohibited from owning a firearm or having one in possession from the date of adjudication and continuing for five years after the date of adjudication.

Repealed

- ❑ Section 18: page
- ❑ Removes the following sections:
 - ❑ 27-20.4-12 : This is the current section about the contents of the petition. The new section above when implemented renders this provision repealed
 - ❑ 27-20.4-13: This is the current section about who files and serves the petition. Again, this is consolidated into one section in the new provisions
 - ❑ 27-20.4-19: This is the current section dealing with the restrictions on driving privileges for a juvenile. This is replaced in this bill and put all in one collateral consequence section rendering this chapter repealed.

Juvenile Collateral Consequences: A Review of What's Changing

Main consequences addressed:

- Age based sex offenses
- Sexual offender registration
- Child offender registration
- Domestic violence laws
- Tobacco laws
- School consequences
- Petition language
- Firearm consequences
- Driving consequences
- Criminal responsibility

Age based sex offenses:

OLD:

- Any sexual contact with a minor under the age of 15 was considered GSI (Class A Felony)
 - 16-year-old and 14-year-old having consensual sexual intercourse would result in the 16-year-old getting a Class A Felony.

NEW:

- Consensual sexual contact with someone under 15 will only be a GSI if there is over a three-year age gap between the suspect and the victim
 - 16-year-old and 14-year-old having consensual sexual intercourse would result in the 16-year-old not getting charged.
 - 17-year-old and 12-year-old having sexual intercourse would still result in the 17-year-old committing a Class A Felony.
- Important note: unwanted sexual contact is still chargeable in the same manner as before

Sexual Offender Registration

OLD:

- Juvenile were required to register as a sexual offender in the same manner as adults
 - Resulted in registration being mandatory for all sexual offenses
- Only difference for juveniles was a Court could not require registration for certain offenses (aged based GSIs and misdemeanor cases) if the juvenile did not have a prior sexual offense and the juvenile also did not exhibit a mental abnormality or predatory conduct in the commission of the offense

NEW:

- Registration is discretionary
- Prosecutor can request or not request the court address registration
 - If not requested, then no registration
- If requested: Court will then have to determine that either 1) juvenile had a previous sexual offense, or 2) juvenile exhibited a mental abnormality or predatory conduct in the commission of the offense for that juvenile to have to register

Child Offender Registration

OLD:

- A juvenile was required to register as an offender against a child in the same manner as an adult
 - Resulted in registration as a child offender being mandatory
 - Some deviation was allowed for certain offenses if the court made specific findings

NEW:

- A juvenile will never register as an offender against a child

Domestic Violence

OLD:

- Domestic violence laws applied the same to juvenile and adults
 - Domestic violence was used frequently for charging a juvenile hitting a parent or sibling

NEW:

- Domestic Violence law will only apply to juvenile if:
 - Juvenile was in a dating relationship with the victim
 - Juvenile has a child in common with the victim

Tobacco Laws

OLD:

- Tobacco offenses were classified as non-criminal offenses which caused them to be seen on public court records
- City's attorneys/municipal judges were often handling these offenses

NEW:

- Tobacco offenses will be classified as criminal infractions
- Changing to an infractions brings the offense into the jurisdiction of juvenile court
- Juvenile court/state's attorney will be handling these matters

School Consequences:

OLD:

- School District were required to prohibit students from participating in extracurricular activities if a juvenile committed certain offenses

NEW:

- School districts will now have discretion on whether to prohibit a juvenile from participating in an extracurricular activity

Petition Language

OLD:

- Petitions would include the adult offense level
- For example: the petition would state: “The juvenile committed theft of property by stealing a vehicle belonging to John Doe. This offense if committed by an adult would be a Class C Felony.”

NEW:

- Petitions will no longer include the adult offense level language
- Petition will now just say: “The juvenile committed theft of property by stealing a vehicle belonging to John Doe.”

Firearm consequences

OLD:

- Juvenile would lose the right to possess a firearm in the same manner as an adult
- Right to possess firearm was lost for adjudications for non-violent felonies

NEW:

- Juvenile is treated the same as adult and lose the right to possess a firearm if they are adjudicated for a violent felony or misdemeanor
- Does not lose right to possess firearms for adjudications for non-violent felonies

Criminal Responsibility

OLD:

- Children can be evaluated for criminal responsibility in the same manner as adults

NEW:

- Same as before. Just created language to clarify process and brought some language from the juvenile code to the adult criminal responsibility section.
- Done because language for this process was contained in multiple places and made the process confusing. Criminal responsibility will now all be handled under 12.1-04.1.



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Senate Bill No. 20
Senate Judiciary Committee
Testimony Presented Seth O'Neill, JD, MSW
Email: soneill@nddsvc.org
January 14, 2025

Chairwoman Larson and members of the Committee, my name is Seth O'Neill and I am representing the North Dakota Domestic & Sexual Violence Coalition in opposition to SB 2037.

This bill would exempt juveniles from the criminal charge of domestic violence with a limited exception. Juveniles could only be charged with domestic violence if the victim is a current or former dating partner or a the two have a child in common. This would remove a large amount of people that the juvenile could cause bodily injury or serious bodily injury without being charged with domestic violence.

The current law allows for a charge of domestic violence in the case of a family or household member as defined in N.D.C.C. 14-07.1-1(4):

"Family or household member" means a spouse, family member, former spouse, parent, child, persons related by blood or marriage, persons who are in a dating relationship, persons who are presently residing together or who have resided together in the past, persons who have a child in common regardless of whether they are or have been married or have lived together at any time, and, for the purpose of the issuance of a domestic violence protection order, any other person with a sufficient relationship to the abusing person as determined by the court under section 14-07.1-02.



Domestic violence is broader than those who are in an intimate relationship with each other. Domestic violence also includes individuals who are related or reside in a house together. If this law passes as is, prosecutors would not be able to charge a juvenile who causes serious bodily injury to their mother or sibling.

Although there may be other charges a prosecutor could bring this portion of the bill removes another tool in the tool belt for prosecutors to keep our communities and families safe.

Due to these reasons, we encourage the committee to amend this portion out of SB 2037 or give SB 2037 a Do-Not-Pass recommendation. I appreciate your time and I am happy to answer any questions you may have. Thank You.





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January 14, 2025

9:30 am CST

Senate Judiciary Committee for the 69th ND Legislative Assembly

Chairwoman Larson, and members of the Senate Judiciary Committee hello, my name is Heather Austin, and I am the Executive Director for Tobacco Free North Dakota. The mission of Tobacco Free North Dakota (TFND) is to improve and protect the public health of all North Dakotans by reducing the serious health and economic consequences of tobacco use, the state's number one cause of preventable disease and death. We work to facilitate coalitions and to promote policy discussions across North Dakota, along with providing education and resources that are used to help prevent kids from ever starting the dangerous addiction to tobacco and nicotine. Thank you so much for your time this morning.

Today I am hoping to encourage an amendment to SB 2037 and its section addressing underage tobacco possession and use. TFND recommends striking out the proposed changes to create new age categories for penalties under state law.

SB 2037 presents several equity concerns in how it distinguishes categories of minors under 21 years of age. Current law regards the purchase, use, or possession of tobacco products by any minor under 21 years old as a non-criminal offense and assigns a penalty for persons between 14 and 20 years old. We are concerned about how the proposed changes in SB 2037 would single-out 14-to-17-year-olds for what appears to be heightened scrutiny for their purchase, use, or possession of tobacco products, while at the same time imposing much lighter consequences for 18-to-20-year-olds and for those under the age of 13.

As proposed, SB2037, would shift the non-criminal offense penalty to only 18-to 20-year-olds, and would now require our 14-to-17-year-olds to go to juvenile court, and at the same time de-offend the purchase, use, or possession of tobacco products by persons 13 years of age or younger, which would then be in contradiction to current State and Federal laws.

This proposed distinction appears to regard the use of tobacco products by one category of minor (a 14- to 17-year-old) as worse than the same use of tobacco products by another category of minor (18- to 20-year-olds and 13-year-olds and

younger), without justification or rationale for why. Federal law considers any person under 21 years of age a minor for the purposes of minimum legal sales age for tobacco products. North Dakota would then be deviating from Federal law by creating categories of minors. Implicitly, SB 2037 renders section 12.1-31- 03(2) of North Dakota Century Code as non-applicable to a person 13 years old or younger – meaning, their purchase, use, or possession of tobacco products is not clearly unlawful so far as this state law would be concerned.

And while TFND wishes that none of our young people would use commercial tobacco or nicotine products, creating new age categories and shifting penalties and consequences to our youth is unlikely to advance health equity or close health disparity gaps. Arbitrarily throwing one group of teenagers into the court system can have significant, and sometimes long-term, effects on those teenagers: including stigmatization, school and extracurricular consequences, as well as other unintended considerations. In that context, it seems that creating a new infraction for use of tobacco products by a subcategory of minor – particularly in the absence of the rationale for why such a subcategory exists or is needed – might run opposite to what North Dakota has been trying to accomplish with respect to preventing youth commercial tobacco and nicotine product use. Better tactics for tobacco prevention may be to fund retailer education and additional compliance checks for age 21 at the point of purchase, or to raise the fines for non-compliant retailers selling the products.

Chairwoman Larson and members of the Committee, I encourage you to amend SB 2037 to take out the new age classifications and selective punitive consequences for underage tobacco use and keep the existing language in place.

Thank you for your consideration. I am happy to answer any questions if needed.

Heather Austin,
Executive Director, Tobacco Free North Dakota
701-527-2811
heather@tfnd.org

2025 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee

Peace Garden Room, State Capitol

SB 2037
1/14/2025
11:00 a.m.

Relating to juvenile court petitions, fitness to proceed in juvenile court proceedings, and collateral consequences the juvenile court may order, lack of criminal responsibility, court jurisdiction, distribution of intimate images without consent, domestic violence, criminality of a child regarding sex offenses, sale and use of tobacco by an individual under the age of twenty-one, child registration requirements, restitution, probation of a delinquent child, extracurricular activities for students, and persons not allowed to possess a firearm, relating to delinquency; and to provide a penalty.

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

Members Present: Chair Larson, Vice-Chair Paulson, Senators Braunberger, Castaneda, Cory, Luick, Myrdal.

Discussion Topics:

- Committee Action

11:00 a.m. Chair Larson introduced Sara Behrens's proposed amendment and submitted testimony #38413.

11:01 a.m. Senator Myrdal moved to adopt Sara Behren's amendment testimony # 38413.

11:01 a.m. Senator Cory seconded the motion.

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

Motion Passed 7-0-0.

11:03 a.m. Chair Larson closed the hearing.

Kendra McCann, Committee Clerk

95 2/6/25
1 of 22

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
FIRST ENGROSSMENT**

ENGROSSED SENATE BILL NO. 2037

Introduced by

Legislative Management

(Juvenile Justice Committee)

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

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

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

18 **12.1-04.1-01. Standard for lack of criminal responsibility.**

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

- 1 a. The individual lacks substantial capacity to comprehend the harmful nature or
- 2 consequences of the conduct, or the conduct is the result of a loss or serious
- 3 distortion of the individual's capacity to recognize reality; and
- 4 b. It is an essential element of the crime charged that the individual act willfully.
- 5 2. For purposes of this chapter, repeated criminal or similar antisocial conduct, or
- 6 impairment of mental condition caused primarily by voluntary use of alcoholic
- 7 beverages or controlled substances immediately before or contemporaneously with
- 8 the alleged offense, does not constitute in itself mental illness or defect at the time of
- 9 the alleged offense. Evidence of the conduct or impairment may be probative in
- 10 conjunction with other evidence to establish mental illness or defect.
- 11 3. An individual ten years of age or older may be assessed for criminal responsibility
- 12 under this chapter.

13 **SECTION 2. AMENDMENT.** Section 12.1-04.1-20 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **12.1-04.1-20. Jurisdiction of court.**

- 16 1. Unless earlier discharged by order of the court pursuant to section 12.1-04.1-22,
- 17 12.1-04.1-24, or 12.1-04.1-25, an individual found not guilty by reason of lack of
- 18 criminal responsibility is subject to the jurisdiction of the court for a period equal to the
- 19 maximum term of imprisonment that could have been imposed for the most serious
- 20 crime of which the individual was charged but found not guilty by reason of lack of
- 21 criminal responsibility. In a juvenile proceeding, a child not adjudicated by reason of
- 22 lack of criminal responsibility is subject to the jurisdiction of the court for one year.
- 23 2. Upon expiration of its jurisdiction under this chapter or earlier discharge by its order,
- 24 the court may order that a proceeding for involuntary commitment be initiated pursuant
- 25 to chapter 25-03.1. In a juvenile proceeding, the court may order an investigation into
- 26 whether a child in need of protection proceedings should be initiated.

27 **SECTION 3. AMENDMENT.** Section 12.1-17-01.2 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **12.1-17-01.2. Domestic violence.**

- 30 1. For purposes of this section "family or household member" means family or household
- 31 member as defined in section 14-07.1-01.

- 1 2. A person is guilty of an offense if that person willfully causes:
- 2 a. Bodily injury to the actor's family or household member;
- 3 b. Substantial bodily injury to the actor's family or household member; or
- 4 c. Serious bodily injury to the actor's family or household member.
- 5 3. The offense is:
- 6 a. A class B misdemeanor for the first offense under subdivision a of subsection 2
- 7 and a class A misdemeanor for a second or subsequent offense under this
- 8 section or sections 12.1-17-01, 12.1-17-01.1, or 12.1-17-02 involving the
- 9 commission of domestic violence, as defined in section 14-07.1-01. For purposes
- 10 of this subdivision, a prior conviction includes a conviction of any assault offense
- 11 in which a finding of domestic violence was made under a law or ordinance of
- 12 another state which is equivalent to this section.
- 13 b. A class A misdemeanor for an offense under subdivision b of subsection 2 and a
- 14 class C felony for an offense under subdivision c of subsection 2.
- 15 c. A class B felony for an offense under subdivision b or c of subsection 2 if the
- 16 victim is under twelve years of age.
- 17 4. A person charged with an offense under this section must be prosecuted in district
- 18 court.
- 19 5. This section does not apply to an individual under the age of eighteen unless the:
- 20 a. Victim is or was in a dating relationship with the individual; or
- 21 b. Individual has a child in common with the victim.

22 **SECTION 4. AMENDMENT.** Subsection 2 of section 12.1-17-07.2 of the North Dakota
23 Century Code is amended and reenacted as follows:

- 24 2. A person commits the offense of distribution of intimate images if the person knowingly
- 25 or intentionally distributes to any third party any intimate image of an individual
- 26 ~~eighteen years of age or older~~, if:
- 27 a. The person knows that the depicted individual has not given consent to the
- 28 person to distribute the intimate image;
- 29 b. The intimate image was created by or provided to the person under
- 30 circumstances in which the individual has a reasonable expectation of privacy;
- 31 and

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

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

12.1-20-01. General provisions.

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

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

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

2. It is a noncriminal offense for an individual ~~under twenty-one~~ eighteen to twenty years of age, and an infraction for an individual fourteen to seventeen years of age, to purchase, possess, smoke, or use cigarettes, cigars, cigarette papers, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products. However, an individual under twenty-one years of age may purchase and possess tobacco, electronic smoking devices, or alternative nicotine products as part of a compliance survey program when acting with the permission of the individual's parent or guardian and while acting under the supervision of any law enforcement authority. A state agency, city, county, board of health, tobacco, electronic smoking devices, or alternative nicotine products retailer, or association of tobacco, electronic smoking devices, or alternative nicotine products retailers may also conduct compliance surveys, after coordination with the appropriate local law enforcement authority.

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

6. An individual fourteen years of age or older but under eighteen years of age found to have violated subsection 2 or 4 must pay a fee of twenty-five dollars~~has committed an infraction and must be sent to juvenile court. An individual eighteen years of age or older found to have violated subsection 2 or 4 must pay a fee of twenty-five dollars.~~
- a. Any individual who has been cited for a violation of subsection 2 or 4 may appear before a court of competent jurisdiction and pay the fee by the time scheduled for a hearing, or if bond has been posted, may forfeit the bond by not appearing at the scheduled time. An individual appearing at the time scheduled in the citation may make a statement in explanation of that individual's action and the judge may waive, reduce, or suspend the fee or bond, or both. If the individual cited follows the procedures of this subdivision, that individual has admitted the violation and has waived the right to a hearing on the issue of commission of the violation. The bond required to secure appearance before the court must be identical to the fee. This subdivision does not allow a citing officer to receive the fee or bond.
- b. If an individual cited for a violation of subsection 2 or 4 does not choose to follow the procedures provided under subdivision a, that individual may request a hearing on the issue of the commission of the violation cited. The hearing must be held at the time scheduled in the citation or at some future time, not to exceed ninety days later, set at that first appearance. At the time of a request for a hearing on the issue on commission of the violation, the individual cited shall deposit with the court an appearance bond equal to the fee for the violation cited.
- c. The failure to post bond or to pay an assessed fee is punishable as a contempt of court, except an individual may not be imprisoned for the contempt.

SECTION 8. 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:

- 1 a. "A crime against a child" means a violation of chapter 12.1-16, section
2 12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04,
3 subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01,
4 12.1-18-02, 12.1-18-05, chapter 12.1-29, or section 14-09-22, subsection 3 of
5 section 12.1-41-02, subsection 3 of section 12.1-41-03, or an equivalent offense
6 from another court in the United States, a tribal court, or court of another country,
7 in which the victim is a minor or is otherwise of the age required for the act to be
8 a crime or an attempt or conspiracy to commit these offenses.
- 9 b. "Department" means the department of corrections and rehabilitation.
- 10 c. "Homeless" means an individual who is physically present in this state, but is
11 living in a park, under a bridge, on the streets, in a vehicle or camper, or is
12 otherwise without a traditional dwelling, and also one who resides in this state but
13 does not maintain a permanent address. The term does not include individuals
14 who are temporarily domiciled or individuals residing in public or private shelters
15 that provide temporary living accommodations.
- 16 d. "Mental abnormality" means a congenital or acquired condition of an individual
17 that affects the emotional or volitional capacity of the individual in a manner that
18 predisposes that individual to the commission of criminal sexual acts to a degree
19 that makes the individual a menace to the health and safety of other individuals.
- 20 e. "Predatory" means an act directed at a stranger or at an individual with whom a
21 relationship has been established or promoted for the primary purpose of
22 victimization.
- 23 f. "Reside" means to live permanently or be situated for a considerable time in a
24 home or a particular place.
- 25 g. "Sexual offender" means a person who has pled guilty to or been found guilty,
26 including juvenile delinquent adjudications, of a violation of section 12.1-20-03,
27 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,
28 12.1-20-07 except for subdivision a of subsection 1, 12.1-20-11, 12.1-20-12.1,
29 12.1-20-12.2, 12.1-20-12.3 except for subdivision a of subsection 1 and
30 subdivision b of subsection 1 if the offense involves only a demand for money,
31 chapter 12.1-27.2, ~~subsection 2 of section 12.1-22-03.1~~, subdivision b of

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7.1.22

1 subsection 1 of section 12.1-41-02, section 12.1-41-04, 12.1-41-05, or
2 12.1-41-06, or an equivalent offense from another court in the United States, a
3 tribal court, or court of another country, or an attempt or conspiracy to commit
4 these offenses.

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

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

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

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

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

- 1 c. ~~Is a juvenile found delinquent under subdivision d of subsection 1 of section~~
2 ~~12.1-20-03, subdivision a of subsection 2 of section 12.1-20-03, or as a sexual~~
3 ~~offender for a misdemeanor. The court may deviate from requiring the juvenile to~~
4 ~~register if the court first finds the juvenile has not previously been convicted as a~~
5 ~~sexual offender or for a crime against a child, and the juvenile did not exhibit~~
6 ~~mental abnormality or predatory conduct in the commission of the offense.~~
7 d. Has pled guilty or nolo contendere to, or been found guilty of, a crime against a
8 child or an attempted crime against a child, ~~including juvenile delinquent~~
9 ~~adjudications of equivalent offenses.~~ Except if the offense is described in section
10 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 and the person is not the parent
11 of the victim, the court may deviate from requiring an individual to register if the
12 court first finds the individual has not previously been convicted as a sexual
13 offender or for a crime against a child, and the individual did not exhibit mental
14 abnormality or predatory conduct in the commission of the offense.
15 e.d. Has pled guilty or nolo contendere, or been found guilty, ~~or been adjudicated~~
16 ~~delinquent~~ of any crime against another individual which is not otherwise
17 specified in this section if the court determines that registration is warranted by
18 the nature of the crime and therefore orders registration for the individual. If the
19 court orders an individual to register as an offender under this section, the
20 individual shall comply with all of the registration requirements in this chapter.
21 e. Is a child who has been adjudicated delinquent of an offense which would classify
22 the child as a sexual offender, the prosecutor requested the court to consider
23 sexual offender registration, and the court determines the child:
24 (1) Exhibited a mental abnormality or predatory conduct in the commission of
25 the offense; or
26 (2) Previously has been adjudicated as a sexual offender.
27 3. If a court has not ordered an individual to register in this state, an individual who
28 resides, is homeless, or is temporarily domiciled in this state shall register if the
29 individual:
30 a. Is incarcerated or is on probation or parole after July 31, 1995, for a crime
31 against a child described in section 12.1-29-02, or section 12.1-18-01 or

- 1 12.1-18-02 if the individual was not the parent of the victim, or as a sexual
2 offender;
- 3 b. Has pled guilty or nolo contendere to, ~~or been adjudicated for or found guilty of,~~
4 an offense in a court of this state for which registration is mandatory under this
5 section or an offense from another court in the United States, a tribal court, or
6 court of another country equivalent to those offenses set forth in this section; or
7 c. Has pled guilty or nolo contendere to, or has been found guilty of, a crime against
8 a child or as a sexual offender for which registration is mandatory under this
9 section if the conviction occurred after July 31, 1985.
- 10 4. In its consideration of mental abnormality or predatory conduct, the court shall
11 consider the age of the offender, the age of the victim, the difference in ages of the
12 victim and offender, the circumstances and motive of the crime, the relationship of the
13 victim and offender, and the mental state of the offender. The court may order an
14 offender to be evaluated by a qualified counselor, psychologist, or physician before
15 sentencing. Except as provided under subdivision ed of subsection 2, the court shall
16 state on the record in open court its affirmative finding for not requiring an offender to
17 register.
- 18 5. When an individual is required to register under this section, the official in charge of a
19 facility or institution where the individual required to register is confined, or the
20 department, shall, before the discharge, parole, or release of that individual, inform the
21 individual of the duty to register pursuant to this section. The official or the department
22 shall require the individual to read and sign a form as required by the attorney general,
23 stating that the duty of the individual to register has been explained to that individual.
24 The official in charge of the place of confinement, or the department, shall obtain the
25 address where the individual expects to reside, attend school, or work upon discharge,
26 parole, or release and shall report the address to the attorney general. The official in
27 charge of the place of confinement, or the department, shall give three copies of the
28 form to the individual and shall send three copies to the attorney general no later than
29 forty-five days before the scheduled release of that individual. The attorney general
30 shall forward one copy to the law enforcement agency having jurisdiction where the
31 individual expects to reside, attend school, or work upon discharge, parole, or release,

- 1 one copy to the prosecutor who prosecuted the individual, and one copy to the court in
2 which the individual was prosecuted. All forms must be transmitted and received by
3 the law enforcement agency, prosecutor, and court thirty days before the discharge,
4 parole, or release of the individual.
- 5 6. An individual who is required to register pursuant to this section who is released on
6 probation or discharged upon payment of a fine must, before the release or discharge,
7 be informed of the duty to register under this section by the court in which that
8 individual is convicted. The court shall require the individual to read and sign a form as
9 required by the attorney general, stating that the duty of the individual to register under
10 this section has been explained to that individual. The court shall obtain the address
11 where the individual expects to reside, attend school, or work upon release or
12 discharge and shall report the address to the attorney general within three days. The
13 court shall give one copy of the form to the individual and shall send two copies to the
14 attorney general. The attorney general shall forward one copy to the appropriate law
15 enforcement agency having jurisdiction where the individual expects to reside, attend
16 school, or work upon discharge, parole, or release.
- 17 7. Registration consists of a written or electronic statement signed by the individual,
18 giving the information required by the attorney general, and the biometric data and
19 photograph of the individual. An individual who is not required to provide a sample of
20 blood and other body fluids under section 31-13-03 or by the individual's state or court
21 of conviction or adjudication shall submit a sample of blood and other body fluids for
22 inclusion in a centralized database of DNA identification records under section
23 31-13-05. The collection, submission, testing and analysis of, and records produced
24 from, samples of blood and other body fluids, are subject to chapter 31-13. Evidence
25 of the DNA profile comparison is admissible in accordance with section 31-13-02. A
26 report of the DNA analysis certified by the state crime laboratory is admissible in
27 accordance with section 31-13-05. A district court shall order an individual who refuses
28 to submit a sample of blood or other body fluids for registration purposes to show
29 cause at a specified time and place why the individual should not be required to
30 submit the sample required under this subsection. Within three days after registration,
31 the registering law enforcement agency shall forward the statement, biometric data,

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

- 1 8. An individual required to register under this section shall comply with the registration
2 requirement for the longer of the following periods:
- 3 a. A period of fifteen years after the date of sentence or order deferring or
4 suspending sentence upon a plea or finding of guilt or after release from
5 incarceration, whichever is later;
- 6 b. A period of twenty-five years after the date of sentence or order deferring or
7 suspending sentence upon a plea or finding of guilt or after release from
8 incarceration, whichever is later, if the offender is assigned a moderate risk by the
9 attorney general as provided in subsection 12; or
- 10 c. For the life of the individual, if that individual:
- 11 (1) On two or more occasions has pled guilty or nolo contendere to, or been
12 found guilty of a crime against a child or as a sexual offender. If all qualifying
13 offenses are misdemeanors, this lifetime provision does not apply unless a
14 qualifying offense was committed after August 1, 1999;
- 15 (2) Pleads guilty or nolo contendere to, or is found guilty of, an offense
16 committed after August 1, 1999, which is described in subdivision a of
17 subsection 1 of section 12.1-20-03, section 12.1-20-03.1, or subdivision d of
18 subsection 1 of section 12.1-20-03 if the person is an adult and the victim is
19 under age twelve, or section 12.1-18-01 if that individual is an adult other
20 than a parent of the victim, or an equivalent offense from another court in
21 the United States, a tribal court, or court of another country; or
- 22 (3) Is assigned a high risk by the attorney general as provided in subsection 12.
- 23 9. An individual required to register under this section who violates this section is guilty of
24 a class C felony. The failure of a homeless individual to register as required in
25 subsections 2 and 3 is prima facie evidence of a violation of this section. The clerk of
26 court shall forward all warrants issued for a violation of this section to the county
27 sheriff, who shall enter all such warrants into the national crime information center
28 wanted person file. A court may not relieve an individual, other than a juvenile, who
29 violates this section from serving a term of at least ninety days in jail and completing
30 probation of one year.

- 1 10. When an individual is released on parole or probation and is required to register
2 pursuant to this section, but fails to do so within the time prescribed, the court shall
3 order the probation, or the parole board shall order the parole, of the individual
4 revoked.
- 5 11. If an individual required to register pursuant to this section is temporarily sent outside
6 the facility or institution where that individual is confined under conviction or sentence,
7 the local law enforcement agency having jurisdiction over the place where that
8 individual is being sent must be notified within a reasonable time period before that
9 individual is released from the facility or institution. This subsection does not apply to
10 any individual temporarily released under guard from the facility or institution in which
11 that individual is confined.
- 12 12. The attorney general, with the assistance of the department and the juvenile courts,
13 shall develop guidelines for the risk assessment of sexual offenders who are required
14 to register, with a low-risk, moderate-risk, or high-risk level being assigned to each
15 offender as follows:
 - 16 a. The department shall conduct a risk assessment of sexual offenders who are
17 incarcerated in institutions under the control of the department and sexual
18 offenders who are on supervised probation. The department, in a timely manner,
19 shall provide the attorney general any information, including the offender's level
20 of risk and supporting documentation, concerning individuals required to be
21 registered under this section who are about to be released or placed into the
22 community.
 - 23 b. The attorney general shall conduct a risk assessment of sexual offenders who
24 are not under the custody or supervision of the department. The attorney general
25 may adopt a law enforcement agency's previous assignment of risk level for an
26 individual if the assessment was conducted in a manner substantially similar to
27 the guidelines developed under this subsection.
 - 28 c. The juvenile courts or the agency having legal custody of a juvenile shall conduct
29 a risk assessment of juvenile sexual offenders who are required to register under
30 this section. The juvenile courts or the agency having legal custody of a juvenile
31 shall provide the attorney general any information, including the offender's level

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

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

SECTION 9. AMENDMENT. Section 15.1-09-33.4 of the North Dakota Century Code is amended and reenacted as follows:

15.1-09-33.4. Student misconduct - Prohibition against participation in extracurricular activities.

1. The board of a school district ~~shall~~may prohibit a student from participating in any extracurricular activity if:
 - a. The student has pled guilty to or been convicted of a criminal offense and sentenced under section 12.1-32-02.1 or pled guilty or been convicted of an offense specified in subsection 1 of section 12.1-32-09.1;
 - b. The student has:
 - (1) An order prohibiting contact issued against the student at the request of another student or employee of the school under section 12.1-31.2-02;
 - (2) A disorderly conduct restraining order issued against the student at the request of another student or employee of the school under section 12.1-31.2-01, except a temporary restraining order under subsection 4 of section 12.1-31.2-01; ~~or~~
 - (3) A protection order issued against the student at the request of another student or employee of the school, except a temporary protection order under section 14-07.1-03; or
 - (4) Any other order issued against the student prohibiting contact with a student or employee of the school which is signed by a district judge or a judicial referee within a delinquency or criminal case;
 - c. The principal of the school receives information pertaining to an offense or order included under this section as provided in section 27-20.2-21; or
 - d. The victim of the offense or the subject of the order notifies the principal of the offense or order.
2. For purposes of this section, a representative of the juvenile court system may notify the principal of a school regarding the existence of files or records of the juvenile court pertaining to a student of the school which are open to inspection by the principal under section 27-20.2-21.

SECTION 10. AMENDMENT. Subsection 3 of section 27-20.2-09 of the North Dakota Century Code is amended and reenacted as follows:

3. The giving of information and advice and any conditions imposed for the conduct and control of the child may not extend beyond six months from the day commenced unless extended by the court for an additional period not to exceed six months and does not authorize the detention of the child if not otherwise permitted by this chapter. For a driving-related offense, the conditions may include a restriction on the child's driving privileges as authorized under section ~~27-20.4-1916~~ of this Act.

SECTION 11. A new section to chapter 27-20.4 of the North Dakota Century Code is created and enacted as follows:

Petition.

1. A petition alleging delinquency under this chapter must be reviewed by the director, the court, or other person designated by the director and authorized by the court to determine whether the filing of the petition is in the best interest of the public and the child.
2. The state's attorney shall prepare, file, and serve a petition alleging delinquent conduct on the parties. The juvenile court shall conduct an inquiry into and provide the last known address of the parents or legal guardian of the child in the referral to the state's attorney.
3. A petition alleging delinquent conduct may not include the adult class level of the offense unless the offense level is a necessary element of the delinquent conduct.

SECTION 12. A new section to chapter 27-20.4 of the North Dakota Century Code is created and enacted as follows:

Fitness to proceed - Lack of criminal responsibility.

In a juvenile court proceeding involving the issue of fitness to proceed or criminal responsibility, the court shall determine whether the child:

1. Is fit to proceed in accordance with title 27; and
2. Lacked criminal responsibility for the commission of an offense in accordance with chapter 12.1-04.1.

SECTION 13. AMENDMENT. Subsection 5 of section 27-20.4-11 of the North Dakota Century Code is amended and reenacted as follows:

- 1 5. An informal agreement may not extend beyond six months from the day the
2 agreement was agreed upon. An extension may be granted by the court for an
3 additional period not to exceed six months. An extension may not authorize the
4 detention of the child if not otherwise permitted by this chapter. For a driving-related
5 offense, the agreement may include a restriction on the child's driving privileges as
6 allowed under section ~~27-20.4-19~~16 of this Act.

7 **SECTION 14. AMENDMENT.** Subsection 1 of section 27-20.4-18 of the North Dakota
8 Century Code is amended and reenacted as follows:

- 9 1. A probation order entered by the court must place the child under the supervision of
10 the director, unless the child is over eighteen years of age and the child's risk and
11 needs require supervision by the department of corrections and rehabilitation under
12 subsection ~~13~~ of section ~~27-20.4-15~~27-20.4-17.

13 **SECTION 15. AMENDMENT.** Subsection 1 of section 27-20.4-20 of the North Dakota
14 Century Code is amended and reenacted as follows:

- 15 1. In addition to a child being ordered to make restitution under section
16 ~~27-20.4-16~~27-20.4-17, a parent of a child adjudged delinquent may be ordered to
17 make restitution on the child's behalf in an amount not exceeding five thousand
18 dollars.

19 **SECTION 16.** A new section to chapter 27-20.4 of the North Dakota Century Code is
20 created and enacted as follows:

21 **Collateral consequences - Registration - Firearms - Driving privileges.**

- 22 1. A child may be ordered to register as a sexual offender under section 12.1-32-15.
23 2. A child may be prohibited from possessing a firearm in accordance with section
24 62.1-02-01.
25 3. If a child is adjudicated delinquent of an offense that would be a class A misdemeanor
26 or a felony if the offense were committed by an adult, the juvenile court may suspend
27 the child's driving privileges for a period of up to six months for the first offense, and
28 up to one year for a second or subsequent offense. The juvenile court may order the
29 successful completion of an appropriate driver's examination as a condition for
30 reinstating the child's driving privileges.

a. If the juvenile court suspends a child's driving privileges, the court immediately shall take possession of the child's driver's license or permit and send a copy of the court's order to the director of the department of transportation who shall make notation of the child's suspended driving privileges.

b. The record of the child's suspension of driving privileges under this section:

(1) Must be kept confidential;

(2) May not be released except to law enforcement personnel in connection with law enforcement activities; and

(3) May not be disclosed to or shared with the licensing officials of any other state or jurisdiction.

c. At the end of the six-month or one-year suspension period, the director shall remove and destroy all records of the child's suspension of driving privileges under this section.

4. A child may be prohibited from participating in extracurricular activities in accordance with section 15.1-09-33.4.

SECTION 17. AMENDMENT. Section 62.1-02-01 of the North Dakota Century Code is amended and reenacted as follows:

62.1-02-01. Persons who are not to possess firearms - Penalty.

1. a. A person who has been convicted anywhere of a felony offense involving violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an equivalent felony offense of another state or the federal government is prohibited from owning a firearm or having one in possession from the date of conviction and continuing for ten years after the date of conviction or the date of release from incarceration, parole, or probation, whichever is latest.
- b. A person who has been convicted anywhere of a felony offense of this or another state or the federal government not provided for in subdivision a or who has been convicted of a class A misdemeanor offense involving violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an equivalent offense of another state or the federal government and the offense was committed while using or possessing a firearm, a dangerous weapon, or, as defined in section 12.1-01-04, a destructive device or an explosive, is prohibited from owning a firearm or

1 having one in possession from the date of conviction and continuing for five years
2 after the date of conviction or the date of release from incarceration, parole, or
3 probation, whichever is latest.

4 c. A person who is or has ever been diagnosed and confined or committed to a
5 hospital or other institution in this state or elsewhere by a court of competent
6 jurisdiction, other than a person who has had the petition that provided the basis
7 for the diagnosis, confinement, or commitment dismissed under section
8 25-03.1-17, 25-03.1-18, or 25-03.1-19, or equivalent statutes of another
9 jurisdiction, as a person requiring treatment as defined in section 25-03.1-02, or
10 as a mentally deficient individual, is prohibited from purchasing a firearm or
11 having one in possession. This limitation does not apply to a person who has not
12 suffered from the disability for the previous three years or who has successfully
13 petitioned for relief under section 62.1-02-01.2.

14 d. A person under the age of eighteen years may not possess a handgun except
15 that such a person, while under the direct supervision of an adult, may possess a
16 handgun for the purposes of firearm safety training, target shooting, or hunting.

17 e. A child who has been adjudicated delinquent of a felony offense involving
18 violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an
19 equivalent felony offense of another state or the federal government is prohibited
20 from owning a firearm or having one in possession from the date of adjudication
21 and continuing for ten years after the date of adjudication.

22 f. A child who has been adjudicated of a class A misdemeanor offense involving
23 violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an
24 equivalent offense of another state or the federal government, and the offense
25 was committed while using or possessing a firearm, a dangerous weapon, a
26 destructive device, or an explosive is prohibited from owning a firearm or having
27 one in possession from the date of adjudication and continuing for five years after
28 the date of adjudication.

29 A person who violates subdivision a or b is guilty of a class C felony, and a person who
30 violates subdivision c or d is guilty of a class A misdemeanor.

- 1 2. For the purposes of this section, "conviction" means a determination that the person
2 committed one of the above-mentioned crimes upon a verdict of guilt, a plea of guilty,
3 or a plea of nolo contendere even though:
 - 4 a. The court suspended execution of sentence in accordance with subsection 3 of
5 section 12.1-32-02;
 - 6 b. The court deferred imposition of sentence in accordance with subsection 4 of
7 section 12.1-32-02;
 - 8 c. The court placed the person on probation;
 - 9 d. The person's conviction has been reduced in accordance with subsection 9 of
10 section 12.1-32-02 or section 12.1-32-07.1;
 - 11 e. Sentence dispositions, sentence reductions, or offense determinations equivalent
12 to this section were imposed or granted by a court, board, agency, or law of
13 another state or the federal government; or
 - 14 f. The person committed an offense equivalent to an offense described in
15 subdivision ~~a or b~~ or f of subsection 1 when that person was subject to juvenile
16 adjudication or proceedings and a determination of a court under chapter 27-20.4
17 or of a court of another state or the federal government was made that the
18 person committed the delinquent act or offense.
- 19 3. A felon who is not sentenced under section 12.1-32-09.1 may possess a rifle that has
20 a barrel sixteen inches [40.72 centimeters] or longer or a shotgun that has a barrel
21 eighteen inches [45.72 centimeters] or longer and which is one of the following:
 - 22 a. A firearm, including any firearm with a matchlock, flintlock, percussion cap, or
23 similar type of ignition system, manufactured before 1899.
 - 24 b. A replica of any firearm described in subdivision a, if the replica is not designed
25 or redesigned for using rimfire or conventional centerfire fixed ammunition or
26 uses rimfire or conventional centerfire fixed ammunition that is no longer
27 manufactured in the United States and which is not readily available in the
28 ordinary channels of commercial trade.
 - 29 c. A muzzleloading rifle or muzzleloading shotgun designed to use black powder or
30 a black powder substitute and which cannot use fixed ammunition.

1 **SECTION 18. REPEAL.** Sections 27-20.4-12, 27-20.4-13, and 27-20.4-19 of the North
2 Dakota Century Code are repealed.

3 **SECTION 19. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES -**
4 **CONTRACT SERVICES - GENERAL FUND - ONE-TIME FUNDING.** There is appropriated out
5 of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of
6 \$300,000, or so much of the sum as may be necessary, to the department of health and human
7 services for the purpose of contracting for juvenile fitness to proceed evaluation services, for the
8 biennium beginning July 1, 2025, and ending June 30, 2027. The funding in this section is
9 considered a one-time funding item.

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2037

Introduced by

Legislative Management

(Juvenile Justice Committee)

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

1. An individual is not criminally responsible for criminal conduct if, as a result of mental disease or defect existing at the time the conduct occurs:
 - a. The individual lacks substantial capacity to comprehend the harmful nature or consequences of the conduct, or the conduct is the result of a loss or serious distortion of the individual's capacity to recognize reality; and
 - b. It is an essential element of the crime charged that the individual act willfully.

2. For purposes of this chapter, repeated criminal or similar antisocial conduct, or impairment of mental condition caused primarily by voluntary use of alcoholic beverages or controlled substances immediately before or contemporaneously with the alleged offense, does not constitute in itself mental illness or defect at the time of the alleged offense. Evidence of the conduct or impairment may be probative in conjunction with other evidence to establish mental illness or defect.
3. An individual ten years of age or older may be assessed for criminal responsibility under this chapter.

SECTION 2. AMENDMENT. Section 12.1-04.1-20 of the North Dakota Century Code is amended and reenacted as follows:

12.1-04.1-20. Jurisdiction of court.

1. Unless earlier discharged by order of the court pursuant to section 12.1-04.1-22, 12.1-04.1-24, or 12.1-04.1-25, an individual found not guilty by reason of lack of criminal responsibility is subject to the jurisdiction of the court for a period equal to the maximum term of imprisonment that could have been imposed for the most serious crime of which the individual was charged but found not guilty by reason of lack of criminal responsibility. In a juvenile proceeding, a child not adjudicated by reason of lack of criminal responsibility is subject to the jurisdiction of the court for one year.
2. Upon expiration of its jurisdiction under this chapter or earlier discharge by its order, the court may order that a proceeding for involuntary commitment be initiated pursuant to chapter 25-03.1. In a juvenile proceeding, the court may order an investigation into whether a child in need of protection proceedings should be initiated.

SECTION 3. AMENDMENT. Section 12.1-17-01.2 of the North Dakota Century Code is amended and reenacted as follows:

12.1-17-01.2. Domestic violence.

1. For purposes of this section "family or household member" means family or household member as defined in section 14-07.1-01.
2. A person is guilty of an offense if that person willfully causes:
 - a. Bodily injury to the actor's family or household member;
 - b. Substantial bodily injury to the actor's family or household member; or
 - c. Serious bodily injury to the actor's family or household member.
3. The offense is:

- a. A class B misdemeanor for the first offense under subdivision a of subsection 2 and a class A misdemeanor for a second or subsequent offense under this section or sections 12.1-17-01, 12.1-17-01.1, or 12.1-17-02 involving the commission of domestic violence, as defined in section 14-07.1-01. For purposes of this subdivision, a prior conviction includes a conviction of any assault offense in which a finding of domestic violence was made under a law or ordinance of another state which is equivalent to this section.
 - b. A class A misdemeanor for an offense under subdivision b of subsection 2 and a class C felony for an offense under subdivision c of subsection 2.
 - c. A class B felony for an offense under subdivision b or c of subsection 2 if the victim is under twelve years of age.
4. A person charged with an offense under this section must be prosecuted in district court.
 5. This section does not apply to an individual under the age of eighteen unless the:
 - a. Victim is or was in a dating relationship with the individual; or
 - b. Individual has a child in common with the victim.

SECTION 4. AMENDMENT. Subsection 2 of section 12.1-17-07.2 of the North Dakota Century Code is amended and reenacted as follows:

2. A person commits the offense of distribution of intimate images if the person knowingly or intentionally distributes to any third party any intimate image of an individual ~~eighteen years of age or older~~, if:
 - a. The person knows that the depicted individual has not given consent to the person to distribute the intimate image;
 - b. The intimate image was created by or provided to the person under circumstances in which the individual has a reasonable expectation of privacy; and
 - c. Actual emotional distress or harm is caused to the individual as a result of the distribution under this section.

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

12.1-20-01. General provisions.

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

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

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

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

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

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

- 1 a. Any individual who has been cited for a violation of subsection 2 or 4 may appear
2 before a court of competent jurisdiction and pay the fee by the time scheduled for
3 a hearing, or if bond has been posted, may forfeit the bond by not appearing at
4 the scheduled time. An individual appearing at the time scheduled in the citation
5 may make a statement in explanation of that individual's action and the judge
6 may waive, reduce, or suspend the fee or bond, or both. If the individual cited
7 follows the procedures of this subdivision, that individual has admitted the
8 violation and has waived the right to a hearing on the issue of commission of the
9 violation. The bond required to secure appearance before the court must be
10 identical to the fee. This subdivision does not allow a citing officer to receive the
11 fee or bond.
- 12 b. If an individual cited for a violation of subsection 2 or 4 does not choose to follow
13 the procedures provided under subdivision a, that individual may request a
14 hearing on the issue of the commission of the violation cited. The hearing must
15 be held at the time scheduled in the citation or at some future time, not to exceed
16 ninety days later, set at that first appearance. At the time of a request for a
17 hearing on the issue on commission of the violation, the individual cited shall
18 deposit with the court an appearance bond equal to the fee for the violation cited.
- 19 c. The failure to post bond or to pay an assessed fee is punishable as a contempt of
20 court, except an individual may not be imprisoned for the contempt.

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

23 **12.1-32-15. Offenders against children and sexual offenders - Sexually violent**
24 **predators - Registration requirement - Penalty.**

- 25 1. As used in this section:
 - 26 a. "A crime against a child" means a violation of chapter 12.1-16, section
27 12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04,
28 subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01,
29 12.1-18-02, 12.1-18-05, chapter 12.1-29, or section 14-09-22, subsection 3 of
30 section 12.1-41-02, subsection 3 of section 12.1-41-03, or an equivalent offense
31 from another court in the United States, a tribal court, or court of another country,

1 in which the victim is a minor or is otherwise of the age required for the act to be
2 a crime or an attempt or conspiracy to commit these offenses.

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

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

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

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

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

19 g. "Sexual offender" means a person who has pled guilty to or been found guilty,
20 including juvenile delinquent adjudications, of a violation of section 12.1-20-03,
21 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,
22 12.1-20-07 except for subdivision a of subsection 1, 12.1-20-11, 12.1-20-12.1,
23 12.1-20-12.2, 12.1-20-12.3 except for subdivision a of subsection 1 and
24 subdivision b of subsection 1 if the offense involves only a demand for money,
25 chapter 12.1-27.2, ~~subsection 2 of section 12.1-22-03.1~~, subdivision b of
26 subsection 1 of section 12.1-41-02, section 12.1-41-04, 12.1-41-05, or
27 12.1-41-06, or an equivalent offense from another court in the United States, a
28 tribal court, or court of another country, or an attempt or conspiracy to commit
29 these offenses.

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

- i. "Temporarily domiciled" means staying or being physically present in this state for more than thirty days in a calendar year or at a location for longer than ten consecutive days, attending school for longer than ten days, or maintaining employment in the jurisdiction for longer than ten days, regardless of the state of the residence.
2. The court shall impose, in addition to any penalty provided by law, a requirement that the individual register, within three days of coming into a county in which the individual resides, is homeless, or within the period identified in this section that the individual becomes temporarily domiciled. The individual must register with the chief of police of the city of the individual's place of residence, or the sheriff of the county if the individual resides in an area other than a city. A homeless individual shall register every three days with the sheriff or chief of police of the jurisdiction in which the 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~~

1 ~~adjudications of equivalent offenses.~~ Except if the offense is described in section
2 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 and the person is not the parent
3 of the victim, the court may deviate from requiring an individual to register if the
4 court first finds the individual has not previously been convicted as a sexual
5 offender or for a crime against a child, and the individual did not exhibit mental
6 abnormality or predatory conduct in the commission of the offense.

7 ~~e.d.~~ Has pled guilty or nolo contendere, or been found guilty, ~~or been adjudicated~~
8 ~~delinquent~~ of any crime against another individual which is not otherwise
9 specified in this section if the court determines that registration is warranted by
10 the nature of the crime and therefore orders registration for the individual. If the
11 court orders an individual to register as an offender under this section, the
12 individual shall comply with all of the registration requirements in this chapter.

13 e. Is a child who has been adjudicated delinquent of an offense which would classify
14 the child as a sexual offender, the prosecutor requested the court to consider
15 sexual offender registration, and the court determines the child:

16 (1) Exhibited a mental abnormality or predatory conduct in the commission of
17 the offense; or

18 (2) Previously has been adjudicated as a sexual offender.

19 3. If a court has not ordered an individual to register in this state, an individual who
20 resides, is homeless, or is temporarily domiciled in this state shall register if the
21 individual:

22 a. Is incarcerated or is on probation or parole after July 31, 1995, for a crime
23 against a child described in section 12.1-29-02, or section 12.1-18-01 or
24 12.1-18-02 if the individual was not the parent of the victim, or as a sexual
25 offender;

26 b. Has pled guilty or nolo contendere to, ~~or been adjudicated for or found guilty of,~~
27 an offense in a court of this state for which registration is mandatory under this
28 section or an offense from another court in the United States, a tribal court, or
29 court of another country equivalent to those offenses set forth in this section; or

30 c. Has pled guilty or nolo contendere to, or has been found guilty of, a crime against
31 a child or as a sexual offender for which registration is mandatory under this
32 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 ed 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

- 1 offenses are misdemeanors, this lifetime provision does not apply unless a
2 qualifying offense was committed after August 1, 1999;
- 3 (2) Pleads guilty or nolo contendere to, or is found guilty of, an offense
4 committed after August 1, 1999, which is described in subdivision a of
5 subsection 1 of section 12.1-20-03, section 12.1-20-03.1, or subdivision d of
6 subsection 1 of section 12.1-20-03 if the person is an adult and the victim is
7 under age twelve, or section 12.1-18-01 if that individual is an adult other
8 than a parent of the victim, or an equivalent offense from another court in
9 the United States, a tribal court, or court of another country; or
- 10 (3) Is assigned a high risk by the attorney general as provided in subsection 12.
- 11 9. An individual required to register under this section who violates this section is guilty of
12 a class C felony. The failure of a homeless individual to register as required in
13 subsections 2 and 3 is prima facie evidence of a violation of this section. The clerk of
14 court shall forward all warrants issued for a violation of this section to the county
15 sheriff, who shall enter all such warrants into the national crime information center
16 wanted person file. A court may not relieve an individual, other than a juvenile, who
17 violates this section from serving a term of at least ninety days in jail and completing
18 probation of one year.
- 19 10. When an individual is released on parole or probation and is required to register
20 pursuant to this section, but fails to do so within the time prescribed, the court shall
21 order the probation, or the parole board shall order the parole, of the individual
22 revoked.
- 23 11. If an individual required to register pursuant to this section is temporarily sent outside
24 the facility or institution where that individual is confined under conviction or sentence,
25 the local law enforcement agency having jurisdiction over the place where that
26 individual is being sent must be notified within a reasonable time period before that
27 individual is released from the facility or institution. This subsection does not apply to
28 any individual temporarily released under guard from the facility or institution in which
29 that individual is confined.
- 30 12. The attorney general, with the assistance of the department and the juvenile courts,
31 shall develop guidelines for the risk assessment of sexual offenders who are required

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

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

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

28 14. Relevant and necessary conviction and registration information must be disclosed to
29 the public by a law enforcement agency if the individual is a moderate or high risk and
30 the agency determines that disclosure of the conviction and registration information is
31 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 9. AMENDMENT. Section 15.1-09-33.4 of the North Dakota Century Code is amended and reenacted as follows:

15.1-09-33.4. Student misconduct - Prohibition against participation in extracurricular activities.

1. The board of a school district ~~shall~~may prohibit a student from participating in any extracurricular activity if:

a. The student has pled guilty to or been convicted of a criminal offense and sentenced under section 12.1-32-02.1 or pled guilty or been convicted of an offense specified in subsection 1 of section 12.1-32-09.1;

b. The student has:

(1) An order prohibiting contact issued against the student at the request of another student or employee of the school under section 12.1-31.2-02;

(2) A disorderly conduct restraining order issued against the student at the request of another student or employee of the school under section 12.1-31.2-01, except a temporary restraining order under subsection 4 of section 12.1-31.2-01; or

(3) A protection order issued against the student at the request of another student or employee of the school, except a temporary protection order under section 14-07.1-03; or

(4) Any other order issued against the student prohibiting contact with a student or employee of the school which is signed by a district judge or a judicial referee within a delinquency or criminal case;

c. The principal of the school receives information pertaining to an offense or order included under this section as provided in section 27-20.2-21; or

d. The victim of the offense or the subject of the order notifies the principal of the offense or order.

2. For purposes of this section, a representative of the juvenile court system may notify the principal of a school regarding the existence of files or records of the juvenile court pertaining to a student of the school which are open to inspection by the principal under section 27-20.2-21.

SECTION 10. AMENDMENT. Subsection 3 of section 27-20.2-09 of the North Dakota Century Code is amended and reenacted as follows:

3. The giving of information and advice and any conditions imposed for the conduct and control of the child may not extend beyond six months from the day commenced unless extended by the court for an additional period not to exceed six months and does not authorize the detention of the child if not otherwise permitted by this chapter. For a driving-related offense, the conditions may include a restriction on the child's driving privileges as authorized under ~~section 27-20.4-19~~section 16 of this Act.

SECTION 11. A new section to chapter 27-20.4 of the North Dakota Century Code is created and enacted as follows:

Petition.

1. A petition alleging delinquency under this chapter must be reviewed by the director, the court, or other person designated by the director and authorized by the court to determine whether the filing of the petition is in the best interest of the public and the child.

2. The state's attorney shall prepare, file, and serve a petition alleging delinquent conduct on the parties. The juvenile court shall conduct an inquiry into and provide the

1 last known address of the parents or legal guardian of the child in the referral to the
2 state's attorney.

3 3. A petition alleging delinquent conduct may not include the adult class level of the
4 offense unless the offense level is a necessary element of the delinquent conduct.

5 **SECTION 12.** A new section to chapter 27-20.4 of the North Dakota Century Code is
6 created and enacted as follows:

7 **Fitness to proceed - Lack of criminal responsibility.**

8 In any juvenile court proceeding where fitness to proceed or criminal responsibility are at
9 issue, the court shall determine whether the child:

- 10 1. Is fit to proceed in accordance with title 27; and
11 2. Lacked criminal responsibility for the commission of an offense in accordance with
12 chapter 12.1-04.1.

13 **SECTION 13. AMENDMENT.** Subsection 5 of section 27-20.4-11 of the North Dakota
14 Century Code is amended and reenacted as follows:

- 15 5. An informal agreement may not extend beyond six months from the day the
16 agreement was agreed upon. An extension may be granted by the court for an
17 additional period not to exceed six months. An extension may not authorize the
18 detention of the child if not otherwise permitted by this chapter. For a driving-related
19 offense, the agreement may include a restriction on the child's driving privileges as
20 allowed under section ~~27-20.4-19~~16 of this Act.

21 **SECTION 14. AMENDMENT.** Subsection 1 of section 27-20.4-18 of the North Dakota
22 Century Code is amended and reenacted as follows:

- 23 1. A probation order entered by the court must place the child under the supervision of
24 the director, unless the child is over eighteen years of age and the child's risk and
25 needs require supervision by the department of corrections and rehabilitation under
26 subsection ~~43~~ of section ~~27-20.4-15~~27-20.4-17.

27 **SECTION 15. AMENDMENT.** Subsection 1 of section 27-20.4-20 of the North Dakota
28 Century Code is amended and reenacted as follows:

- 29 1. In addition to a child being ordered to make restitution under section
30 ~~27-20.4-16~~27-20.4-17, a parent of a child adjudged delinquent may be ordered to
31 make restitution on the child's behalf in an amount not exceeding five thousand
32 dollars.

1 **SECTION 16.** A new section to chapter 27-20.4 of the North Dakota Century Code is
2 created and enacted as follows:

3 **Collateral consequences - Registration - Firearms - Driving privileges.**

- 4 1. A child may be ordered to register as a sexual offender under section 12.1-32-15.
- 5 2. A child may be prohibited from possessing a firearm in accordance with section
6 62.1-02-01.
- 7 3. If a child is adjudicated delinquent of an offense that would be a class A misdemeanor
8 or a felony if the offense were committed by an adult, the juvenile court may suspend
9 the child's driving privileges for a period of up to six months for the first offense, and up
10 to one year for a second or subsequent offense. The juvenile court may order the
11 successful completion of an appropriate driver's examination as a condition for
12 reinstating the child's driving privileges.
 - 13 a. If the juvenile court suspends a child's driving privileges, the court immediately
14 shall take possession of the child's driver's license or permit and send a copy of
15 the court's order to the director of the department of transportation who shall
16 make notation of the child's suspended driving privileges.
 - 17 b. The record of the child's suspension of driving privileges under this section:
 - 18 (1) Must be kept confidential;
 - 19 (2) May not be released except to law enforcement personnel in connection
20 with law enforcement activities; and
 - 21 (3) May not be disclosed to or shared with the licensing officials of any other
22 state or jurisdiction.
 - 23 c. At the end of the six-month or one-year suspension period, the director shall
24 remove and destroy all records of the child's suspension of driving privileges
25 under this section.
- 26 4. A child may be prohibited from participating in extracurricular activities in accordance
27 with section 15.1-09-33.4.

28 **SECTION 17. AMENDMENT.** Section 62.1-02-01 of the North Dakota Century Code is
29 amended and reenacted as follows:

30 **62.1-02-01. Persons who are not to possess firearms - Penalty.**

- 31 1. a. A person who has been convicted anywhere of a felony offense involving
32 violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an

1 equivalent felony offense of another state or the federal government is prohibited
2 from owning a firearm or having one in possession from the date of conviction
3 and continuing for ten years after the date of conviction or the date of release
4 from incarceration, parole, or probation, whichever is latest.

5 b. A person who has been convicted anywhere of a felony offense of this or another
6 state or the federal government not provided for in subdivision a or who has been
7 convicted of a class A misdemeanor offense involving violence or intimidation in
8 violation of chapters 12.1-16 through 12.1-25 or an equivalent offense of another
9 state or the federal government and the offense was committed while using or
10 possessing a firearm, a dangerous weapon, or, as defined in section 12.1-01-04,
11 a destructive device or an explosive, is prohibited from owning a firearm or
12 having one in possession from the date of conviction and continuing for five years
13 after the date of conviction or the date of release from incarceration, parole, or
14 probation, whichever is latest.

15 c. A person who is or has ever been diagnosed and confined or committed to a
16 hospital or other institution in this state or elsewhere by a court of competent
17 jurisdiction, other than a person who has had the petition that provided the basis
18 for the diagnosis, confinement, or commitment dismissed under section
19 25-03.1-17, 25-03.1-18, or 25-03.1-19, or equivalent statutes of another
20 jurisdiction, as a person requiring treatment as defined in section 25-03.1-02, or
21 as a mentally deficient individual, is prohibited from purchasing a firearm or
22 having one in possession. This limitation does not apply to a person who has not
23 suffered from the disability for the previous three years or who has successfully
24 petitioned for relief under section 62.1-02-01.2.

25 d. A person under the age of eighteen years may not possess a handgun except
26 that such a person, while under the direct supervision of an adult, may possess a
27 handgun for the purposes of firearm safety training, target shooting, or hunting.

28 e. A child who has been adjudicated delinquent of a felony offense involving
29 violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an
30 equivalent felony offense of another state or the federal government is prohibited
31 from owning a firearm or having one in possession from the date of adjudication
32 and continuing for ten years after the date of adjudication.

f. A child who has been adjudicated of a class A misdemeanor offense involving violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an equivalent offense of another state or the federal government, and the offense was committed while using or possessing a firearm, a dangerous weapon, a destructive device, or an explosive is prohibited from owning a firearm or having one in possession from the date of adjudication and continuing for five years after the date of adjudication.

A person who violates subdivision a or b is guilty of a class C felony, and a person who violates subdivision c or d is guilty of a class A misdemeanor.

2. For the purposes of this section, "conviction" means a determination that the person committed one of the above-mentioned crimes upon a verdict of guilt, a plea of guilty, or a plea of nolo contendere even though:
 - a. The court suspended execution of sentence in accordance with subsection 3 of section 12.1-32-02;
 - b. The court deferred imposition of sentence in accordance with subsection 4 of section 12.1-32-02;
 - c. The court placed the person on probation;
 - d. The person's conviction has been reduced in accordance with subsection 9 of section 12.1-32-02 or section 12.1-32-07.1;
 - e. Sentence dispositions, sentence reductions, or offense determinations equivalent to this section were imposed or granted by a court, board, agency, or law of another state or the federal government; or
 - f. The person committed an offense equivalent to an offense described in subdivision ~~a or b~~ e or f of subsection 1 when that person was subject to juvenile adjudication or proceedings and a determination of a court under chapter 27-20.4 or of a court of another state or the federal government was made that the person committed the delinquent act or offense.
3. A felon who is not sentenced under section 12.1-32-09.1 may possess a rifle that has a barrel sixteen inches [40.72 centimeters] or longer or a shotgun that has a barrel eighteen inches [45.72 centimeters] or longer and which is one of the following:
 - a. A firearm, including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured before 1899.

- 1 b. A replica of any firearm described in subdivision a, if the replica is not designed
- 2 or redesigned for using rimfire or conventional centerfire fixed ammunition or
- 3 uses rimfire or conventional centerfire fixed ammunition that is no longer
- 4 manufactured in the United States and which is not readily available in the
- 5 ordinary channels of commercial trade.
- 6 c. A muzzleloading rifle or muzzleloading shotgun designed to use black powder or
- 7 a black powder substitute and which cannot use fixed ammunition.

8 **SECTION 18. REPEAL.** Sections 27-20.4-12, 27-20.4-13, and 27-20.4-19 of the North
9 Dakota Century Code are repealed.

2025 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee Peace Garden Room, State Capitol

SB 2037
1/14/2025

Relating to juvenile court petitions, fitness to proceed in juvenile court proceedings, and collateral consequences the juvenile court may order, lack of criminal responsibility, court jurisdiction, distribution of intimate images without consent, domestic violence, criminality of a child regarding sex offenses, sale and use of tobacco by an individual under the age of twenty-one, child registration requirements, restitution, probation of a delinquent child, extracurricular activities for students, and persons not allowed to possess a firearm, relating to delinquency; and to provide a penalty.

11:14 a.m. Chair Larson opened the hearing.

Members present:

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

Discussion Topics:

- Tobacco law implications
- Age thresholds for violations
- Juvenile court jurisdiction
- Penalties for tobacco violation

11:14 a.m. Travis Finck, ND Commission on Legal Counsel for Indigents, testified as neutral and answered committee questions.

11:18 a.m. Senator Myrdal moved as Do Pass as Amended with LC# 25.0272.03001 (voted on at 11:00 a.m. 2/14/25) and rerefer to Appropriations committee.

11:18 a.m. Senator Luick seconded the motion.

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

Motion Passed 7-0-0.

11:19 a.m. Senator Cory will carry the bill.

11:22 a.m. Chair Larson answered committee questions and discussed parliamentary procedures .

Senate Judiciary Committee

SB 2037

1/14/2025

Page 2

11:24 a.m. Chair Larson closed the hearing.

Kendra McCann, Committee Clerk

**REPORT OF STANDING COMMITTEE
SB 2037**

Judiciary Committee (Sen. Larson, Chairman) recommends **AMENDMENTS** ([25.0272.02001](#)) and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (7 YEAS, 0 NAYS, 0 ABSENT OR EXCUSED AND NOT VOTING). SB 2037 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

2025 SENATE APPROPRIATIONS

SB 2037

2025 SENATE STANDING COMMITTEE MINUTES

Appropriations - Human Resources Division Harvest Room, State Capitol

SB 2037
2/5/2025

Relating to juvenile court petitions, fitness to proceed in juvenile court proceedings, and collateral consequences the juvenile court may order; to amend and reenact sections, relating to lack of criminal responsibility, court jurisdiction, distribution of intimate images without consent, domestic violence, criminality of a child regarding sex offenses, sale and use of tobacco by an individual under the age of twenty-one, child registration requirements, restitution, probation of a delinquent child, extracurricular activities for students, and persons not allowed to possess a firearm, relating to delinquency; and to provide a penalty.

10:02 a.m. Chairman Dever opened the hearing.

Members Present: Chairman Dever, Senators Cleary, Davison, Magrum, and Mathern

Discussion Topics:

- Full-Time Forensic Psychologist
- Contracting Services
- One-Time Funding

10:05 a.m. Shawna Eberhart, Policy Clinical Director, ND Department of Health and Human Services, (DHHS) testified neutral.

10:20 a.m. Alex Conquist, Fiscal Analyst, LC, testified neutral.

10:23 a.m. Senator Davison submitted testimony #35861 and moved amendment to include an appropriation of \$300,000 dollars for contracting services.

10:24 a.m. Senator Cleary seconded the motion.

10:25 a.m. Voice Vote - Motion passed.

10:26 a.m. Senator Davison moved a Do Pass as Amended.

10:26 a.m. Senator Mathern seconded the motion.

Roll Call Vote:

Senators	Vote
Senator Dick Dever	Y
Senator Sean Cleary	Y
Senator Kyle Davison	Y
Senator Jeffery J. Magrum	Y
Senator Tim Mathern	Y

Motion passed 5-0-0.

Senator Davison will carry the bill.

Additional Testimony:

Sarah D. Warner, Hettinger County Sherriff, submitted testimony in opposition #33943.

10:34 a.m. Chairman Dever closed the hearing.

Joan Bares, Committee Clerk



Hettinger County Sheriff's Office

Sheriff Sarah D. Warner

Senate Bill N. 2037
Senate Judiciary Committee
February 3, 2025

Chairwoman Larson and Members of the Committee, I am Sarah D. Warner and I am the Sheriff of Hettinger County. I have been in Law Enforcement for 19 years and the Sheriff for 15 years. I have a concern on SB 2037.

During the Legislative Session of 2019 HB 1039 raised the age of criminal responsibility of a juvenile from seven to ten years old. During the years I have spent in law enforcement, I have seen many juveniles who have committed criminal acts, such as criminal mischief, simple assaults, and other criminal acts.

I know that as a society we want to believe in the innocence of youth, however, that innocence is lost at a much younger age. With what children are experiencing with behavioral issues, what is being seen on social media, such as tik tok, facebook, youtube and others, or what is occurring in their own homes, children younger than ten years old are committing crimes.

In 2023, in Hettinger County, we had three juveniles ages 12, 10, 9 break into a build that was cold storage and held several vehicles. These juveniles proceeded to damage property by breaking out windows on the building, and to the vehicles they spray painted, smashed windows and broke tail lights, causing over \$30,000 in damage. While the older of the juveniles were referred to the SW Juvenile court, the nine was could not be held criminally responsible for his actions. We had to tell the victims that they could proceed to go after the parents civilly for the damages.

Another incident with the same 9-year-old juvenile, he broke out a window at the Mott/Regent Public School, by throwing rocks until it shattered. Again, we had to tell the school that they could seek judgement though civil actions.

Essentially, the victims were victimized again by having them have to seek out their own means to get retribution for damages.

Other incidents include juveniles under the age of nine years old being destructive in the New England Public School by throwing things or hitting teachers.

Nationally, the youngest school shooter was a six-year-old boy who fatally shot another six-year-old classmate on February 29, 2000 in Flint Michigan. On April 19, 2011 in Houston TX, a six-year-old took a gun to school and fired it as he was showing it off to his friends. Injuring himself and two other classmates. February 23, 2012, Bremerton Washington, a 9-year-old boy had a firearm in his backpack and after slamming his backpack down on a desk the firearm discharged hitting another classmate.

At a young age we are taught and know right from wrong. I believe that children under the age of 10 should be held accountable for their actions. I would ask you to change the age of when a juveniles should be held criminally responsible back to the age of seven years old and allow the juvenile court to decide what is an appropriate outcome to a juvenile's actions.

Thank you,

Sarah D. Warner
Sheriff

25.0272.03001
Title.

Prepared by the Legislative Council
staff for Senate Appropriations - Human
Resources Division Committee
February 5, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
FIRST ENGROSSMENT**

ENGROSSED SENATE BILL NO. 2037

Introduced by

Legislative Management

(Juvenile Justice Committee)

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

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

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

18 **12.1-04.1-01. Standard for lack of criminal responsibility.**

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

- 1 a. The individual lacks substantial capacity to comprehend the harmful nature or
- 2 consequences of the conduct, or the conduct is the result of a loss or serious
- 3 distortion of the individual's capacity to recognize reality; and
- 4 b. It is an essential element of the crime charged that the individual act willfully.
- 5 2. For purposes of this chapter, repeated criminal or similar antisocial conduct, or
- 6 impairment of mental condition caused primarily by voluntary use of alcoholic
- 7 beverages or controlled substances immediately before or contemporaneously with
- 8 the alleged offense, does not constitute in itself mental illness or defect at the time of
- 9 the alleged offense. Evidence of the conduct or impairment may be probative in
- 10 conjunction with other evidence to establish mental illness or defect.
- 11 3. An individual ten years of age or older may be assessed for criminal responsibility
- 12 under this chapter.

13 **SECTION 2. AMENDMENT.** Section 12.1-04.1-20 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **12.1-04.1-20. Jurisdiction of court.**

- 16 1. Unless earlier discharged by order of the court pursuant to section 12.1-04.1-22,
- 17 12.1-04.1-24, or 12.1-04.1-25, an individual found not guilty by reason of lack of
- 18 criminal responsibility is subject to the jurisdiction of the court for a period equal to the
- 19 maximum term of imprisonment that could have been imposed for the most serious
- 20 crime of which the individual was charged but found not guilty by reason of lack of
- 21 criminal responsibility. In a juvenile proceeding, a child not adjudicated by reason of
- 22 lack of criminal responsibility is subject to the jurisdiction of the court for one year.
- 23 2. Upon expiration of its jurisdiction under this chapter or earlier discharge by its order,
- 24 the court may order that a proceeding for involuntary commitment be initiated pursuant
- 25 to chapter 25-03.1. In a juvenile proceeding, the court may order an investigation into
- 26 whether a child in need of protection proceedings should be initiated.

27 **SECTION 3. AMENDMENT.** Section 12.1-17-01.2 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **12.1-17-01.2. Domestic violence.**

- 30 1. For purposes of this section "family or household member" means family or household
- 31 member as defined in section 14-07.1-01.

2. A person is guilty of an offense if that person willfully causes:
 - a. Bodily injury to the actor's family or household member;
 - b. Substantial bodily injury to the actor's family or household member; or
 - c. Serious bodily injury to the actor's family or household member.
3. The offense is:
 - a. A class B misdemeanor for the first offense under subdivision a of subsection 2 and a class A misdemeanor for a second or subsequent offense under this section or sections 12.1-17-01, 12.1-17-01.1, or 12.1-17-02 involving the commission of domestic violence, as defined in section 14-07.1-01. For purposes of this subdivision, a prior conviction includes a conviction of any assault offense in which a finding of domestic violence was made under a law or ordinance of another state which is equivalent to this section.
 - b. A class A misdemeanor for an offense under subdivision b of subsection 2 and a class C felony for an offense under subdivision c of subsection 2.
 - c. A class B felony for an offense under subdivision b or c of subsection 2 if the victim is under twelve years of age.
4. A person charged with an offense under this section must be prosecuted in district court.
5. This section does not apply to an individual under the age of eighteen unless the:
 - a. Victim is or was in a dating relationship with the individual; or
 - b. Individual has a child in common with the victim.

SECTION 4. AMENDMENT. Subsection 2 of section 12.1-17-07.2 of the North Dakota Century Code is amended and reenacted as follows:

2. A person commits the offense of distribution of intimate images if the person knowingly or intentionally distributes to any third party any intimate image of an individual ~~eighteen years of age or older~~, if:
 - a. The person knows that the depicted individual has not given consent to the person to distribute the intimate image;
 - b. The intimate image was created by or provided to the person under circumstances in which the individual has a reasonable expectation of privacy;and

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

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

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

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

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

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

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

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

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

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

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

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

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

29 **12.1-32-15. Offenders against children and sexual offenders - Sexually violent**
30 **predators - Registration requirement - Penalty.**

31 1. As used in this section:

- 1 a. "A crime against a child" means a violation of chapter 12.1-16, section
2 12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04,
3 subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01,
4 12.1-18-02, 12.1-18-05, chapter 12.1-29, or section 14-09-22, subsection 3 of
5 section 12.1-41-02, subsection 3 of section 12.1-41-03, or an equivalent offense
6 from another court in the United States, a tribal court, or court of another country,
7 in which the victim is a minor or is otherwise of the age required for the act to be
8 a crime or an attempt or conspiracy to commit these offenses.
- 9 b. "Department" means the department of corrections and rehabilitation.
- 10 c. "Homeless" means an individual who is physically present in this state, but is
11 living in a park, under a bridge, on the streets, in a vehicle or camper, or is
12 otherwise without a traditional dwelling, and also one who resides in this state but
13 does not maintain a permanent address. The term does not include individuals
14 who are temporarily domiciled or individuals residing in public or private shelters
15 that provide temporary living accommodations.
- 16 d. "Mental abnormality" means a congenital or acquired condition of an individual
17 that affects the emotional or volitional capacity of the individual in a manner that
18 predisposes that individual to the commission of criminal sexual acts to a degree
19 that makes the individual a menace to the health and safety of other individuals.
- 20 e. "Predatory" means an act directed at a stranger or at an individual with whom a
21 relationship has been established or promoted for the primary purpose of
22 victimization.
- 23 f. "Reside" means to live permanently or be situated for a considerable time in a
24 home or a particular place.
- 25 g. "Sexual offender" means a person who has pled guilty to or been found guilty,
26 including juvenile delinquent adjudications, of a violation of section 12.1-20-03,
27 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,
28 12.1-20-07 except for subdivision a of subsection 1, 12.1-20-11, 12.1-20-12.1,
29 12.1-20-12.2, 12.1-20-12.3 except for subdivision a of subsection 1 and
30 subdivision b of subsection 1 if the offense involves only a demand for money,
31 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, 12.1-41-05, or
12.1-41-06, or an equivalent offense from another court in the United States, a
tribal court, or court of another country, or an attempt or conspiracy to commit
these offenses.

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

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

2. The court shall impose, in addition to any penalty provided by law, a requirement that
the individual register, within three days of coming into a county in which the individual
resides, is homeless, or within the period identified in this section that the individual
becomes temporarily domiciled. The individual must register with the chief of police of
the city of the individual's place of residence, or the sheriff of the county if the
individual resides in an area other than a city. A homeless individual shall register
every three days with the sheriff or chief of police of the jurisdiction in which the
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.

- 1 c. ~~Is a juvenile found delinquent under subdivision d of subsection 1 of section~~
2 ~~12.1-20-03, subdivision a of subsection 2 of section 12.1-20-03, or as a sexual~~
3 ~~offender for a misdemeanor. The court may deviate from requiring the juvenile to~~
4 ~~register if the court first finds the juvenile has not previously been convicted as a~~
5 ~~sexual offender or for a crime against a child, and the juvenile did not exhibit~~
6 ~~mental abnormality or predatory conduct in the commission of the offense.~~
7 d. Has pled guilty or nolo contendere to, or been found guilty of, a crime against a
8 child or an attempted crime against a child, ~~including juvenile delinquent~~
9 ~~adjudications of equivalent offenses.~~ Except if the offense is described in section
10 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 and the person is not the parent
11 of the victim, the court may deviate from requiring an individual to register if the
12 court first finds the individual has not previously been convicted as a sexual
13 offender or for a crime against a child, and the individual did not exhibit mental
14 abnormality or predatory conduct in the commission of the offense.
15 e.d. Has pled guilty or nolo contendere, or been found guilty, ~~or been adjudicated~~
16 ~~delinquent~~ of any crime against another individual which is not otherwise
17 specified in this section if the court determines that registration is warranted by
18 the nature of the crime and therefore orders registration for the individual. If the
19 court orders an individual to register as an offender under this section, the
20 individual shall comply with all of the registration requirements in this chapter.
21 e. Is a child who has been adjudicated delinquent of an offense which would classify
22 the child as a sexual offender, the prosecutor requested the court to consider
23 sexual offender registration, and the court determines the child:
24 (1) Exhibited a mental abnormality or predatory conduct in the commission of
25 the offense; or
26 (2) Previously has been adjudicated as a sexual offender.
27 3. If a court has not ordered an individual to register in this state, an individual who
28 resides, is homeless, or is temporarily domiciled in this state shall register if the
29 individual:
30 a. Is incarcerated or is on probation or parole after July 31, 1995, for a crime
31 against a child described in section 12.1-29-02, or section 12.1-18-01 or

- 1 12.1-18-02 if the individual was not the parent of the victim, or as a sexual
2 offender;
- 3 b. Has pled guilty or nolo contendere to, ~~or been adjudicated for or found guilty of,~~
4 an offense in a court of this state for which registration is mandatory under this
5 section or an offense from another court in the United States, a tribal court, or
6 court of another country equivalent to those offenses set forth in this section; or
- 7 c. Has pled guilty or nolo contendere to, or has been found guilty of, a crime against
8 a child or as a sexual offender for which registration is mandatory under this
9 section if the conviction occurred after July 31, 1985.
- 10 4. In its consideration of mental abnormality or predatory conduct, the court shall
11 consider the age of the offender, the age of the victim, the difference in ages of the
12 victim and offender, the circumstances and motive of the crime, the relationship of the
13 victim and offender, and the mental state of the offender. The court may order an
14 offender to be evaluated by a qualified counselor, psychologist, or physician before
15 sentencing. Except as provided under subdivision ed of subsection 2, the court shall
16 state on the record in open court its affirmative finding for not requiring an offender to
17 register.
- 18 5. When an individual is required to register under this section, the official in charge of a
19 facility or institution where the individual required to register is confined, or the
20 department, shall, before the discharge, parole, or release of that individual, inform the
21 individual of the duty to register pursuant to this section. The official or the department
22 shall require the individual to read and sign a form as required by the attorney general,
23 stating that the duty of the individual to register has been explained to that individual.
24 The official in charge of the place of confinement, or the department, shall obtain the
25 address where the individual expects to reside, attend school, or work upon discharge,
26 parole, or release and shall report the address to the attorney general. The official in
27 charge of the place of confinement, or the department, shall give three copies of the
28 form to the individual and shall send three copies to the attorney general no later than
29 forty-five days before the scheduled release of that individual. The attorney general
30 shall forward one copy to the law enforcement agency having jurisdiction where the
31 individual expects to reside, attend school, or work upon discharge, parole, or release,

1 one copy to the prosecutor who prosecuted the individual, and one copy to the court in
2 which the individual was prosecuted. All forms must be transmitted and received by
3 the law enforcement agency, prosecutor, and court thirty days before the discharge,
4 parole, or release of the individual.

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

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

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

- 1 8. An individual required to register under this section shall comply with the registration
2 requirement for the longer of the following periods:
- 3 a. A period of fifteen years after the date of sentence or order deferring or
4 suspending sentence upon a plea or finding of guilt or after release from
5 incarceration, whichever is later;
- 6 b. A period of twenty-five years after the date of sentence or order deferring or
7 suspending sentence upon a plea or finding of guilt or after release from
8 incarceration, whichever is later, if the offender is assigned a moderate risk by the
9 attorney general as provided in subsection 12; or
- 10 c. For the life of the individual, if that individual:
- 11 (1) On two or more occasions has pled guilty or nolo contendere to, or been
12 found guilty of a crime against a child or as a sexual offender. If all qualifying
13 offenses are misdemeanors, this lifetime provision does not apply unless a
14 qualifying offense was committed after August 1, 1999;
- 15 (2) Pleads guilty or nolo contendere to, or is found guilty of, an offense
16 committed after August 1, 1999, which is described in subdivision a of
17 subsection 1 of section 12.1-20-03, section 12.1-20-03.1, or subdivision d of
18 subsection 1 of section 12.1-20-03 if the person is an adult and the victim is
19 under age twelve, or section 12.1-18-01 if that individual is an adult other
20 than a parent of the victim, or an equivalent offense from another court in
21 the United States, a tribal court, or court of another country; or
- 22 (3) Is assigned a high risk by the attorney general as provided in subsection 12.
- 23 9. An individual required to register under this section who violates this section is guilty of
24 a class C felony. The failure of a homeless individual to register as required in
25 subsections 2 and 3 is prima facie evidence of a violation of this section. The clerk of
26 court shall forward all warrants issued for a violation of this section to the county
27 sheriff, who shall enter all such warrants into the national crime information center
28 wanted person file. A court may not relieve an individual, other than a juvenile, who
29 violates this section from serving a term of at least ninety days in jail and completing
30 probation of one year.

- 1 10. When an individual is released on parole or probation and is required to register
2 pursuant to this section, but fails to do so within the time prescribed, the court shall
3 order the probation, or the parole board shall order the parole, of the individual
4 revoked.
- 5 11. If an individual required to register pursuant to this section is temporarily sent outside
6 the facility or institution where that individual is confined under conviction or sentence,
7 the local law enforcement agency having jurisdiction over the place where that
8 individual is being sent must be notified within a reasonable time period before that
9 individual is released from the facility or institution. This subsection does not apply to
10 any individual temporarily released under guard from the facility or institution in which
11 that individual is confined.
- 12 12. The attorney general, with the assistance of the department and the juvenile courts,
13 shall develop guidelines for the risk assessment of sexual offenders who are required
14 to register, with a low-risk, moderate-risk, or high-risk level being assigned to each
15 offender as follows:
- 16 a. The department shall conduct a risk assessment of sexual offenders who are
17 incarcerated in institutions under the control of the department and sexual
18 offenders who are on supervised probation. The department, in a timely manner,
19 shall provide the attorney general any information, including the offender's level
20 of risk and supporting documentation, concerning individuals required to be
21 registered under this section who are about to be released or placed into the
22 community.
- 23 b. The attorney general shall conduct a risk assessment of sexual offenders who
24 are not under the custody or supervision of the department. The attorney general
25 may adopt a law enforcement agency's previous assignment of risk level for an
26 individual if the assessment was conducted in a manner substantially similar to
27 the guidelines developed under this subsection.
- 28 c. The juvenile courts or the agency having legal custody of a juvenile shall conduct
29 a risk assessment of juvenile sexual offenders who are required to register under
30 this section. The juvenile courts or the agency having legal custody of a juvenile
31 shall provide the attorney general any information, including the offender's level

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

1 attend a school function under section 12.1-20-25, or for disclosing or for failing to
2 disclose information as permitted by this section.

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

14 17. If an individual has been required to register as a sexual offender or an offender
15 against a child under section 12.1-32-15 or former section 27-20-52.1 before August 1,
16 1999, the individual may petition the court to be removed from the offender list if
17 registration is no longer mandatory for that individual. In considering the petition, the
18 court shall comply with the requirements of this section.

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

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

1 **SECTION 9. AMENDMENT.** Section 15.1-09-33.4 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **15.1-09-33.4. Student misconduct - Prohibition against participation in extracurricular**
4 **activities.**

5 1. The board of a school district ~~shall~~may prohibit a student from participating in any
6 extracurricular activity if:

7 a. The student has pled guilty to or been convicted of a criminal offense and
8 sentenced under section 12.1-32-02.1 or pled guilty or been convicted of an
9 offense specified in subsection 1 of section 12.1-32-09.1;

10 b. The student has:

11 (1) An order prohibiting contact issued against the student at the request of
12 another student or employee of the school under section 12.1-31.2-02;

13 (2) A disorderly conduct restraining order issued against the student at the
14 request of another student or employee of the school under section
15 12.1-31.2-01, except a temporary restraining order under subsection 4 of
16 section 12.1-31.2-01; ~~or~~

17 (3) A protection order issued against the student at the request of another
18 student or employee of the school, except a temporary protection order
19 under section 14-07.1-03; or

20 (4) Any other order issued against the student prohibiting contact with a student
21 or employee of the school which is signed by a district judge or a judicial
22 referee within a delinquency or criminal case;

23 c. The principal of the school receives information pertaining to an offense or order
24 included under this section as provided in section 27-20.2-21; or

25 d. The victim of the offense or the subject of the order notifies the principal of the
26 offense or order.

27 2. For purposes of this section, a representative of the juvenile court system may notify
28 the principal of a school regarding the existence of files or records of the juvenile court
29 pertaining to a student of the school which are open to inspection by the principal
30 under section 27-20.2-21.

SECTION 10. AMENDMENT. Subsection 3 of section 27-20.2-09 of the North Dakota Century Code is amended and reenacted as follows:

3. The giving of information and advice and any conditions imposed for the conduct and control of the child may not extend beyond six months from the day commenced unless extended by the court for an additional period not to exceed six months and does not authorize the detention of the child if not otherwise permitted by this chapter. For a driving-related offense, the conditions may include a restriction on the child's driving privileges as authorized under section ~~27-20.4-19~~16 of this Act.

SECTION 11. A new section to chapter 27-20.4 of the North Dakota Century Code is created and enacted as follows:

Petition.

1. A petition alleging delinquency under this chapter must be reviewed by the director, the court, or other person designated by the director and authorized by the court to determine whether the filing of the petition is in the best interest of the public and the child.
2. The state's attorney shall prepare, file, and serve a petition alleging delinquent conduct on the parties. The juvenile court shall conduct an inquiry into and provide the last known address of the parents or legal guardian of the child in the referral to the state's attorney.
3. A petition alleging delinquent conduct may not include the adult class level of the offense unless the offense level is a necessary element of the delinquent conduct.

SECTION 12. A new section to chapter 27-20.4 of the North Dakota Century Code is created and enacted as follows:

Fitness to proceed - Lack of criminal responsibility.

In a juvenile court proceeding involving the issue of fitness to proceed or criminal responsibility, the court shall determine whether the child:

1. Is fit to proceed in accordance with title 27; and
2. Lacked criminal responsibility for the commission of an offense in accordance with chapter 12.1-04.1.

SECTION 13. AMENDMENT. Subsection 5 of section 27-20.4-11 of the North Dakota Century Code is amended and reenacted as follows:

- 1 5. An informal agreement may not extend beyond six months from the day the
2 agreement was agreed upon. An extension may be granted by the court for an
3 additional period not to exceed six months. An extension may not authorize the
4 detention of the child if not otherwise permitted by this chapter. For a driving-related
5 offense, the agreement may include a restriction on the child's driving privileges as
6 allowed under section ~~27-20.4-19~~16 of this Act.

7 **SECTION 14. AMENDMENT.** Subsection 1 of section 27-20.4-18 of the North Dakota
8 Century Code is amended and reenacted as follows:

- 9 1. A probation order entered by the court must place the child under the supervision of
10 the director, unless the child is over eighteen years of age and the child's risk and
11 needs require supervision by the department of corrections and rehabilitation under
12 subsection ~~13~~ of section ~~27-20.4-15~~27-20.4-17.

13 **SECTION 15. AMENDMENT.** Subsection 1 of section 27-20.4-20 of the North Dakota
14 Century Code is amended and reenacted as follows:

- 15 1. In addition to a child being ordered to make restitution under section
16 ~~27-20.4-16~~27-20.4-17, a parent of a child adjudged delinquent may be ordered to
17 make restitution on the child's behalf in an amount not exceeding five thousand
18 dollars.

19 **SECTION 16.** A new section to chapter 27-20.4 of the North Dakota Century Code is
20 created and enacted as follows:

21 **Collateral consequences - Registration - Firearms - Driving privileges.**

- 22 1. A child may be ordered to register as a sexual offender under section 12.1-32-15.
23 2. A child may be prohibited from possessing a firearm in accordance with section
24 62.1-02-01.
25 3. If a child is adjudicated delinquent of an offense that would be a class A misdemeanor
26 or a felony if the offense were committed by an adult, the juvenile court may suspend
27 the child's driving privileges for a period of up to six months for the first offense, and
28 up to one year for a second or subsequent offense. The juvenile court may order the
29 successful completion of an appropriate driver's examination as a condition for
30 reinstating the child's driving privileges.

1 a. If the juvenile court suspends a child's driving privileges, the court immediately
2 shall take possession of the child's driver's license or permit and send a copy of
3 the court's order to the director of the department of transportation who shall
4 make notation of the child's suspended driving privileges.

5 b. The record of the child's suspension of driving privileges under this section:

6 (1) Must be kept confidential;

7 (2) May not be released except to law enforcement personnel in connection
8 with law enforcement activities; and

9 (3) May not be disclosed to or shared with the licensing officials of any other
10 state or jurisdiction.

11 c. At the end of the six-month or one-year suspension period, the director shall
12 remove and destroy all records of the child's suspension of driving privileges
13 under this section.

14 4. A child may be prohibited from participating in extracurricular activities in accordance
15 with section 15.1-09-33.4.

16 **SECTION 17. AMENDMENT.** Section 62.1-02-01 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **62.1-02-01. Persons who are not to possess firearms - Penalty.**

19 1. a. A person who has been convicted anywhere of a felony offense involving
20 violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an
21 equivalent felony offense of another state or the federal government is prohibited
22 from owning a firearm or having one in possession from the date of conviction
23 and continuing for ten years after the date of conviction or the date of release
24 from incarceration, parole, or probation, whichever is latest.

25 b. A person who has been convicted anywhere of a felony offense of this or another
26 state or the federal government not provided for in subdivision a or who has been
27 convicted of a class A misdemeanor offense involving violence or intimidation in
28 violation of chapters 12.1-16 through 12.1-25 or an equivalent offense of another
29 state or the federal government and the offense was committed while using or
30 possessing a firearm, a dangerous weapon, or, as defined in section 12.1-01-04,
31 a destructive device or an explosive, is prohibited from owning a firearm or

1 having one in possession from the date of conviction and continuing for five years
2 after the date of conviction or the date of release from incarceration, parole, or
3 probation, whichever is latest.

4 c. A person who is or has ever been diagnosed and confined or committed to a
5 hospital or other institution in this state or elsewhere by a court of competent
6 jurisdiction, other than a person who has had the petition that provided the basis
7 for the diagnosis, confinement, or commitment dismissed under section
8 25-03.1-17, 25-03.1-18, or 25-03.1-19, or equivalent statutes of another
9 jurisdiction, as a person requiring treatment as defined in section 25-03.1-02, or
10 as a mentally deficient individual, is prohibited from purchasing a firearm or
11 having one in possession. This limitation does not apply to a person who has not
12 suffered from the disability for the previous three years or who has successfully
13 petitioned for relief under section 62.1-02-01.2.

14 d. A person under the age of eighteen years may not possess a handgun except
15 that such a person, while under the direct supervision of an adult, may possess a
16 handgun for the purposes of firearm safety training, target shooting, or hunting.

17 e. A child who has been adjudicated delinquent of a felony offense involving
18 violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an
19 equivalent felony offense of another state or the federal government is prohibited
20 from owning a firearm or having one in possession from the date of adjudication
21 and continuing for ten years after the date of adjudication.

22 f. A child who has been adjudicated of a class A misdemeanor offense involving
23 violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an
24 equivalent offense of another state or the federal government, and the offense
25 was committed while using or possessing a firearm, a dangerous weapon, a
26 destructive device, or an explosive is prohibited from owning a firearm or having
27 one in possession from the date of adjudication and continuing for five years after
28 the date of adjudication.

29 A person who violates subdivision a or b is guilty of a class C felony, and a person who
30 violates subdivision c or d is guilty of a class A misdemeanor.

- 1 2. For the purposes of this section, "conviction" means a determination that the person
2 committed one of the above-mentioned crimes upon a verdict of guilt, a plea of guilty,
3 or a plea of nolo contendere even though:
- 4 a. The court suspended execution of sentence in accordance with subsection 3 of
5 section 12.1-32-02;
- 6 b. The court deferred imposition of sentence in accordance with subsection 4 of
7 section 12.1-32-02;
- 8 c. The court placed the person on probation;
- 9 d. The person's conviction has been reduced in accordance with subsection 9 of
10 section 12.1-32-02 or section 12.1-32-07.1;
- 11 e. Sentence dispositions, sentence reductions, or offense determinations equivalent
12 to this section were imposed or granted by a court, board, agency, or law of
13 another state or the federal government; or
- 14 f. The person committed an offense equivalent to an offense described in
15 subdivision ~~a or b~~ or f of subsection 1 when that person was subject to juvenile
16 adjudication or proceedings and a determination of a court under chapter 27-20.4
17 or of a court of another state or the federal government was made that the
18 person committed the delinquent act or offense.
- 19 3. A felon who is not sentenced under section 12.1-32-09.1 may possess a rifle that has
20 a barrel sixteen inches [40.72 centimeters] or longer or a shotgun that has a barrel
21 eighteen inches [45.72 centimeters] or longer and which is one of the following:
- 22 a. A firearm, including any firearm with a matchlock, flintlock, percussion cap, or
23 similar type of ignition system, manufactured before 1899.
- 24 b. A replica of any firearm described in subdivision a, if the replica is not designed
25 or redesigned for using rimfire or conventional centerfire fixed ammunition or
26 uses rimfire or conventional centerfire fixed ammunition that is no longer
27 manufactured in the United States and which is not readily available in the
28 ordinary channels of commercial trade.
- 29 c. A muzzleloading rifle or muzzleloading shotgun designed to use black powder or
30 a black powder substitute and which cannot use fixed ammunition.

1 **SECTION 18. REPEAL.** Sections 27-20.4-12, 27-20.4-13, and 27-20.4-19 of the North
2 Dakota Century Code are repealed.

3 **SECTION 19. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES -**
4 **CONTRACT SERVICES - GENERAL FUND - ONE-TIME FUNDING.** There is appropriated out
5 of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of
6 \$300,000, or so much of the sum as may be necessary, to the department of health and human
7 services for the purpose of contracting for juvenile fitness to proceed evaluation services, for the
8 biennium beginning July 1, 2025, and ending June 30, 2027. The funding in this section is
9 considered a one-time funding item.

2025 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

SB 2037
2/6/2025

Relating to juvenile court petitions, fitness to proceed in juvenile court proceedings, and collateral consequences the juvenile court may order; lack of criminal responsibility, court jurisdiction, distribution of intimate images without consent, domestic violence, criminality of a child regarding sex offenses, sale and use of tobacco by an individual under the age of twenty-one, child registration requirements, restitution, probation of a delinquent child, extracurricular activities for students, and persons not allowed to possess a firearm; delinquency; and to provide a penalty.

2:29 p.m. Chairman Bekkedahl opened the hearing.

Discussion Topics:

- Contracted Services
- Juvenile Services

2:31 p.m. Senator Davison introduced the bill, the amendment LC# 25.0272.03001 and submitted testimony #36252.

2:33 p.m. Senator Davison moved amendment LC# 25.0272.03001.

2:33 p.m. Senator Mathern seconded the motion.

Senators	Vote
Senator Brad Bekkedahl	Y
Senator Robert Erbele	N
Senator Randy A. Burckhard	N
Senator Sean Cleary	Y
Senator Cole Conley	Y
Senator Kyle Davison	Y
Senator Dick Dever	Y
Senator Michael Dwyer	Y
Senator Jeffery J. Magrum	Y
Senator Tim Mathern	Y
Senator Scott Meyer	Y
Senator Donald Schaible	Y
Senator Jonathan Sickler	Y
Senator Ronald Sorvaag	Y
Senator Paul J. Thomas	Y
Senator Terry M. Wanzek	Y

Motion Passed 14-2-0.

2:34 p.m. Senator Dever moved a Do Pass as Amended.

2:34 p.m. Senator Davison seconded the motion.

Senators	Vote
Senator Brad Bekkedahl	Y
Senator Robert Erbele	Y
Senator Randy A. Burckhard	Y
Senator Sean Cleary	Y
Senator Cole Conley	Y
Senator Kyle Davison	Y
Senator Dick Dever	Y
Senator Michael Dwyer	Y
Senator Jeffery J. Magrum	Y
Senator Tim Mathern	Y
Senator Scott Meyer	Y
Senator Donald Schaible	Y
Senator Jonathan Sickler	Y
Senator Ronald Sorvaag	Y
Senator Paul J. Thomas	Y
Senator Terry M. Wanzek	Y

Motion Passed 16-0-0.

Senator Cory will carry the bill.

2:37 p.m. Chairman Bekkedahl closed the hearing.

Elizabeth Reiten, Committee Clerk

2/6/25
1 of 2

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
FIRST ENGROSSMENT**

ENGROSSED SENATE BILL NO. 2037

Introduced by

Legislative Management

(Juvenile Justice Committee)

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

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

1 a. The individual lacks substantial capacity to comprehend the harmful nature or
2 consequences of the conduct, or the conduct is the result of a loss or serious
3 distortion of the individual's capacity to recognize reality; and

4 b. It is an essential element of the crime charged that the individual act willfully.

5 2. For purposes of this chapter, repeated criminal or similar antisocial conduct, or
6 impairment of mental condition caused primarily by voluntary use of alcoholic
7 beverages or controlled substances immediately before or contemporaneously with
8 the alleged offense, does not constitute in itself mental illness or defect at the time of
9 the alleged offense. Evidence of the conduct or impairment may be probative in
10 conjunction with other evidence to establish mental illness or defect.

11 3. An individual ten years of age or older may be assessed for criminal responsibility
12 under this chapter.

13 **SECTION 2. AMENDMENT.** Section 12.1-04.1-20 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **12.1-04.1-20. Jurisdiction of court.**

16 1. Unless earlier discharged by order of the court pursuant to section 12.1-04.1-22,
17 12.1-04.1-24, or 12.1-04.1-25, an individual found not guilty by reason of lack of
18 criminal responsibility is subject to the jurisdiction of the court for a period equal to the
19 maximum term of imprisonment that could have been imposed for the most serious
20 crime of which the individual was charged but found not guilty by reason of lack of
21 criminal responsibility. In a juvenile proceeding, a child not adjudicated by reason of
22 lack of criminal responsibility is subject to the jurisdiction of the court for one year.

23 2. Upon expiration of its jurisdiction under this chapter or earlier discharge by its order,
24 the court may order that a proceeding for involuntary commitment be initiated pursuant
25 to chapter 25-03.1. In a juvenile proceeding, the court may order an investigation into
26 whether a child in need of protection proceedings should be initiated.

27 **SECTION 3. AMENDMENT.** Section 12.1-17-01.2 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **12.1-17-01.2. Domestic violence.**

30 1. For purposes of this section "family or household member" means family or household
31 member as defined in section 14-07.1-01.

- 1 2. A person is guilty of an offense if that person willfully causes:
- 2 a. Bodily injury to the actor's family or household member;
- 3 b. Substantial bodily injury to the actor's family or household member; or
- 4 c. Serious bodily injury to the actor's family or household member.
- 5 3. The offense is:
- 6 a. A class B misdemeanor for the first offense under subdivision a of subsection 2
- 7 and a class A misdemeanor for a second or subsequent offense under this
- 8 section or sections 12.1-17-01, 12.1-17-01.1, or 12.1-17-02 involving the
- 9 commission of domestic violence, as defined in section 14-07.1-01. For purposes
- 10 of this subdivision, a prior conviction includes a conviction of any assault offense
- 11 in which a finding of domestic violence was made under a law or ordinance of
- 12 another state which is equivalent to this section.
- 13 b. A class A misdemeanor for an offense under subdivision b of subsection 2 and a
- 14 class C felony for an offense under subdivision c of subsection 2.
- 15 c. A class B felony for an offense under subdivision b or c of subsection 2 if the
- 16 victim is under twelve years of age.
- 17 4. A person charged with an offense under this section must be prosecuted in district
- 18 court.
- 19 5. This section does not apply to an individual under the age of eighteen unless the:
- 20 a. Victim is or was in a dating relationship with the individual; or
- 21 b. Individual has a child in common with the victim.

22 **SECTION 4. AMENDMENT.** Subsection 2 of section 12.1-17-07.2 of the North Dakota
23 Century Code is amended and reenacted as follows:

- 24 2. A person commits the offense of distribution of intimate images if the person knowingly
- 25 or intentionally distributes to any third party any intimate image of an individual
- 26 eighteen years of age or older, if:
- 27 a. The person knows that the depicted individual has not given consent to the
- 28 person to distribute the intimate image;
- 29 b. The intimate image was created by or provided to the person under
- 30 circumstances in which the individual has a reasonable expectation of privacy;
- 31 and

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

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

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

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

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

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

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

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

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

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

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

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

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

29 **12.1-32-15. Offenders against children and sexual offenders - Sexually violent**
30 **predators - Registration requirement - Penalty.**

31 1. As used in this section:

- 1 a. "A crime against a child" means a violation of chapter 12.1-16, section
2 12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04,
3 subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01,
4 12.1-18-02, 12.1-18-05, chapter 12.1-29, or section 14-09-22, subsection 3 of
5 section 12.1-41-02, subsection 3 of section 12.1-41-03, or an equivalent offense
6 from another court in the United States, a tribal court, or court of another country,
7 in which the victim is a minor or is otherwise of the age required for the act to be
8 a crime or an attempt or conspiracy to commit these offenses.
- 9 b. "Department" means the department of corrections and rehabilitation.
- 10 c. "Homeless" means an individual who is physically present in this state, but is
11 living in a park, under a bridge, on the streets, in a vehicle or camper, or is
12 otherwise without a traditional dwelling, and also one who resides in this state but
13 does not maintain a permanent address. The term does not include individuals
14 who are temporarily domiciled or individuals residing in public or private shelters
15 that provide temporary living accommodations.
- 16 d. "Mental abnormality" means a congenital or acquired condition of an individual
17 that affects the emotional or volitional capacity of the individual in a manner that
18 predisposes that individual to the commission of criminal sexual acts to a degree
19 that makes the individual a menace to the health and safety of other individuals.
- 20 e. "Predatory" means an act directed at a stranger or at an individual with whom a
21 relationship has been established or promoted for the primary purpose of
22 victimization.
- 23 f. "Reside" means to live permanently or be situated for a considerable time in a
24 home or a particular place.
- 25 g. "Sexual offender" means a person who has pled guilty to or been found guilty,
26 including juvenile delinquent adjudications, of a violation of section 12.1-20-03,
27 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,
28 12.1-20-07 except for subdivision a of subsection 1, 12.1-20-11, 12.1-20-12.1,
29 12.1-20-12.2, 12.1-20-12.3 except for subdivision a of subsection 1 and
30 subdivision b of subsection 1 if the offense involves only a demand for money,
31 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, 12.1-41-05, or 12.1-41-06, or an equivalent offense from another court in the United States, a tribal court, or court of another country, or an attempt or conspiracy to commit these offenses.

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

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

2. The court shall impose, in addition to any penalty provided by law, a requirement that the individual register, within three days of coming into a county in which the individual resides, is homeless, or within the period identified in this section that the individual becomes temporarily domiciled. The individual must register with the chief of police of the city of the individual's place of residence, or the sheriff of the county if the individual resides in an area other than a city. A homeless individual shall register every three days with the sheriff or chief of police of the jurisdiction in which the 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 e.~~

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.

- 1 c. ~~Is a juvenile found delinquent under subdivision d of subsection 1 of section~~
2 ~~12.1-20-03, subdivision a of subsection 2 of section 12.1-20-03, or as a sexual~~
3 ~~offender for a misdemeanor. The court may deviate from requiring the juvenile to~~
4 ~~register if the court first finds the juvenile has not previously been convicted as a~~
5 ~~sexual offender or for a crime against a child, and the juvenile did not exhibit~~
6 ~~mental abnormality or predatory conduct in the commission of the offense.~~
7 d. Has pled guilty or nolo contendere to, or been found guilty of, a crime against a
8 child or an attempted crime against a child, ~~including juvenile delinquent~~
9 ~~adjudications of equivalent offenses.~~ Except if the offense is described in section
10 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 and the person is not the parent
11 of the victim, the court may deviate from requiring an individual to register if the
12 court first finds the individual has not previously been convicted as a sexual
13 offender or for a crime against a child, and the individual did not exhibit mental
14 abnormality or predatory conduct in the commission of the offense.
15 e.d. Has pled guilty or nolo contendere, or been found guilty, ~~or been adjudicated~~
16 ~~delinquent~~ of any crime against another individual which is not otherwise
17 specified in this section if the court determines that registration is warranted by
18 the nature of the crime and therefore orders registration for the individual. If the
19 court orders an individual to register as an offender under this section, the
20 individual shall comply with all of the registration requirements in this chapter.
21 e. Is a child who has been adjudicated delinquent of an offense which would classify
22 the child as a sexual offender, the prosecutor requested the court to consider
23 sexual offender registration, and the court determines the child:
24 (1) Exhibited a mental abnormality or predatory conduct in the commission of
25 the offense; or
26 (2) Previously has been adjudicated as a sexual offender.
27 3. If a court has not ordered an individual to register in this state, an individual who
28 resides, is homeless, or is temporarily domiciled in this state shall register if the
29 individual:
30 a. Is incarcerated or is on probation or parole after July 31, 1995, for a crime
31 against a child described in section 12.1-29-02, or section 12.1-18-01 or

- 1 12.1-18-02 if the individual was not the parent of the victim, or as a sexual
2 offender;
- 3 b. Has pled guilty or nolo contendere to, ~~or been adjudicated for or found guilty of,~~
4 an offense in a court of this state for which registration is mandatory under this
5 section or an offense from another court in the United States, a tribal court, or
6 court of another country equivalent to those offenses set forth in this section; or
7 c. Has pled guilty or nolo contendere to, or has been found guilty of, a crime against
8 a child or as a sexual offender for which registration is mandatory under this
9 section if the conviction occurred after July 31, 1985.
- 10 4. In its consideration of mental abnormality or predatory conduct, the court shall
11 consider the age of the offender, the age of the victim, the difference in ages of the
12 victim and offender, the circumstances and motive of the crime, the relationship of the
13 victim and offender, and the mental state of the offender. The court may order an
14 offender to be evaluated by a qualified counselor, psychologist, or physician before
15 sentencing. Except as provided under subdivision ed of subsection 2, the court shall
16 state on the record in open court its affirmative finding for not requiring an offender to
17 register.
- 18 5. When an individual is required to register under this section, the official in charge of a
19 facility or institution where the individual required to register is confined, or the
20 department, shall, before the discharge, parole, or release of that individual, inform the
21 individual of the duty to register pursuant to this section. The official or the department
22 shall require the individual to read and sign a form as required by the attorney general,
23 stating that the duty of the individual to register has been explained to that individual.
24 The official in charge of the place of confinement, or the department, shall obtain the
25 address where the individual expects to reside, attend school, or work upon discharge,
26 parole, or release and shall report the address to the attorney general. The official in
27 charge of the place of confinement, or the department, shall give three copies of the
28 form to the individual and shall send three copies to the attorney general no later than
29 forty-five days before the scheduled release of that individual. The attorney general
30 shall forward one copy to the law enforcement agency having jurisdiction where the
31 individual expects to reside, attend school, or work upon discharge, parole, or release,

one copy to the prosecutor who prosecuted the individual, and one copy to the court in which the individual was prosecuted. All forms must be transmitted and received by the law enforcement agency, prosecutor, and court thirty days before the discharge, parole, or release of the individual.

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

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

and photograph to the attorney general and shall submit the sample of the individual's blood and body fluids to the state crime laboratory. If an individual required to register under this section has a change in vehicle or computer online identity, the individual shall register, within three days after the change, with the law enforcement agency having local jurisdiction of the individual's place of residence of the individual's new vehicle or computer online identity. If an individual required to register pursuant to this section has a change in name, school, or residence or employment address, that individual shall register, at least ten days before the change, with the law enforcement agency having local jurisdiction of the individual's place of residence of the individual's new name, school, residence address, or employment address. A change in school or 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.

- 1 8. An individual required to register under this section shall comply with the registration
2 requirement for the longer of the following periods:
- 3 a. A period of fifteen years after the date of sentence or order deferring or
4 suspending sentence upon a plea or finding of guilt or after release from
5 incarceration, whichever is later;
- 6 b. A period of twenty-five years after the date of sentence or order deferring or
7 suspending sentence upon a plea or finding of guilt or after release from
8 incarceration, whichever is later, if the offender is assigned a moderate risk by the
9 attorney general as provided in subsection 12; or
- 10 c. For the life of the individual, if that individual:
- 11 (1) On two or more occasions has pled guilty or nolo contendere to, or been
12 found guilty of a crime against a child or as a sexual offender. If all qualifying
13 offenses are misdemeanors, this lifetime provision does not apply unless a
14 qualifying offense was committed after August 1, 1999;
- 15 (2) Pleads guilty or nolo contendere to, or is found guilty of, an offense
16 committed after August 1, 1999, which is described in subdivision a of
17 subsection 1 of section 12.1-20-03, section 12.1-20-03.1, or subdivision d of
18 subsection 1 of section 12.1-20-03 if the person is an adult and the victim is
19 under age twelve, or section 12.1-18-01 if that individual is an adult other
20 than a parent of the victim, or an equivalent offense from another court in
21 the United States, a tribal court, or court of another country; or
- 22 (3) Is assigned a high risk by the attorney general as provided in subsection 12.
- 23 9. An individual required to register under this section who violates this section is guilty of
24 a class C felony. The failure of a homeless individual to register as required in
25 subsections 2 and 3 is prima facie evidence of a violation of this section. The clerk of
26 court shall forward all warrants issued for a violation of this section to the county
27 sheriff, who shall enter all such warrants into the national crime information center
28 wanted person file. A court may not relieve an individual, other than a juvenile, who
29 violates this section from serving a term of at least ninety days in jail and completing
30 probation of one year.

- 1 10. When an individual is released on parole or probation and is required to register
2 pursuant to this section, but fails to do so within the time prescribed, the court shall
3 order the probation, or the parole board shall order the parole, of the individual
4 revoked.
- 5 11. If an individual required to register pursuant to this section is temporarily sent outside
6 the facility or institution where that individual is confined under conviction or sentence,
7 the local law enforcement agency having jurisdiction over the place where that
8 individual is being sent must be notified within a reasonable time period before that
9 individual is released from the facility or institution. This subsection does not apply to
10 any individual temporarily released under guard from the facility or institution in which
11 that individual is confined.
- 12 12. The attorney general, with the assistance of the department and the juvenile courts,
13 shall develop guidelines for the risk assessment of sexual offenders who are required
14 to register, with a low-risk, moderate-risk, or high-risk level being assigned to each
15 offender as follows:
 - 16 a. The department shall conduct a risk assessment of sexual offenders who are
17 incarcerated in institutions under the control of the department and sexual
18 offenders who are on supervised probation. The department, in a timely manner,
19 shall provide the attorney general any information, including the offender's level
20 of risk and supporting documentation, concerning individuals required to be
21 registered under this section who are about to be released or placed into the
22 community.
 - 23 b. The attorney general shall conduct a risk assessment of sexual offenders who
24 are not under the custody or supervision of the department. The attorney general
25 may adopt a law enforcement agency's previous assignment of risk level for an
26 individual if the assessment was conducted in a manner substantially similar to
27 the guidelines developed under this subsection.
 - 28 c. The juvenile courts or the agency having legal custody of a juvenile shall conduct
29 a risk assessment of juvenile sexual offenders who are required to register under
30 this section. The juvenile courts or the agency having legal custody of a juvenile
31 shall provide the attorney general any information, including the offender's level

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

1 attend a school function under section 12.1-20-25, or for disclosing or for failing to
2 disclose information as permitted by this section.

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

14 17. If an individual has been required to register as a sexual offender or an offender
15 against a child under section 12.1-32-15 or former section 27-20-52.1 before August 1,
16 1999, the individual may petition the court to be removed from the offender list if
17 registration is no longer mandatory for that individual. In considering the petition, the
18 court shall comply with the requirements of this section.

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

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

SECTION 9. AMENDMENT. Section 15.1-09-33.4 of the North Dakota Century Code is amended and reenacted as follows:

15.1-09-33.4. Student misconduct - Prohibition against participation in extracurricular activities.

1. The board of a school district ~~shall~~may prohibit a student from participating in any extracurricular activity if:

a. The student has pled guilty to or been convicted of a criminal offense and sentenced under section 12.1-32-02.1 or pled guilty or been convicted of an offense specified in subsection 1 of section 12.1-32-09.1;

b. The student has:

(1) An order prohibiting contact issued against the student at the request of another student or employee of the school under section 12.1-31.2-02;

(2) A disorderly conduct restraining order issued against the student at the request of another student or employee of the school under section 12.1-31.2-01, except a temporary restraining order under subsection 4 of section 12.1-31.2-01; ~~or~~

(3) A protection order issued against the student at the request of another student or employee of the school, except a temporary protection order under section 14-07.1-03; or

(4) Any other order issued against the student prohibiting contact with a student or employee of the school which is signed by a district judge or a judicial referee within a delinquency or criminal case;

c. The principal of the school receives information pertaining to an offense or order included under this section as provided in section 27-20.2-21; or

d. The victim of the offense or the subject of the order notifies the principal of the offense or order.

2. For purposes of this section, a representative of the juvenile court system may notify the principal of a school regarding the existence of files or records of the juvenile court pertaining to a student of the school which are open to inspection by the principal under section 27-20.2-21.

SECTION 10. AMENDMENT. Subsection 3 of section 27-20.2-09 of the North Dakota Century Code is amended and reenacted as follows:

3. The giving of information and advice and any conditions imposed for the conduct and control of the child may not extend beyond six months from the day commenced unless extended by the court for an additional period not to exceed six months and does not authorize the detention of the child if not otherwise permitted by this chapter. For a driving-related offense, the conditions may include a restriction on the child's driving privileges as authorized under section ~~27-20.4-19~~16 of this Act.

SECTION 11. A new section to chapter 27-20.4 of the North Dakota Century Code is created and enacted as follows:

Petition.

1. A petition alleging delinquency under this chapter must be reviewed by the director, the court, or other person designated by the director and authorized by the court to determine whether the filing of the petition is in the best interest of the public and the child.
2. The state's attorney shall prepare, file, and serve a petition alleging delinquent conduct on the parties. The juvenile court shall conduct an inquiry into and provide the last known address of the parents or legal guardian of the child in the referral to the state's attorney.
3. A petition alleging delinquent conduct may not include the adult class level of the offense unless the offense level is a necessary element of the delinquent conduct.

SECTION 12. A new section to chapter 27-20.4 of the North Dakota Century Code is created and enacted as follows:

Fitness to proceed - Lack of criminal responsibility.

In a juvenile court proceeding involving the issue of fitness to proceed or criminal responsibility, the court shall determine whether the child:

1. Is fit to proceed in accordance with title 27; and
2. Lacked criminal responsibility for the commission of an offense in accordance with chapter 12.1-04.1.

SECTION 13. AMENDMENT. Subsection 5 of section 27-20.4-11 of the North Dakota Century Code is amended and reenacted as follows:

5. An informal agreement may not extend beyond six months from the day the agreement was agreed upon. An extension may be granted by the court for an additional period not to exceed six months. An extension may not authorize the detention of the child if not otherwise permitted by this chapter. For a driving-related offense, the agreement may include a restriction on the child's driving privileges as allowed under section ~~27-20.4-19~~16 of this Act.

SECTION 14. AMENDMENT. Subsection 1 of section 27-20.4-18 of the North Dakota Century Code is amended and reenacted as follows:

1. A probation order entered by the court must place the child under the supervision of the director, unless the child is over eighteen years of age and the child's risk and needs require supervision by the department of corrections and rehabilitation under subsection ~~13~~ of section ~~27-20.4-15~~27-20.4-17.

SECTION 15. AMENDMENT. Subsection 1 of section 27-20.4-20 of the North Dakota Century Code is amended and reenacted as follows:

1. In addition to a child being ordered to make restitution under section ~~27-20.4-16~~27-20.4-17, a parent of a child adjudged delinquent may be ordered to make restitution on the child's behalf in an amount not exceeding five thousand dollars.

SECTION 16. A new section to chapter 27-20.4 of the North Dakota Century Code is created and enacted as follows:

Collateral consequences - Registration - Firearms - Driving privileges.

1. A child may be ordered to register as a sexual offender under section 12.1-32-15.
2. A child may be prohibited from possessing a firearm in accordance with section 62.1-02-01.
3. If a child is adjudicated delinquent of an offense that would be a class A misdemeanor or a felony if the offense were committed by an adult, the juvenile court may suspend the child's driving privileges for a period of up to six months for the first offense, and up to one year for a second or subsequent offense. The juvenile court may order the successful completion of an appropriate driver's examination as a condition for reinstating the child's driving privileges.

a. If the juvenile court suspends a child's driving privileges, the court immediately shall take possession of the child's driver's license or permit and send a copy of the court's order to the director of the department of transportation who shall make notation of the child's suspended driving privileges.

b. The record of the child's suspension of driving privileges under this section:

(1) Must be kept confidential;

(2) May not be released except to law enforcement personnel in connection with law enforcement activities; and

(3) May not be disclosed to or shared with the licensing officials of any other state or jurisdiction.

c. At the end of the six-month or one-year suspension period, the director shall remove and destroy all records of the child's suspension of driving privileges under this section.

4. A child may be prohibited from participating in extracurricular activities in accordance with section 15.1-09-33.4.

SECTION 17. AMENDMENT. Section 62.1-02-01 of the North Dakota Century Code is amended and reenacted as follows:

62.1-02-01. Persons who are not to possess firearms - Penalty.

1. a. A person who has been convicted anywhere of a felony offense involving violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an equivalent felony offense of another state or the federal government is prohibited from owning a firearm or having one in possession from the date of conviction and continuing for ten years after the date of conviction or the date of release from incarceration, parole, or probation, whichever is latest.
- b. A person who has been convicted anywhere of a felony offense of this or another state or the federal government not provided for in subdivision a or who has been convicted of a class A misdemeanor offense involving violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an equivalent offense of another state or the federal government and the offense was committed while using or possessing a firearm, a dangerous weapon, or, as defined in section 12.1-01-04, a destructive device or an explosive, is prohibited from owning a firearm or

1 having one in possession from the date of conviction and continuing for five years
2 after the date of conviction or the date of release from incarceration, parole, or
3 probation, whichever is latest.

4 c. A person who is or has ever been diagnosed and confined or committed to a
5 hospital or other institution in this state or elsewhere by a court of competent
6 jurisdiction, other than a person who has had the petition that provided the basis
7 for the diagnosis, confinement, or commitment dismissed under section
8 25-03.1-17, 25-03.1-18, or 25-03.1-19, or equivalent statutes of another
9 jurisdiction, as a person requiring treatment as defined in section 25-03.1-02, or
10 as a mentally deficient individual, is prohibited from purchasing a firearm or
11 having one in possession. This limitation does not apply to a person who has not
12 suffered from the disability for the previous three years or who has successfully
13 petitioned for relief under section 62.1-02-01.2.

14 d. A person under the age of eighteen years may not possess a handgun except
15 that such a person, while under the direct supervision of an adult, may possess a
16 handgun for the purposes of firearm safety training, target shooting, or hunting.

17 e. A child who has been adjudicated delinquent of a felony offense involving
18 violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an
19 equivalent felony offense of another state or the federal government is prohibited
20 from owning a firearm or having one in possession from the date of adjudication
21 and continuing for ten years after the date of adjudication.

22 f. A child who has been adjudicated of a class A misdemeanor offense involving
23 violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an
24 equivalent offense of another state or the federal government, and the offense
25 was committed while using or possessing a firearm, a dangerous weapon, a
26 destructive device, or an explosive is prohibited from owning a firearm or having
27 one in possession from the date of adjudication and continuing for five years after
28 the date of adjudication.

29 A person who violates subdivision a or b is guilty of a class C felony, and a person who
30 violates subdivision c or d is guilty of a class A misdemeanor.

2. For the purposes of this section, "conviction" means a determination that the person committed one of the above-mentioned crimes upon a verdict of guilt, a plea of guilty, or a plea of nolo contendere even though:
 - a. The court suspended execution of sentence in accordance with subsection 3 of section 12.1-32-02;
 - b. The court deferred imposition of sentence in accordance with subsection 4 of section 12.1-32-02;
 - c. The court placed the person on probation;
 - d. The person's conviction has been reduced in accordance with subsection 9 of section 12.1-32-02 or section 12.1-32-07.1;
 - e. Sentence dispositions, sentence reductions, or offense determinations equivalent to this section were imposed or granted by a court, board, agency, or law of another state or the federal government; or
 - f. The person committed an offense equivalent to an offense described in subdivision ~~a or b~~ or f of subsection 1 when that person was subject to juvenile adjudication or proceedings and a determination of a court under chapter 27-20.4 or of a court of another state or the federal government was made that the person committed the delinquent act or offense.
3. A felon who is not sentenced under section 12.1-32-09.1 may possess a rifle that has a barrel sixteen inches [40.72 centimeters] or longer or a shotgun that has a barrel eighteen inches [45.72 centimeters] or longer and which is one of the following:
 - a. A firearm, including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured before 1899.
 - b. A replica of any firearm described in subdivision a, if the replica is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition or uses rimfire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.
 - c. A muzzleloading rifle or muzzleloading shotgun designed to use black powder or a black powder substitute and which cannot use fixed ammunition.

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1 **SECTION 18. REPEAL.** Sections 27-20.4-12, 27-20.4-13, and 27-20.4-19 of the North
2 Dakota Century Code are repealed.

3 **SECTION 19. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES -**
4 **CONTRACT SERVICES - GENERAL FUND - ONE-TIME FUNDING.** There is appropriated out
5 of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of
6 \$300,000, or so much of the sum as may be necessary, to the department of health and human
7 services for the purpose of contracting for juvenile fitness to proceed evaluation services, for the
8 biennium beginning July 1, 2025, and ending June 30, 2027. The funding in this section is
9 considered a one-time funding item.

**REPORT OF STANDING COMMITTEE
ENGROSSED SB 2037**

Appropriations Committee (Sen. Bekkedahl, Chairman) recommends **AMENDMENTS** ([25.0272.03001](#)) and when so amended, recommends **DO PASS** (16 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2037 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

25.0272.03001
Title.

Prepared by the Legislative Council
staff for Senate Appropriations - Human
Resources Division Committee
February 5, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
FIRST ENGROSSMENT**

ENGROSSED SENATE BILL NO. 2037

Introduced by

Legislative Management

(Juvenile Justice Committee)

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

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

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

18 **12.1-04.1-01. Standard for lack of criminal responsibility.**

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

- 1 a. The individual lacks substantial capacity to comprehend the harmful nature or
- 2 consequences of the conduct, or the conduct is the result of a loss or serious
- 3 distortion of the individual's capacity to recognize reality; and
- 4 b. It is an essential element of the crime charged that the individual act willfully.
- 5 2. For purposes of this chapter, repeated criminal or similar antisocial conduct, or
- 6 impairment of mental condition caused primarily by voluntary use of alcoholic
- 7 beverages or controlled substances immediately before or contemporaneously with
- 8 the alleged offense, does not constitute in itself mental illness or defect at the time of
- 9 the alleged offense. Evidence of the conduct or impairment may be probative in
- 10 conjunction with other evidence to establish mental illness or defect.
- 11 3. An individual ten years of age or older may be assessed for criminal responsibility
- 12 under this chapter.

13 **SECTION 2. AMENDMENT.** Section 12.1-04.1-20 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **12.1-04.1-20. Jurisdiction of court.**

- 16 1. Unless earlier discharged by order of the court pursuant to section 12.1-04.1-22,
- 17 12.1-04.1-24, or 12.1-04.1-25, an individual found not guilty by reason of lack of
- 18 criminal responsibility is subject to the jurisdiction of the court for a period equal to the
- 19 maximum term of imprisonment that could have been imposed for the most serious
- 20 crime of which the individual was charged but found not guilty by reason of lack of
- 21 criminal responsibility. In a juvenile proceeding, a child not adjudicated by reason of
- 22 lack of criminal responsibility is subject to the jurisdiction of the court for one year.
- 23 2. Upon expiration of its jurisdiction under this chapter or earlier discharge by its order,
- 24 the court may order that a proceeding for involuntary commitment be initiated pursuant
- 25 to chapter 25-03.1. In a juvenile proceeding, the court may order an investigation into
- 26 whether a child in need of protection proceedings should be initiated.

27 **SECTION 3. AMENDMENT.** Section 12.1-17-01.2 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **12.1-17-01.2. Domestic violence.**

- 30 1. For purposes of this section "family or household member" means family or household
- 31 member as defined in section 14-07.1-01.

2. A person is guilty of an offense if that person willfully causes:
 - a. Bodily injury to the actor's family or household member;
 - b. Substantial bodily injury to the actor's family or household member; or
 - c. Serious bodily injury to the actor's family or household member.
3. The offense is:
 - a. A class B misdemeanor for the first offense under subdivision a of subsection 2 and a class A misdemeanor for a second or subsequent offense under this section or sections 12.1-17-01, 12.1-17-01.1, or 12.1-17-02 involving the commission of domestic violence, as defined in section 14-07.1-01. For purposes of this subdivision, a prior conviction includes a conviction of any assault offense in which a finding of domestic violence was made under a law or ordinance of another state which is equivalent to this section.
 - b. A class A misdemeanor for an offense under subdivision b of subsection 2 and a class C felony for an offense under subdivision c of subsection 2.
 - c. A class B felony for an offense under subdivision b or c of subsection 2 if the victim is under twelve years of age.
4. A person charged with an offense under this section must be prosecuted in district court.
5. This section does not apply to an individual under the age of eighteen unless the:
 - a. Victim is or was in a dating relationship with the individual; or
 - b. Individual has a child in common with the victim.

SECTION 4. AMENDMENT. Subsection 2 of section 12.1-17-07.2 of the North Dakota Century Code is amended and reenacted as follows:

2. A person commits the offense of distribution of intimate images if the person knowingly or intentionally distributes to any third party any intimate image of an individual ~~eighteen years of age or older~~, if:
 - a. The person knows that the depicted individual has not given consent to the person to distribute the intimate image;
 - b. The intimate image was created by or provided to the person under circumstances in which the individual has a reasonable expectation of privacy;and

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

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

12.1-20-01. General provisions.

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

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

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

2. It is a noncriminal offense for an individual ~~under twenty-one~~eighteen to twenty years of age, ~~and an infraction for an individual fourteen to seventeen years of age,~~ to purchase, possess, smoke, or use cigarettes, cigars, cigarette papers, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products. However, an individual under twenty-one years of age may purchase and possess tobacco, electronic smoking devices, or alternative nicotine products as part of a compliance survey program when acting with the permission of the individual's parent or guardian and while acting under the supervision of any law enforcement authority. A state agency, city, county, board of health, tobacco, electronic smoking devices, or alternative nicotine products retailer, or association of tobacco, electronic smoking devices, or alternative nicotine products retailers may also conduct compliance surveys, after coordination with the appropriate local law enforcement authority.

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

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

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

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

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

SECTION 8. 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:

- 1 a. "A crime against a child" means a violation of chapter 12.1-16, section
2 12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04,
3 subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01,
4 12.1-18-02, 12.1-18-05, chapter 12.1-29, or section 14-09-22, subsection 3 of
5 section 12.1-41-02, subsection 3 of section 12.1-41-03, or an equivalent offense
6 from another court in the United States, a tribal court, or court of another country,
7 in which the victim is a minor or is otherwise of the age required for the act to be
8 a crime or an attempt or conspiracy to commit these offenses.
- 9 b. "Department" means the department of corrections and rehabilitation.
- 10 c. "Homeless" means an individual who is physically present in this state, but is
11 living in a park, under a bridge, on the streets, in a vehicle or camper, or is
12 otherwise without a traditional dwelling, and also one who resides in this state but
13 does not maintain a permanent address. The term does not include individuals
14 who are temporarily domiciled or individuals residing in public or private shelters
15 that provide temporary living accommodations.
- 16 d. "Mental abnormality" means a congenital or acquired condition of an individual
17 that affects the emotional or volitional capacity of the individual in a manner that
18 predisposes that individual to the commission of criminal sexual acts to a degree
19 that makes the individual a menace to the health and safety of other individuals.
- 20 e. "Predatory" means an act directed at a stranger or at an individual with whom a
21 relationship has been established or promoted for the primary purpose of
22 victimization.
- 23 f. "Reside" means to live permanently or be situated for a considerable time in a
24 home or a particular place.
- 25 g. "Sexual offender" means a person who has pled guilty to or been found guilty,
26 including juvenile delinquent adjudications, of a violation of section 12.1-20-03,
27 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,
28 12.1-20-07 except for subdivision a of subsection 1, 12.1-20-11, 12.1-20-12.1,
29 12.1-20-12.2, 12.1-20-12.3 except for subdivision a of subsection 1 and
30 subdivision b of subsection 1 if the offense involves only a demand for money,
31 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, 12.1-41-05, or
12.1-41-06, or an equivalent offense from another court in the United States, a
tribal court, or court of another country, or an attempt or conspiracy to commit
these offenses.

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

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

2. The court shall impose, in addition to any penalty provided by law, a requirement that
the individual register, within three days of coming into a county in which the individual
resides, is homeless, or within the period identified in this section that the individual
becomes temporarily domiciled. The individual must register with the chief of police of
the city of the individual's place of residence, or the sheriff of the county if the
individual resides in an area other than a city. A homeless individual shall register
every three days with the sheriff or chief of police of the jurisdiction in which the
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 e.~~

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.

- 1 c. ~~Is a juvenile found delinquent under subdivision d of subsection 1 of section~~
2 ~~12.1-20-03, subdivision a of subsection 2 of section 12.1-20-03, or as a sexual~~
3 ~~offender for a misdemeanor. The court may deviate from requiring the juvenile to~~
4 ~~register if the court first finds the juvenile has not previously been convicted as a~~
5 ~~sexual offender or for a crime against a child, and the juvenile did not exhibit~~
6 ~~mental abnormality or predatory conduct in the commission of the offense.~~
- 7 d. Has pled guilty or nolo contendere to, or been found guilty of, a crime against a
8 child or an attempted crime against a child, ~~including juvenile delinquent~~
9 ~~adjudications of equivalent offenses.~~ Except if the offense is described in section
10 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 and the person is not the parent
11 of the victim, the court may deviate from requiring an individual to register if the
12 court first finds the individual has not previously been convicted as a sexual
13 offender or for a crime against a child, and the individual did not exhibit mental
14 abnormality or predatory conduct in the commission of the offense.
- 15 e.d. Has pled guilty or nolo contendere, or been found guilty, ~~or been adjudicated~~
16 ~~delinquent~~ of any crime against another individual which is not otherwise
17 specified in this section if the court determines that registration is warranted by
18 the nature of the crime and therefore orders registration for the individual. If the
19 court orders an individual to register as an offender under this section, the
20 individual shall comply with all of the registration requirements in this chapter.
- 21 e. Is a child who has been adjudicated delinquent of an offense which would classify
22 the child as a sexual offender, the prosecutor requested the court to consider
23 sexual offender registration, and the court determines the child:
- 24 (1) Exhibited a mental abnormality or predatory conduct in the commission of
25 the offense; or
- 26 (2) Previously has been adjudicated as a sexual offender.
- 27 3. If a court has not ordered an individual to register in this state, an individual who
28 resides, is homeless, or is temporarily domiciled in this state shall register if the
29 individual:
- 30 a. Is incarcerated or is on probation or parole after July 31, 1995, for a crime
31 against a child described in section 12.1-29-02, or section 12.1-18-01 or

1 12.1-18-02 if the individual was not the parent of the victim, or as a sexual
2 offender;

3 b. Has pled guilty or nolo contendere to, ~~or been adjudicated for or found guilty of,~~
4 an offense in a court of this state for which registration is mandatory under this
5 section or an offense from another court in the United States, a tribal court, or
6 court of another country equivalent to those offenses set forth in this section; or
7 c. Has pled guilty or nolo contendere to, or has been found guilty of, a crime against
8 a child or as a sexual offender for which registration is mandatory under this
9 section if the conviction occurred after July 31, 1985.

10 4. In its consideration of mental abnormality or predatory conduct, the court shall
11 consider the age of the offender, the age of the victim, the difference in ages of the
12 victim and offender, the circumstances and motive of the crime, the relationship of the
13 victim and offender, and the mental state of the offender. The court may order an
14 offender to be evaluated by a qualified counselor, psychologist, or physician before
15 sentencing. Except as provided under subdivision ed of subsection 2, the court shall
16 state on the record in open court its affirmative finding for not requiring an offender to
17 register.

18 5. When an individual is required to register under this section, the official in charge of a
19 facility or institution where the individual required to register is confined, or the
20 department, shall, before the discharge, parole, or release of that individual, inform the
21 individual of the duty to register pursuant to this section. The official or the department
22 shall require the individual to read and sign a form as required by the attorney general,
23 stating that the duty of the individual to register has been explained to that individual.
24 The official in charge of the place of confinement, or the department, shall obtain the
25 address where the individual expects to reside, attend school, or work upon discharge,
26 parole, or release and shall report the address to the attorney general. The official in
27 charge of the place of confinement, or the department, shall give three copies of the
28 form to the individual and shall send three copies to the attorney general no later than
29 forty-five days before the scheduled release of that individual. The attorney general
30 shall forward one copy to the law enforcement agency having jurisdiction where the
31 individual expects to reside, attend school, or work upon discharge, parole, or release,

1 one copy to the prosecutor who prosecuted the individual, and one copy to the court in
2 which the individual was prosecuted. All forms must be transmitted and received by
3 the law enforcement agency, prosecutor, and court thirty days before the discharge,
4 parole, or release of the individual.

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

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

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

- 1 8. An individual required to register under this section shall comply with the registration
2 requirement for the longer of the following periods:
- 3 a. A period of fifteen years after the date of sentence or order deferring or
4 suspending sentence upon a plea or finding of guilt or after release from
5 incarceration, whichever is later;
- 6 b. A period of twenty-five years after the date of sentence or order deferring or
7 suspending sentence upon a plea or finding of guilt or after release from
8 incarceration, whichever is later, if the offender is assigned a moderate risk by the
9 attorney general as provided in subsection 12; or
- 10 c. For the life of the individual, if that individual:
- 11 (1) On two or more occasions has pled guilty or nolo contendere to, or been
12 found guilty of a crime against a child or as a sexual offender. If all qualifying
13 offenses are misdemeanors, this lifetime provision does not apply unless a
14 qualifying offense was committed after August 1, 1999;
- 15 (2) Pleads guilty or nolo contendere to, or is found guilty of, an offense
16 committed after August 1, 1999, which is described in subdivision a of
17 subsection 1 of section 12.1-20-03, section 12.1-20-03.1, or subdivision d of
18 subsection 1 of section 12.1-20-03 if the person is an adult and the victim is
19 under age twelve, or section 12.1-18-01 if that individual is an adult other
20 than a parent of the victim, or an equivalent offense from another court in
21 the United States, a tribal court, or court of another country; or
- 22 (3) Is assigned a high risk by the attorney general as provided in subsection 12.
- 23 9. An individual required to register under this section who violates this section is guilty of
24 a class C felony. The failure of a homeless individual to register as required in
25 subsections 2 and 3 is prima facie evidence of a violation of this section. The clerk of
26 court shall forward all warrants issued for a violation of this section to the county
27 sheriff, who shall enter all such warrants into the national crime information center
28 wanted person file. A court may not relieve an individual, other than a juvenile, who
29 violates this section from serving a term of at least ninety days in jail and completing
30 probation of one year.

- 1 10. When an individual is released on parole or probation and is required to register
2 pursuant to this section, but fails to do so within the time prescribed, the court shall
3 order the probation, or the parole board shall order the parole, of the individual
4 revoked.
- 5 11. If an individual required to register pursuant to this section is temporarily sent outside
6 the facility or institution where that individual is confined under conviction or sentence,
7 the local law enforcement agency having jurisdiction over the place where that
8 individual is being sent must be notified within a reasonable time period before that
9 individual is released from the facility or institution. This subsection does not apply to
10 any individual temporarily released under guard from the facility or institution in which
11 that individual is confined.
- 12 12. The attorney general, with the assistance of the department and the juvenile courts,
13 shall develop guidelines for the risk assessment of sexual offenders who are required
14 to register, with a low-risk, moderate-risk, or high-risk level being assigned to each
15 offender as follows:
 - 16 a. The department shall conduct a risk assessment of sexual offenders who are
17 incarcerated in institutions under the control of the department and sexual
18 offenders who are on supervised probation. The department, in a timely manner,
19 shall provide the attorney general any information, including the offender's level
20 of risk and supporting documentation, concerning individuals required to be
21 registered under this section who are about to be released or placed into the
22 community.
 - 23 b. The attorney general shall conduct a risk assessment of sexual offenders who
24 are not under the custody or supervision of the department. The attorney general
25 may adopt a law enforcement agency's previous assignment of risk level for an
26 individual if the assessment was conducted in a manner substantially similar to
27 the guidelines developed under this subsection.
 - 28 c. The juvenile courts or the agency having legal custody of a juvenile shall conduct
29 a risk assessment of juvenile sexual offenders who are required to register under
30 this section. The juvenile courts or the agency having legal custody of a juvenile
31 shall provide the attorney general any information, including the offender's level

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

1 attend a school function under section 12.1-20-25, or for disclosing or for failing to
2 disclose information as permitted by this section.

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

14 17. If an individual has been required to register as a sexual offender or an offender
15 against a child under section 12.1-32-15 or former section 27-20-52.1 before August 1,
16 1999, the individual may petition the court to be removed from the offender list if
17 registration is no longer mandatory for that individual. In considering the petition, the
18 court shall comply with the requirements of this section.

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

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

SECTION 9. AMENDMENT. Section 15.1-09-33.4 of the North Dakota Century Code is amended and reenacted as follows:

15.1-09-33.4. Student misconduct - Prohibition against participation in extracurricular activities.

1. The board of a school district ~~shall~~may prohibit a student from participating in any extracurricular activity if:
 - a. The student has pled guilty to or been convicted of a criminal offense and sentenced under section 12.1-32-02.1 or pled guilty or been convicted of an offense specified in subsection 1 of section 12.1-32-09.1;
 - b. The student has:
 - (1) An order prohibiting contact issued against the student at the request of another student or employee of the school under section 12.1-31.2-02;
 - (2) A disorderly conduct restraining order issued against the student at the request of another student or employee of the school under section 12.1-31.2-01, except a temporary restraining order under subsection 4 of section 12.1-31.2-01; ~~or~~
 - (3) A protection order issued against the student at the request of another student or employee of the school, except a temporary protection order under section 14-07.1-03; or
 - (4) Any other order issued against the student prohibiting contact with a student or employee of the school which is signed by a district judge or a judicial referee within a delinquency or criminal case;
 - c. The principal of the school receives information pertaining to an offense or order included under this section as provided in section 27-20.2-21; or
 - d. The victim of the offense or the subject of the order notifies the principal of the offense or order.
2. For purposes of this section, a representative of the juvenile court system may notify the principal of a school regarding the existence of files or records of the juvenile court pertaining to a student of the school which are open to inspection by the principal under section 27-20.2-21.

1 **SECTION 10. AMENDMENT.** Subsection 3 of section 27-20.2-09 of the North Dakota
2 Century Code is amended and reenacted as follows:

3 3. The giving of information and advice and any conditions imposed for the conduct and
4 control of the child may not extend beyond six months from the day commenced
5 unless extended by the court for an additional period not to exceed six months and
6 does not authorize the detention of the child if not otherwise permitted by this chapter.
7 For a driving-related offense, the conditions may include a restriction on the child's
8 driving privileges as authorized under section ~~27-20.4-19~~16 of this Act.

9 **SECTION 11.** A new section to chapter 27-20.4 of the North Dakota Century Code is
10 created and enacted as follows:

11 **Petition.**

- 12 1. A petition alleging delinquency under this chapter must be reviewed by the director,
13 the court, or other person designated by the director and authorized by the court to
14 determine whether the filing of the petition is in the best interest of the public and the
15 child.
- 16 2. The state's attorney shall prepare, file, and serve a petition alleging delinquent
17 conduct on the parties. The juvenile court shall conduct an inquiry into and provide the
18 last known address of the parents or legal guardian of the child in the referral to the
19 state's attorney.
- 20 3. A petition alleging delinquent conduct may not include the adult class level of the
21 offense unless the offense level is a necessary element of the delinquent conduct.

22 **SECTION 12.** A new section to chapter 27-20.4 of the North Dakota Century Code is
23 created and enacted as follows:

24 **Fitness to proceed - Lack of criminal responsibility.**

25 In a juvenile court proceeding involving the issue of fitness to proceed or criminal
26 responsibility, the court shall determine whether the child:

- 27 1. Is fit to proceed in accordance with title 27; and
- 28 2. Lacked criminal responsibility for the commission of an offense in accordance with
29 chapter 12.1-04.1.

30 **SECTION 13. AMENDMENT.** Subsection 5 of section 27-20.4-11 of the North Dakota
31 Century Code is amended and reenacted as follows:

- 1 5. An informal agreement may not extend beyond six months from the day the
2 agreement was agreed upon. An extension may be granted by the court for an
3 additional period not to exceed six months. An extension may not authorize the
4 detention of the child if not otherwise permitted by this chapter. For a driving-related
5 offense, the agreement may include a restriction on the child's driving privileges as
6 allowed under section ~~27-20.4-19~~16 of this Act.

7 **SECTION 14. AMENDMENT.** Subsection 1 of section 27-20.4-18 of the North Dakota
8 Century Code is amended and reenacted as follows:

- 9 1. A probation order entered by the court must place the child under the supervision of
10 the director, unless the child is over eighteen years of age and the child's risk and
11 needs require supervision by the department of corrections and rehabilitation under
12 subsection ~~13~~ of section ~~27-20.4-15~~27-20.4-17.

13 **SECTION 15. AMENDMENT.** Subsection 1 of section 27-20.4-20 of the North Dakota
14 Century Code is amended and reenacted as follows:

- 15 1. In addition to a child being ordered to make restitution under section
16 ~~27-20.4-16~~27-20.4-17, a parent of a child adjudged delinquent may be ordered to
17 make restitution on the child's behalf in an amount not exceeding five thousand
18 dollars.

19 **SECTION 16.** A new section to chapter 27-20.4 of the North Dakota Century Code is
20 created and enacted as follows:

21 **Collateral consequences - Registration - Firearms - Driving privileges.**

- 22 1. A child may be ordered to register as a sexual offender under section 12.1-32-15.
23 2. A child may be prohibited from possessing a firearm in accordance with section
24 62.1-02-01.
25 3. If a child is adjudicated delinquent of an offense that would be a class A misdemeanor
26 or a felony if the offense were committed by an adult, the juvenile court may suspend
27 the child's driving privileges for a period of up to six months for the first offense, and
28 up to one year for a second or subsequent offense. The juvenile court may order the
29 successful completion of an appropriate driver's examination as a condition for
30 reinstating the child's driving privileges.

- 1 a. If the juvenile court suspends a child's driving privileges, the court immediately
2 shall take possession of the child's driver's license or permit and send a copy of
3 the court's order to the director of the department of transportation who shall
4 make notation of the child's suspended driving privileges.
- 5 b. The record of the child's suspension of driving privileges under this section:
 - 6 (1) Must be kept confidential;
 - 7 (2) May not be released except to law enforcement personnel in connection
8 with law enforcement activities; and
 - 9 (3) May not be disclosed to or shared with the licensing officials of any other
10 state or jurisdiction.
- 11 c. At the end of the six-month or one-year suspension period, the director shall
12 remove and destroy all records of the child's suspension of driving privileges
13 under this section.
- 14 4. A child may be prohibited from participating in extracurricular activities in accordance
15 with section 15.1-09-33.4.

16 **SECTION 17. AMENDMENT.** Section 62.1-02-01 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **62.1-02-01. Persons who are not to possess firearms - Penalty.**

- 19 1. a. A person who has been convicted anywhere of a felony offense involving
20 violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an
21 equivalent felony offense of another state or the federal government is prohibited
22 from owning a firearm or having one in possession from the date of conviction
23 and continuing for ten years after the date of conviction or the date of release
24 from incarceration, parole, or probation, whichever is latest.
- 25 b. A person who has been convicted anywhere of a felony offense of this or another
26 state or the federal government not provided for in subdivision a or who has been
27 convicted of a class A misdemeanor offense involving violence or intimidation in
28 violation of chapters 12.1-16 through 12.1-25 or an equivalent offense of another
29 state or the federal government and the offense was committed while using or
30 possessing a firearm, a dangerous weapon, or, as defined in section 12.1-01-04,
31 a destructive device or an explosive, is prohibited from owning a firearm or

1 having one in possession from the date of conviction and continuing for five years
2 after the date of conviction or the date of release from incarceration, parole, or
3 probation, whichever is latest.

4 c. A person who is or has ever been diagnosed and confined or committed to a
5 hospital or other institution in this state or elsewhere by a court of competent
6 jurisdiction, other than a person who has had the petition that provided the basis
7 for the diagnosis, confinement, or commitment dismissed under section
8 25-03.1-17, 25-03.1-18, or 25-03.1-19, or equivalent statutes of another
9 jurisdiction, as a person requiring treatment as defined in section 25-03.1-02, or
10 as a mentally deficient individual, is prohibited from purchasing a firearm or
11 having one in possession. This limitation does not apply to a person who has not
12 suffered from the disability for the previous three years or who has successfully
13 petitioned for relief under section 62.1-02-01.2.

14 d. A person under the age of eighteen years may not possess a handgun except
15 that such a person, while under the direct supervision of an adult, may possess a
16 handgun for the purposes of firearm safety training, target shooting, or hunting.

17 e. A child who has been adjudicated delinquent of a felony offense involving
18 violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an
19 equivalent felony offense of another state or the federal government is prohibited
20 from owning a firearm or having one in possession from the date of adjudication
21 and continuing for ten years after the date of adjudication.

22 f. A child who has been adjudicated of a class A misdemeanor offense involving
23 violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an
24 equivalent offense of another state or the federal government, and the offense
25 was committed while using or possessing a firearm, a dangerous weapon, a
26 destructive device, or an explosive is prohibited from owning a firearm or having
27 one in possession from the date of adjudication and continuing for five years after
28 the date of adjudication.

29 A person who violates subdivision a or b is guilty of a class C felony, and a person who
30 violates subdivision c or d is guilty of a class A misdemeanor.

- 1 2. For the purposes of this section, "conviction" means a determination that the person
2 committed one of the above-mentioned crimes upon a verdict of guilt, a plea of guilty,
3 or a plea of nolo contendere even though:
 - 4 a. The court suspended execution of sentence in accordance with subsection 3 of
5 section 12.1-32-02;
 - 6 b. The court deferred imposition of sentence in accordance with subsection 4 of
7 section 12.1-32-02;
 - 8 c. The court placed the person on probation;
 - 9 d. The person's conviction has been reduced in accordance with subsection 9 of
10 section 12.1-32-02 or section 12.1-32-07.1;
 - 11 e. Sentence dispositions, sentence reductions, or offense determinations equivalent
12 to this section were imposed or granted by a court, board, agency, or law of
13 another state or the federal government; or
 - 14 f. The person committed an offense equivalent to an offense described in
15 subdivision ~~a or b~~ a or f of subsection 1 when that person was subject to juvenile
16 adjudication or proceedings and a determination of a court under chapter 27-20.4
17 or of a court of another state or the federal government was made that the
18 person committed the delinquent act or offense.
- 19 3. A felon who is not sentenced under section 12.1-32-09.1 may possess a rifle that has
20 a barrel sixteen inches [40.72 centimeters] or longer or a shotgun that has a barrel
21 eighteen inches [45.72 centimeters] or longer and which is one of the following:
 - 22 a. A firearm, including any firearm with a matchlock, flintlock, percussion cap, or
23 similar type of ignition system, manufactured before 1899.
 - 24 b. A replica of any firearm described in subdivision a, if the replica is not designed
25 or redesigned for using rimfire or conventional centerfire fixed ammunition or
26 uses rimfire or conventional centerfire fixed ammunition that is no longer
27 manufactured in the United States and which is not readily available in the
28 ordinary channels of commercial trade.
 - 29 c. A muzzleloading rifle or muzzleloading shotgun designed to use black powder or
30 a black powder substitute and which cannot use fixed ammunition.

1 **SECTION 18. REPEAL.** Sections 27-20.4-12, 27-20.4-13, and 27-20.4-19 of the North
2 Dakota Century Code are repealed.

3 **SECTION 19. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES -**
4 **CONTRACT SERVICES - GENERAL FUND - ONE-TIME FUNDING.** There is appropriated out
5 of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of
6 \$300,000, or so much of the sum as may be necessary, to the department of health and human
7 services for the purpose of contracting for juvenile fitness to proceed evaluation services, for the
8 biennium beginning July 1, 2025, and ending June 30, 2027. The funding in this section is
9 considered a one-time funding item.

2025 HOUSE JUDICIARY

SB 2037

2025 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Room JW327B, State Capitol

SB 2037
3/5/2025

Relating to delinquency; to provide an appropriation; and to provide a penalty.

9:00 a.m. Chairman Klemin opened the hearing.

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

Discussion Topics:

- Inequalities in the juvenile justice system
- Current model juvenile codes
- Children in need of services

9:01 a.m. Travis Finck, Executive Director of North Dakota Commission on Legal Counsel for Indigents, testified in favor and provided testimony #38680.

9:02 a.m. Derek Steiner, Cass County State's Attorney, testified in favor and provided testimony #38663 and #38840.

9:37 a.m. Lynn Flieth, RSR Human Service Zone, testified in favor and provided testimony #38752.

9:53 a.m. Seth O'Neill, Executive Director of North Dakota Domestic & Sexual Violence Coalition, testified in opposition and provided testimony #38634.

9:59 a.m. Heather Austin, Executive Director of Tobacco Free North Dakota, testified in favor and provided testimony #38733.

10:02 a.m. Sara Behrens, Staff Attorney at the North Dakota Supreme Court, testified in favor.

10:02 a.m. Chairman Klemin closed the hearing.

Wyatt Armstrong, Committee Clerk



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Senate Bill No. 2037
House Judiciary Committee
Testimony Presented Seth O'Neill, JD, MSW
Email: soneill@nddsvc.org
March 5, 2025

Chairman Klemin and members of the House Judiciary Committee, my name is Seth O'Neill and I am representing the North Dakota Domestic & Sexual Violence Coalition in opposition to SB 2037.

This bill would exempt juveniles from the criminal charge of domestic violence with a limited exception. Juveniles could only be charged with domestic violence if the victim is a current or former dating partner or the two have a child in common. This would remove a large amount of people that the juvenile could cause bodily injury or serious bodily injury without being charged with domestic violence.

The current law allows for a charge of domestic violence in the case of a family or household member as defined in N.D.C.C. 14-07.1-1(4):

"Family or household member" means a spouse, family member, former spouse, parent, child, persons related by blood or marriage, persons who are in a dating relationship, persons who are presently residing together or who have resided together in the past, persons who have a child in common regardless of whether they are or have been married or have lived together at any time, and, for the purpose of the issuance of a domestic violence protection order, any other person with a sufficient relationship to the abusing person as determined by the court under section 14-07.1-02.



Domestic violence is broader than those who are in an intimate relationship with each other. Domestic violence also includes individuals who are related or reside in a house together. If this law passes as is, prosecutors would not be able to charge a juvenile who causes serious bodily injury to their mother or sibling.

Although there may be other charges a prosecutor could bring this portion of the bill removes another tool in the tool belt for prosecutors to keep our communities and families safe.

Due to these reasons, we encourage the committee to amend this portion out of SB 2037 or give SB 2037 a Do-Not-Pass recommendation. I appreciate your time and I am happy to answer any questions you may have. Thank You.



Bill Draft relating to juvenile court proceedings, collateral consequences the juvenile court may order, delinquent acts, and child registration requirements

Senate Judiciary Committee

69th Legislative Assembly

Testimony of Travis W. Finck in support of SB 2037

January 14, 2025



N.D.C.C. 12.1-04: Criminal Responsibility

❑ Section 1: page 2 lines 11-12

❑ Clearly provides a child ten years of age or older may be assessed for criminal responsibility

3. An individual ten years of age or older may be assessed for criminal responsibility under this chapter.

❑ Section 2: page 2

❑ Allows for the Juvenile Court to retain jurisdiction of a child who is found to not be adjudicated by reason of lack of criminal responsibility

1. Unless earlier discharged by order of the court pursuant to section 12.1-04.1-22, 12.1-04.1-24, or 12.1-04.1-25, an individual found not guilty by reason of lack of criminal responsibility is subject to the jurisdiction of the court for a period equal to the maximum term of imprisonment that could have been imposed for the most serious crime of which the individual was charged but found not guilty by reason of lack of criminal responsibility. In a juvenile proceeding, a child not adjudicated by reason of lack of criminal responsibility is subject to the jurisdiction of the court for one year.
2. Upon expiration of its jurisdiction under this chapter or earlier discharge by its order, the court may order that a proceeding for involuntary commitment be initiated pursuant to chapter 25-03.1. In a juvenile proceeding, the court may order an investigation into whether a child in need of protection proceedings should be initiated.

N.D.C.C 12.1-17-01.2: Domestic Violence

☐ Section 3: page 3 lines 19-21

5. This section does not apply to an individual under the age of eighteen unless the victim is or was in a dating relationship with the individual.

☐ Change makes Domestic Violence no longer apply as an offense to juveniles unless the victim is or was in a dating relationship with the individual

☐ Reason for this change is that the Domestic Violence offense is commonly used in situations for juveniles where it doesn't apply the same way for adults

☐ Juveniles are often taken to detention for this offense when other options would be appropriate

N.D.C.C. 12.1-17-07.2(2): Distribution of Intimate Images

❑ Section 4: page 3 line 26

2. A person commits the offense of distribution of intimate images if the person knowingly or intentionally distributes to any third party any intimate image of an individual ~~eighteen years of age or older, if:~~

❑ Takes away age requirement of the victim being over the age of eighteen

❑ Distribution of intimate images only applied to images of an adult, this would now equally prohibit this conduct whether the victim is a juvenile or an adult

N.D.C.C. 12.1-20-01(1) and (4): Gross Sexual Imposition

□ Section 5: page 4

□ Subsection (1) is just a grammatical to match the rest of this section

1. When the criminality of conduct depends on a child's child being below the age of fifteen, it is no defense that the actor did not know the child's age, or reasonably believed the child to be older than fourteen.

□ Subsection (4) allows for children under and around the age of fifteen to not being charged with a felonies for engaging in consensual sexual conduct if they are within a three-year age gap.

4. When criminality depends on the victim being below the age of fifteen, and the actor is a minor, the actor is guilty of an offense only if the actor is at least three years older than the victim.

N.D.C.C. 12.1-31-03(2) and (6): Tobacco

☐ Section 6: page 4

2. It is a noncriminal offense for an individual under twenty-one to eighteen to twenty years of age, and an infraction for an individual fourteen to seventeen years of age, to purchase, possess, smoke, or use cigarettes, cigars, cigarette papers, snuff, tobacco

☐ Changes offense level for minor possessing tobacco from a noncriminal offense to an infraction

- ☐ Changes jurisdiction from adult court to juvenile court

☐ Section 7: page 5 : clarifies subsection (6), states where to send cases and what the penalties are for adults

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

N.D.C.C. 12.1-32-15: Offender Registration

□ Section 8, Page 7-8: Juveniles have been treated very similar to adults for registering as sexual offender, which often was mandatory

- 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.~~

□ Page 11 lines 3-8: Courts were allowed to deviate, but presumption was to register

- 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.~~

N.D.C.C. 12.1-32-15: Child and discretionary registration

□ Section 8: page 8

□ Children will no longer be required to register an offender against children

~~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

□ Children will no longer be required to register for offenses that are not sexual in nature

~~e.d.~~ Has pled guilty or nolo contendere, ~~or~~ 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

N.D.C.C. 12.1-32-15: Sexual Offender Registration Cont.

☐ Page 8 Provides the New language:

☐ Sexual offender registration would now always be discretionary for juveniles

e. Is a child who has been adjudicated delinquent of an offense which would classify the child as a sexual offender, the prosecutor requested the court to consider sexual offender registration, and the court determines the child:

(1) Exhibited a mental abnormality or predatory conduct in the commission of the offense; or

(2) Previously has been adjudicated as a sexual offender.

☐ Page 9 line 3: This will also take away administrative registration for when a court hasn't ordered someone to register in North Dakota for juvenile... **this bill should be amended now to remove the overstrike language of "or found guilty of" below**

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

N.D.C.C. 15-09-33.4: Student Misconduct

□ Section 9: page 16

□ School board were required to suspend kids from participating in activities if the committed certain crimes, now will be discretionary:

1. The board of a school district ~~shall~~ may prohibit a student from participating in any extracurricular activity if:
 - a. The student has pled guilty to or been convicted of a criminal offense and sentenced under section 12.1-32-02.1 or pled guilty or been convicted of an offense specified in subsection 1 of section 12.1-32-09.1;

□ Added that school boards can suspend a student if there is a judicial no contact order

- (4) Any other order issued against the student prohibiting contact with a student or employee of the school which is signed by a district judge or a judicial referee within a delinquency or criminal case;

Driving Privileges in Juvenile Adjudications

❑ Section 10: page 17

- ❑ Cleans up driving privileges reference. For any juvenile adjudications, collateral consequences will all be in new section of law created in section 16 of this bill, rather than referring to other chapters

“For a driving-related offense, the conditions may include a restriction on the child's driving privileges as authorized under section ~~27-20.4-19~~16 of this Act.”

❑ Section 13: pages 17-18: this is similar to Section 10 except it is in the informal agreements

“An informal agreement may not extend beyond six months from the day the agreement was agreed upon. An extension may be granted by the court for an additional period not to exceed six months. An extension may not authorize the detention of the child if not otherwise permitted by this chapter. For a driving-related offense, the agreement may include a restriction on the child's driving privileges as allowed under section ~~27-20.4-19~~16 of this Act.”

New N.D.C.C. section titled Petition

□ Section 11: page 17

□ Reorganized and combined sections, substantive change is in subsection (3) that petitions would no longer contain the adult classification level

1. A petition alleging delinquency under this chapter must be reviewed by the director, the court, or other person designated by the director and authorized by the court to determine whether the filing of the petition is in the best interest of the public and the child.
2. The state's attorney shall prepare, file, and serve a petition alleging delinquent conduct on the parties. The juvenile court shall conduct an inquiry into and provide the last known address of the parents or legal guardian of the child in the referral to the state's attorney.
3. A petition alleging delinquent conduct may not include the adult class level of the offense unless the offense level is a necessary element of the delinquent conduct.

New N.D.C.C. section requiring the Court to ascertain the Child is Fit and Criminally Responsible

□ Section 12: page 17

Fitness to proceed - Lack of criminal responsibility.

In a juvenile court proceeding involving the issue of fitness to proceed or criminal responsibility, the court shall determine whether the child

1. Is fit to proceed in accordance with title 27; and
2. Lacked criminal responsibility for the commission of an offense in accordance with chapter 12.1 - 04.1.

Clean Up Provisions

❑ Section 14: page 18

- ❑ This change simply corrects a previous error in referring back to the consequences section referencing probation for adjudications in delinquent matters

“A probation order entered by the court must place the child under the supervision of the director, unless the child is over eighteen years of age and the child's risk and needs require supervision by the department of corrections and rehabilitation under subsection 13 of section ~~27-20.4-15~~ 27-20.4-17.”

❑ Section 15: Page 18

- ❑ Again, this is a simple clean up pushing the reference for paying restitution in the potential consequence of juvenile adjudications.

“In addition to a child being ordered to make restitution under section ~~27-20.4-16~~ 27-20.4-17, a parent of a child adjudged delinquent may be ordered to make restitution on the child's behalf in an amount not exceeding five thousand dollars.

New N.D.C.C section: Collateral Consequences

- ❑ Section 16: pages 18-19
- ❑ New consolidated century code section in the juvenile code where collateral consequences are found:
 - ❑ A child may be ordered to register as a sexual offender under section 12.1 - 32 -15
 - ❑ A child may be prohibited from possessing a firearm in accordance with section 62.1 - 02 - 01
 - ❑ If a child is adjudicated delinquent of an offense that would be a class A misdemeanor or a felony if the offense were committed by an adult, the juvenile court may suspend the child's driving privileges
 - ❑ A child may be prohibited from participating in extracurricular activities in accordance with section 15.1 - 09 - 33.4 .

N.D.C.C. 62.1-02-01: Firearms

❑ Section 17: page 20

❑ Creates new subsections to define when a juvenile who committed a crime loses their firearms rights

❑ Substantive change is that a juvenile who commits a non-violent felony will not lose their firearm rights

- e. A child who has been adjudicated delinquent of a felony offense involving violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an equivalent felony offense of another state or the federal government is prohibited from owning a firearm or having one in possession from the date of adjudication and continuing for ten years after the date of adjudication.
- f. A child who has been adjudicated of a class A misdemeanor offense involving violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an equivalent offense of another state or the federal government, and the offense was committed while using or possessing a firearm, a dangerous weapon, a destructive device, or an explosive is prohibited from owning a firearm or having one in possession from the date of adjudication and continuing for five years after the date of adjudication.

Repealed

- ❑ Section 18: page
- ❑ Removes the following sections:
 - ❑ 27-20.4-12 : This is the current section about the contents of the petition. The new section above when implemented renders this provision repealed
 - ❑ 27-20.4-13: This is the current section about who files and serves the petition. Again, this is consolidated into one section in the new provisions
 - ❑ 27-20.4-19: This is the current section dealing with the restrictions on driving privileges for a juvenile. This is replaced in this bill and put all in one collateral consequence section rendering this chapter repealed.

Section 19 – Appropriation

- Page 22
- Up to \$300,000 dollars in funding for health and human services to contract for services

Juvenile Collateral Consequences: A Review of What's Changing

Main consequences addressed:

- Age based sex offenses
- Sexual offender registration
- Child offender registration
- Domestic violence laws
- Tobacco laws
- School consequences
- Petition language
- Firearm consequences
- Driving consequences
- Criminal responsibility

Age based sex offenses:

OLD:

- Any sexual contact with a minor under the age of 15 was considered GSI (Class A Felony)
 - 16-year-old and 14-year-old having consensual sexual intercourse would result in the 16-year-old getting a Class A Felony.

NEW:

- Consensual sexual contact with someone under 15 will only be a GSI if there is over a three-year age gap between the suspect and the victim
 - 16-year-old and 14-year-old having consensual sexual intercourse would result in the 16-year-old not getting charged.
 - 17-year-old and 12-year-old having sexual intercourse would still result in the 17-year-old committing a Class A Felony.
- Important note: unwanted sexual contact is still chargeable in the same manner as before

Sexual Offender Registration

OLD:

- Juvenile were required to register as a sexual offender in the same manner as adults
 - Resulted in registration being mandatory for all sexual offenses
- Only difference for juveniles was a Court could not require registration for certain offenses (aged based GSIs and misdemeanor cases) if the juvenile did not have a prior sexual offense and the juvenile also did not exhibit a mental abnormality or predatory conduct in the commission of the offense

NEW:

- Registration is discretionary
- Prosecutor can request or not request the court address registration
 - If not requested, then no registration
- If requested: Court will then have to determine that either 1) juvenile had a previous sexual offense, or 2) juvenile exhibited a mental abnormality or predatory conduct in the commission of the offense for that juvenile to have to register

Child Offender Registration

OLD:

- A juvenile was required to register as an offender against a child in the same manner as an adult
 - Resulted in registration as a child offender being mandatory
 - Some deviation was allowed for certain offenses if the court made specific findings

NEW:

- A juvenile will never register as an offender against a child

Domestic Violence

OLD:

- Domestic violence laws applied the same to juvenile and adults
 - Domestic violence was used frequently for charging a juvenile hitting a parent or sibling

NEW:

- Domestic Violence law will only apply to juvenile if:
 - Juvenile was in a dating relationship with the victim
 - Juvenile has a child in common with the victim

Tobacco Laws

OLD:

- Tobacco offenses were classified as non-criminal offenses which caused them to be seen on public court records
- City's attorneys/municipal judges were often handling these offenses

NEW:

- Tobacco offenses will be classified as criminal infractions
- Changing to an infractions brings the offense into the jurisdiction of juvenile court
- Juvenile court/state's attorney will be handling these matters

School Consequences:

OLD:

- School District were required to prohibit students from participating in extracurricular activities if a juvenile committed certain offenses

NEW:

- School districts will now have discretion on whether to prohibit a juvenile from participating in an extracurricular activity and can now prohibit extracurricular activities if there is a no contact order

Petition Language

OLD:

- Petitions would include the adult offense level
- For example: the petition would state: “The juvenile committed theft of property by stealing a vehicle belonging to John Doe. This offense if committed by an adult would be a Class C Felony.”

NEW:

- Petitions will no longer include the adult offense level language
- Petition will now just say: “The juvenile committed theft of property by stealing a vehicle belonging to John Doe.”

Firearm consequences

OLD:

- Juvenile would lose the right to possess a firearm in the same manner as an adult
- Right to possess firearm was lost for adjudications for non-violent felonies

NEW:

- Juvenile is treated the same as adult and lose the right to possess a firearm if they are adjudicated for a violent felony or misdemeanor
- Does not lose right to possess firearms for adjudications for non-violent felonies

Criminal Responsibility

OLD:

- Children can be evaluated for criminal responsibility in the same manner as adults

NEW:

- Same as before. Just created language to clarify process and brought some language from the juvenile code to the adult criminal responsibility section.
- Done because language for this process was contained in multiple places and made the process confusing. Criminal responsibility will now all be handled under 12.1-04.1.

Testimony in Support of Engrossed SB 2037
69th Legislative Assembly
House Judiciary Committee
March 5, 2025
Testimony of Travis W. Finck, Executive Director, NDCLCI

Chairman Klemin, members of the Committee, for the record my name is Travis Finck and I am the Executive Director for the Commission on Legal Counsel for Indigents. The Commission stands in support of Engrossed SB 2037.

Senate Bill 2037 is a bill that comes to the committee from the Interim Juvenile Justice Committee of the 68th Legislative Assembly. In HB 1195 last session, the Legislature was tasked with studying “the criminal code to ensure equitable application to youths charged with juvenile delinquencies.” The Commission on Juvenile Justice was asked to research the issue and present to the interim juvenile justice committee. As a member of the Commission on Juvenile Justice, I was asked to chair a workgroup to review the desirability of separate and distinct criminal code for juveniles. In conducting our work, it became clear early on we did not have sufficient time in the interim to achieve a whole new juvenile criminal code. In its stead, we reviewed collateral consequences and disproportionate impacts on children accused of delinquent acts by being referred to the criminal code. As such, SB 2037 was born.

For the reasons states herein, the Commission is in support of SB 2037 and respectfully requests a do pass recommendation.

Respectfully Submitted:



Travis W. Finck
Executive Director, NDCLCI



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March 5, 2025

9:00 am CST

House Judiciary Committee for the 69th ND Legislative Assembly

Chairman Klemin, and members of the House Judiciary Committee hello, my name is Heather Austin, and I am the Executive Director for Tobacco Free North Dakota. The mission of Tobacco Free North Dakota (TFND) is to improve and protect the public health of all North Dakotans by reducing the serious health and economic consequences of tobacco use, the state's number one cause of preventable disease and death. We work to facilitate coalitions and to promote policy discussions across North Dakota, along with providing education and resources that are used to help prevent kids from ever starting the dangerous addiction to tobacco and nicotine. Thank you so much for your time this morning.

Today I am hoping to encourage an amendment to SB 2037 and its section addressing underage tobacco possession and use. TFND recommends striking out the proposed changes to create new age categories for penalties under state law.

SB 2037 presents several equity concerns in how it distinguishes categories of minors under 21 years of age. Current law regards the purchase, use, or possession of tobacco products by any minor under 21 years old as a non-criminal offense and assigns a penalty for persons between 14 and 20 years old. We are concerned about how the proposed changes in SB 2037 would single-out 14-to-17-year-olds for what appears to be heightened scrutiny for their purchase, use, or possession of tobacco products, while at the same time imposing much lighter consequences for 18-to-20-year-olds and for those under the age of 13.

As proposed, SB2037, would shift the non-criminal offense penalty to only 18-to 20-year-olds, and would now require our 14-to-17-year-olds to go to juvenile court, and at the same time de-offend the purchase, use, or possession of tobacco products by persons 13 years of age or younger, which would then be in contradiction to current State and Federal laws.

This proposed distinction appears to regard the use of tobacco products by one category of minor (a 14- to 17-year-old) as worse than the same use of tobacco products by another category of minor (18- to 20-year-olds and 13-year-olds and

younger), without justification or rationale for why. Federal law considers any person under 21 years of age a minor for the purposes of minimum legal sales age for tobacco products. North Dakota would then be deviating from Federal law by creating categories of minors. Implicitly, SB 2037 renders section 12.1-31- 03(2) of North Dakota Century Code as non-applicable to a person 13 years old or younger – meaning, their purchase, use, or possession of tobacco products is not clearly unlawful so far as this state law would be concerned.

And while TFND wishes that none of our young people would use commercial tobacco or nicotine products, creating new age categories and shifting penalties and consequences to our youth is unlikely to advance health equity or close health disparity gaps. Arbitrarily throwing one group of teenagers into the court system can have significant, and sometimes long-term, effects on those teenagers: including stigmatization, school and extracurricular consequences, as well as other unintended considerations. In that context, it seems that creating a new infraction for use of tobacco products by a subcategory of minor – particularly in the absence of the rationale for why such a subcategory exists or is needed – might run opposite to what North Dakota has been trying to accomplish with respect to preventing youth commercial tobacco and nicotine product use. Better tactics for tobacco prevention may be to fund retailer education and additional compliance checks for age 21 at the point of purchase, or to raise the fines for non-compliant retailers selling the products.

Chairman Klemin, and members of the Committee, I encourage you to amend SB 2037 to take out the new age classifications and selective punitive consequences for underage tobacco use and keep the existing language in place.

Thank you for your consideration. I am happy to answer any questions.

Heather Austin,
Executive Director, Tobacco Free North Dakota
701-527-2811
heather@tfnd.org



Testimony Prepared for
House Judiciary Committee
March 5, 2025
By: Lynn Flieth, RSR Human Service Zone Director

RE: SB 2037: Relating to Juvenile Court Petitions and Fitness to Proceed

Chair Klemin, and members of the House Judiciary Committee, my name is Lynn Flieth. I am the Director for the RSR Human Service Zone, which includes the counties of Ransom, Sargent and Richland, and am a member of the Human Service Zone Directors Association. I am here today to provide testimony regarding SB 2037 relating to changes in the Juvenile Court Act surrounding Fitness to proceed.

Human Service Zones are mandated to provide economic assistance and child welfare services, including child protection, foster care, in home case management as well as receive CHINS (Child In Need of Services) referrals. Human Service Zone Directors are also the legal custodian to children in zone public custody, primarily the CHIPS population.

During the interim, extensive work was done to establish parameters and procedures to determine whether a juvenile is fit to proceed through the court process. Senate Bills 2036 and 2037 spell out the procedure to determine fitness to proceed and also allow for the potential for youth who are unable to be remediated to become Children in Need of Protection.

On page 2, lines 25-26, SB 2037 establishes that “the court may order an investigation into whether a child in need of protection proceedings should be initiated.” Dispositional options for a CHIPS juvenile commonly include placing care, custody and control with the Director of the Human Service Zone. We recognize and support the unique needs of this population and concur that this is the right thing to do legally for these youth.

Youth in juvenile court, particularly those lacking fitness to proceed, are likely to have extensive and complex behavioral health needs. They may have unstable or untreated mental health diagnoses, learning disabilities, or low intellectual functioning that hinders their participation in school and social activities, in addition to their inability to assist in their own defense. Human Service Zones currently do have youth with similar complex needs in custody. This bill would increase that number. These youth, although small in numbers, require extensive time and effort in locating services and when necessary, placement. There is an extremely limited number placement options for these youth in North Dakota and there is risk for those who may be placed at the incorrect level of care, due to a lack of availability of appropriate service options.

Without a spectrum of statewide service options, children's needs are not met, families are adversely impacted, and treatment is delayed and, in some cases, completely absent. As a system, we need to continue to build statewide comprehensive child services, to include emergency assessment, stabilization and placement, for at-risk and complex needs youth. While there are services available to meet these needs on some level, we don't always have them when and where we need them.

It is worth noting that regardless of whether a youth is a Child In Need of Services, a Child In Need of Protection, or one who has been adjudicated as Delinquent, the service and placement availability for any of those populations is no different. (With the possible exception of incarceration at the Youth Correction Center for the most severe offenses.)

While Human Service Zone Directors appreciate and support the intent of this bill to enhance juvenile justice for your youth, we do have some concerns about the potential shift and increased workload from the juvenile justice system to the child welfare system as delivered by the Human Service Zones. Thank you for consideration of my testimony regarding SB 2037. I stand for questions from the committee.

PROPOSED AMENDMENT TO REENGROSSED SENTATE BILL NO. 2037

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

Page 4, starting on line 17:

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

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

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

Page 5, starting on line 1:

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

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

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

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

Page 17, line 1, insert:

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

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

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

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

2025 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Room JW327B, State Capitol

SB 2037
3/17/2025

Relating to delinquency; to provide an appropriation; and to provide a penalty.

3:29 p.m. Chairman Klemin opened the hearing.

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

Members Absent: Representative Tveit

Discussion Topics:

- General discussion

3:30 p.m. Chairman Klemin proposed Amendment LC: 25.0272.04001, testimony #42512.

3:37 p.m. Chairman Klemin closed the hearing.

Wyatt Armstrong, Committee Clerk

25.0272.04001
Title.

Prepared by the Legislative Council
staff for Representative Klemin
March 7, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
SECOND ENGROSSMENT**

REENGROSSED SENATE BILL NO. 2037

Introduced by

Legislative Management

(Juvenile Justice Committee)

1 A BILL for an Act to create and enact three new sections to chapter 27-20.4 of the North Dakota
2 Century Code, relating to juvenile court petitions, fitness to proceed in juvenile court
3 proceedings, and collateral consequences the juvenile court may order; to amend and reenact
4 sections 12.1-04.1-01, 12.1-04.1-20, and 12.1-17-01.2, subsection 2 of section 12.1-17-07.2,
5 section 12.1-20-01, subsections 2 and 6 of section 12.1-31-03, sections 12.1-32-15 and
6 15.1-09-33.4, subsection 6 of section 27-20.2-01, subsection 3 of section 27-20.2-09,
7 subsection 5 of section 27-20.4-11, subsection 1 of section 27-20.4-18, subsection 1 of section
8 27-20.4-20, and section 62.1-02-01 of the North Dakota Century Code, relating to lack of
9 criminal responsibility, court jurisdiction, distribution of intimate images without consent,
10 domestic violence, criminality of a child regarding sex offenses, sale and use of tobacco by an
11 individual under the age of twenty-one, child registration requirements, restitution, probation of a
12 delinquent child, extracurricular activities for students, and persons not allowed to possess a
13 firearm; to repeal sections 27-20.4-12, 27-20.4-13, and 27-20.4-19 of the North Dakota Century
14 Code, relating to delinquency; to provide an appropriation; and to provide a penalty.

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

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

18 **12.1-04.1-01. Standard for lack of criminal responsibility.**

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

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

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

12.1-20-01. General provisions.

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

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

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

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

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

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

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

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

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

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

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

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

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

5 6. "Child in need of services" means a child who in any of the foregoing instances is in
6 need of treatment or rehabilitation:

7 a. Is habitually and without justification truant from school subject to compulsory
8 school attendance and is absent from school without an authorized excuse more
9 than three days during a school year;

10 b. Is habitually disobedient of the reasonable and lawful commands of the child's
11 parent, guardian, or other custodian, including running away, and is ungovernable
12 or who is willfully in a situation dangerous or injurious to the health, safety, or
13 morals of the child or others;

14 c. Has committed an offense applicable only to a child, except for an offense
15 committed by a minor fourteen years of age or older under subsection 2 of
16 section 12.1-31-03 or an equivalent local ordinance or resolution; or

17 d. Is under the age of fourteen years and has purchased, possessed, smoked, or
18 used tobacco, a tobacco-related product, an electronic smoking device, or an
19 alternative nicotine product ~~in violation of subsection 2 of section 12.1-31-03.~~ As
20 used in this subdivision, "electronic smoking device" and "alternative nicotine
21 product" have the same meaning as in section 12.1-31-03; and

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

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

25 3. The giving of information and advice and any conditions imposed for the conduct and
26 control of the child may not extend beyond six months from the day commenced
27 unless extended by the court for an additional period not to exceed six months and
28 does not authorize the detention of the child if not otherwise permitted by this chapter.
29 For a driving-related offense, the conditions may include a restriction on the child's
30 driving privileges as authorized under section ~~27-20.4-1916~~ 17 of this Act.

2025 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Room JW327B, State Capitol

SB 2037
3/25/2025

Relating to delinquency; to provide an appropriation; and to provide a penalty.

10:06 a.m. Chairman Klemin opened the hearing.

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

Members Absent: Representative Hoverson

Discussion Topics:

- Penalties for underage tobacco usage
- North Dakota domestic violence statutes

10:07 a.m. Derek Steiner, Assistant State's Attorney at the Cass County State's Attorney's Office, proposed an amendment, testimony #43745.

10:43 a.m. Travis Finck, Executive Director of North Dakota Commission on Legal Counsel for Indigents, discussed the proposed amendment.

10:46 a.m. Representative Wolff moved to Amend and replace "does not apply" with "applies" and "unless" with "if" on page 3 line 19, add "or older but under twenty-one years of age" to page 4 line 23, replace "to seventeen" with "years or older but under 18" on page 4 line 24, add "but under twenty-one years of age" to page 5 line 10, and add ", or has been found guilty of" to page 9 line 8.

10:46 a.m. Representative VanWinkle seconded the motion.

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

Representative Lori VanWinkle	Y
Representative Christina Wolff	Y

10:47 a.m. Motion passed 13-0-1

10:48 a.m. Dereck Steiner, Assistant State's Attorney at the Cass County State's Attorney's Office, answered committee questions.

10:48 a.m. Travis Finck, Executive Director of North Dakota Commission on Legal Counsel for Indigents, answered committee questions.

11:07 a.m. Representative Karls moved a Do Pass as Amended and rerefer to Appropriations.

11:07 a.m. Representative VanWinkle seconded the motion.

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

11:09 a.m. Motion passed 8-5-1

11:09 a.m. Chairman Klemin will carry the bill.

11:10 a.m. Chairman Klemin closed the hearing.

Wyatt Armstrong, Committee Clerk

March 25, 2025

CO
3/25/25
10422

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO SECOND ENGROSSMENT

REENGROSSED SENATE BILL NO. 2037

Introduced by

Legislative Management

(Juvenile Justice Committee)

1 A BILL for an Act to create and enact three new sections to chapter 27-20.4 of the North Dakota
2 Century Code, relating to juvenile court petitions, fitness to proceed in juvenile court
3 proceedings, and collateral consequences the juvenile court may order; to amend and reenact
4 sections 12.1-04.1-01, 12.1-04.1-20, and 12.1-17-01.2, subsection 2 of section 12.1-17-07.2,
5 section 12.1-20-01, subsections 2 and 6 of section 12.1-31-03, sections 12.1-32-15 and
6 15.1-09-33.4, subsection 6 of section 27-20.2-01, subsection 3 of section 27-20.2-09,
7 subsection 5 of section 27-20.4-11, subsection 1 of section 27-20.4-18, subsection 1 of section
8 27-20.4-20, and section 62.1-02-01 of the North Dakota Century Code, relating to lack of
9 criminal responsibility, court jurisdiction, distribution of intimate images without consent,
10 domestic violence, criminality of a child regarding sex offenses, sale and use of tobacco by an
11 individual under the age of twenty-one, child registration requirements, restitution, probation of a
12 delinquent child, extracurricular activities for students, and persons not allowed to possess a
13 firearm; to repeal sections 27-20.4-12, 27-20.4-13, and 27-20.4-19 of the North Dakota Century
14 Code, relating to delinquency; to provide an appropriation; and to provide a penalty.

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

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

18 **12.1-04.1-01. Standard for lack of criminal responsibility.**

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

Sixty-ninth
Legislative Assembly

- 1 a. The individual lacks substantial capacity to comprehend the harmful nature or
- 2 consequences of the conduct, or the conduct is the result of a loss or serious
- 3 distortion of the individual's capacity to recognize reality; and
- 4 b. It is an essential element of the crime charged that the individual act willfully.
- 5 2. For purposes of this chapter, repeated criminal or similar antisocial conduct, or
- 6 impairment of mental condition caused primarily by voluntary use of alcoholic
- 7 beverages or controlled substances immediately before or contemporaneously with
- 8 the alleged offense, does not constitute in itself mental illness or defect at the time of
- 9 the alleged offense. Evidence of the conduct or impairment may be probative in
- 10 conjunction with other evidence to establish mental illness or defect.
- 11 3. An individual ten years of age or older may be assessed for criminal responsibility
- 12 under this chapter.

13 **SECTION 2. AMENDMENT.** Section 12.1-04.1-20 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **12.1-04.1-20. Jurisdiction of court.**

- 16 1. Unless earlier discharged by order of the court pursuant to section 12.1-04.1-22,
- 17 12.1-04.1-24, or 12.1-04.1-25, an individual found not guilty by reason of lack of
- 18 criminal responsibility is subject to the jurisdiction of the court for a period equal to the
- 19 maximum term of imprisonment that could have been imposed for the most serious
- 20 crime of which the individual was charged but found not guilty by reason of lack of
- 21 criminal responsibility. In a juvenile proceeding, a child not adjudicated by reason of
- 22 lack of criminal responsibility is subject to the jurisdiction of the court for one year.
- 23 2. Upon expiration of its jurisdiction under this chapter or earlier discharge by its order,
- 24 the court may order that a proceeding for involuntary commitment be initiated pursuant
- 25 to chapter 25-03.1. In a juvenile proceeding, the court may order an investigation into
- 26 whether a child in need of protection proceedings should be initiated.

27 **SECTION 3. AMENDMENT.** Section 12.1-17-01.2 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **12.1-17-01.2. Domestic violence.**

- 30 1. For purposes of this section "family or household member" means family or household
- 31 member as defined in section 14-07.1-01.

- 1 2. A person is guilty of an offense if that person willfully causes:
 - 2 a. Bodily injury to the actor's family or household member;
 - 3 b. Substantial bodily injury to the actor's family or household member; or
 - 4 c. Serious bodily injury to the actor's family or household member.
- 5 3. The offense is:
 - 6 a. A class B misdemeanor for the first offense under subdivision a of subsection 2
 - 7 and a class A misdemeanor for a second or subsequent offense under this
 - 8 section or sections 12.1-17-01, 12.1-17-01.1, or 12.1-17-02 involving the
 - 9 commission of domestic violence, as defined in section 14-07.1-01. For purposes
 - 10 of this subdivision, a prior conviction includes a conviction of any assault offense
 - 11 in which a finding of domestic violence was made under a law or ordinance of
 - 12 another state which is equivalent to this section.
 - 13 b. A class A misdemeanor for an offense under subdivision b of subsection 2 and a
 - 14 class C felony for an offense under subdivision c of subsection 2.
 - 15 c. A class B felony for an offense under subdivision b or c of subsection 2 if the
 - 16 victim is under twelve years of age.
- 17 4. A person charged with an offense under this section must be prosecuted in district
- 18 court.
- 19 5. This section ~~does not apply~~ applies to an individual under the age of eighteen
- 20 ~~unless~~ only if the:
 - 21 a. Victim is or was in a dating relationship with the individual; or
 - 22 b. Individual has a child in common with the victim.

23 **SECTION 4. AMENDMENT.** Subsection 2 of section 12.1-17-07.2 of the North Dakota
24 Century Code is amended and reenacted as follows:

- 25 2. A person commits the offense of distribution of intimate images if the person knowingly
- 26 or intentionally distributes to any third party any intimate image of an individual
- 27 ~~eighteen years of age or older~~, if:
 - 28 a. The person knows that the depicted individual has not given consent to the
 - 29 person to distribute the intimate image;

- b. The intimate image was created by or provided to the person under circumstances in which the individual has a reasonable expectation of privacy; and
- c. Actual emotional distress or harm is caused to the individual as a result of the distribution under this section.

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

12.1-20-01. General provisions.

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

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

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

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

1 health, tobacco, electronic smoking devices, or alternative nicotine products retailer, or
2 association of tobacco, electronic smoking devices, or alternative nicotine products
3 retailers may also conduct compliance surveys, after coordination with the appropriate
4 local law enforcement authority.

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

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

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

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

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

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

3 **12.1-32-15. Offenders against children and sexual offenders - Sexually violent**
4 **predators - Registration requirement - Penalty.**

5 1. As used in this section:

- 6 a. "A crime against a child" means a violation of chapter 12.1-16, section
7 12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04,
8 subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01,
9 12.1-18-02, 12.1-18-05, chapter 12.1-29, or section 14-09-22, subsection 3 of
10 section 12.1-41-02, subsection 3 of section 12.1-41-03, or an equivalent offense
11 from another court in the United States, a tribal court, or court of another country,
12 in which the victim is a minor or is otherwise of the age required for the act to be
13 a crime or an attempt or conspiracy to commit these offenses.
- 14 b. "Department" means the department of corrections and rehabilitation.
- 15 c. "Homeless" means an individual who is physically present in this state, but is
16 living in a park, under a bridge, on the streets, in a vehicle or camper, or is
17 otherwise without a traditional dwelling, and also one who resides in this state but
18 does not maintain a permanent address. The term does not include individuals
19 who are temporarily domiciled or individuals residing in public or private shelters
20 that provide temporary living accommodations.
- 21 d. "Mental abnormality" means a congenital or acquired condition of an individual
22 that affects the emotional or volitional capacity of the individual in a manner that
23 predisposes that individual to the commission of criminal sexual acts to a degree
24 that makes the individual a menace to the health and safety of other individuals.
- 25 e. "Predatory" means an act directed at a stranger or at an individual with whom a
26 relationship has been established or promoted for the primary purpose of
27 victimization.
- 28 f. "Reside" means to live permanently or be situated for a considerable time in a
29 home or a particular place.
- 30 g. "Sexual offender" means a person who has pled guilty to or been found guilty,
31 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, 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, 12.1-41-05, or 12.1-41-06, or an equivalent offense from another court in the United States, a tribal court, or court of another country, or an attempt or conspiracy to commit these offenses.

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

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

2. The court shall impose, in addition to any penalty provided by law, a requirement that the individual register, within three days of coming into a county in which the individual resides, is homeless, or within the period identified in this section that the individual becomes temporarily domiciled. The individual must register with the chief of police of the city of the individual's place of residence, or the sheriff of the county if the individual resides in an area other than a city. A homeless individual shall register every three days with the sheriff or chief of police of the jurisdiction in which the 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

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1 than three years older than the victim if the victim is a minor, the individual has
2 not previously been convicted as a sexual offender or of a crime against a child,
3 and the individual did not exhibit mental abnormality or predatory conduct in the
4 commission of the offense.

5 c. ~~Is a juvenile found delinquent under subdivision d of subsection 1 of section~~
6 ~~12.1-20-03, subdivision a of subsection 2 of section 12.1-20-03, or as a sexual~~
7 ~~offender for a misdemeanor. The court may deviate from requiring the juvenile to~~
8 ~~register if the court first finds the juvenile has not previously been convicted as a~~
9 ~~sexual offender or for a crime against a child, and the juvenile did not exhibit~~
10 ~~mental abnormality or predatory conduct in the commission of the offense.~~

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

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

25 e. Is a child who has been adjudicated delinquent of an offense which would classify
26 the child as a sexual offender, the prosecutor requested the court to consider
27 sexual offender registration, and the court determines the child:

28 (1) Exhibited a mental abnormality or predatory conduct in the commission of
29 the offense; or

30 (2) Previously has been adjudicated as a sexual offender.

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- 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 ~~has been adjudicated for or found guilty~~
9 of, 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 ed of subsection 2, the court
21 ~~shall~~ may state on the record in open court its affirmative finding for not requiring an
22 offender to 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

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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.

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

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- 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

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 9. AMENDMENT. Section 15.1-09-33.4 of the North Dakota Century Code is amended and reenacted as follows:

15.1-09-33.4. Student misconduct - Prohibition against participation in extracurricular activities.

1. The board of a school district ~~shall~~may prohibit a student from participating in any extracurricular activity if:

a. The student has pled guilty to or been convicted of a criminal offense and sentenced under section 12.1-32-02.1 or pled guilty or been convicted of an offense specified in subsection 1 of section 12.1-32-09.1;

b. The student has:

(1) An order prohibiting contact issued against the student at the request of another student or employee of the school under section 12.1-31.2-02;

(2) A disorderly conduct restraining order issued against the student at the request of another student or employee of the school under section 12.1-31.2-01, except a temporary restraining order under subsection 4 of section 12.1-31.2-01; ~~or~~

(3) A protection order issued against the student at the request of another student or employee of the school, except a temporary protection order under section 14-07.1-03; or

(4) Any other order issued against the student prohibiting contact with a student or employee of the school which is signed by a district judge or a judicial referee within a delinquency or criminal case;

c. The principal of the school receives information pertaining to an offense or order included under this section as provided in section 27-20.2-21; or

d. The victim of the offense or the subject of the order notifies the principal of the offense or order.

2. For purposes of this section, a representative of the juvenile court system may notify the principal of a school regarding the existence of files or records of the juvenile court

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

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

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

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

- 25 3. The giving of information and advice and any conditions imposed for the conduct and
26 control of the child may not extend beyond six months from the day commenced
27 unless extended by the court for an additional period not to exceed six months and
28 does not authorize the detention of the child if not otherwise permitted by this chapter.
29 For a driving-related offense, the conditions may include a restriction on the child's
30 driving privileges as authorized under section 27-20.4-19~~16~~17 of this Act.

SECTION 12. A new section to chapter 27-20.4 of the North Dakota Century Code is created and enacted as follows:

Petition.

1. A petition alleging delinquency under this chapter must be reviewed by the director, the court, or other person designated by the director and authorized by the court to determine whether the filing of the petition is in the best interest of the public and the child.
2. The state's attorney shall prepare, file, and serve a petition alleging delinquent conduct on the parties. The juvenile court shall conduct an inquiry into and provide the last known address of the parents or legal guardian of the child in the referral to the state's attorney.
3. A petition alleging delinquent conduct may not include the adult class level of the offense unless the offense level is a necessary element of the delinquent conduct.

SECTION 13. A new section to chapter 27-20.4 of the North Dakota Century Code is created and enacted as follows:

Fitness to proceed - Lack of criminal responsibility.

In a juvenile court proceeding involving the issue of fitness to proceed or criminal responsibility, the court shall determine whether the child:

1. Is fit to proceed in accordance with title 27; and
2. Lacked criminal responsibility for the commission of an offense in accordance with chapter 12.1-04.1.

SECTION 14. AMENDMENT. Subsection 5 of section 27-20.4-11 of the North Dakota Century Code is amended and reenacted as follows:

5. An informal agreement may not extend beyond six months from the day the agreement was agreed upon. An extension may be granted by the court for an additional period not to exceed six months. An extension may not authorize the detention of the child if not otherwise permitted by this chapter. For a driving-related offense, the agreement may include a restriction on the child's driving privileges as allowed under section ~~27-20.4-19~~ 16 17 of this Act.

SECTION 15. AMENDMENT. Subsection 1 of section 27-20.4-18 of the North Dakota Century Code is amended and reenacted as follows:

- 1 1. A probation order entered by the court must place the child under the supervision of
2 the director, unless the child is over eighteen years of age and the child's risk and
3 needs require supervision by the department of corrections and rehabilitation under
4 subsection ~~13~~ of section ~~27-20.4-15~~27-20.4-17.

5 **SECTION 16. AMENDMENT.** Subsection 1 of section 27-20.4-20 of the North Dakota
6 Century Code is amended and reenacted as follows:

- 7 1. In addition to a child being ordered to make restitution under section
8 ~~27-20.4-16~~27-20.4-17, a parent of a child adjudged delinquent may be ordered to
9 make restitution on the child's behalf in an amount not exceeding five thousand
10 dollars.

11 **SECTION 17.** A new section to chapter 27-20.4 of the North Dakota Century Code is
12 created and enacted as follows:

13 **Collateral consequences - Registration - Firearms - Driving privileges.**

- 14 1. A child may be ordered to register as a sexual offender under section 12.1-32-15.

- 15 2. A child may be prohibited from possessing a firearm in accordance with section
16 62.1-02-01.

- 17 3. If a child is adjudicated delinquent of an offense that would be a class A misdemeanor
18 or a felony if the offense were committed by an adult, the juvenile court may suspend
19 the child's driving privileges for a period of up to six months for the first offense, and
20 up to one year for a second or subsequent offense. The juvenile court may order the
21 successful completion of an appropriate driver's examination as a condition for
22 reinstating the child's driving privileges.

- 23 a. If the juvenile court suspends a child's driving privileges, the court immediately
24 shall take possession of the child's driver's license or permit and send a copy of
25 the court's order to the director of the department of transportation who shall
26 make notation of the child's suspended driving privileges.

- 27 b. The record of the child's suspension of driving privileges under this section:

- 28 (1) Must be kept confidential;

- 29 (2) May not be released except to law enforcement personnel in connection
30 with law enforcement activities; and

1 (3) May not be disclosed to or shared with the licensing officials of any other
2 state or jurisdiction.

3 c. At the end of the six-month or one-year suspension period, the director shall
4 remove and destroy all records of the child's suspension of driving privileges
5 under this section.

6 4. A child may be prohibited from participating in extracurricular activities in accordance
7 with section 15.1-09-33.4.

8 **SECTION 18. AMENDMENT.** Section 62.1-02-01 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **62.1-02-01. Persons who are not to possess firearms - Penalty.**

- 11 1. a. A person who has been convicted anywhere of a felony offense involving
12 violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an
13 equivalent felony offense of another state or the federal government is prohibited
14 from owning a firearm or having one in possession from the date of conviction
15 and continuing for ten years after the date of conviction or the date of release
16 from incarceration, parole, or probation, whichever is latest.
- 17 b. A person who has been convicted anywhere of a felony offense of this or another
18 state or the federal government not provided for in subdivision a or who has been
19 convicted of a class A misdemeanor offense involving violence or intimidation in
20 violation of chapters 12.1-16 through 12.1-25 or an equivalent offense of another
21 state or the federal government and the offense was committed while using or
22 possessing a firearm, a dangerous weapon, or, as defined in section 12.1-01-04,
23 a destructive device or an explosive, is prohibited from owning a firearm or
24 having one in possession from the date of conviction and continuing for five years
25 after the date of conviction or the date of release from incarceration, parole, or
26 probation, whichever is latest.
- 27 c. A person who is or has ever been diagnosed and confined or committed to a
28 hospital or other institution in this state or elsewhere by a court of competent
29 jurisdiction, other than a person who has had the petition that provided the basis
30 for the diagnosis, confinement, or commitment dismissed under section
31 25-03.1-17, 25-03.1-18, or 25-03.1-19, or equivalent statutes of another

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1 jurisdiction, as a person requiring treatment as defined in section 25-03.1-02, or
2 as a mentally deficient individual, is prohibited from purchasing a firearm or
3 having one in possession. This limitation does not apply to a person who has not
4 suffered from the disability for the previous three years or who has successfully
5 petitioned for relief under section 62.1-02-01.2.

6 d. A person under the age of eighteen years may not possess a handgun except
7 that such a person, while under the direct supervision of an adult, may possess a
8 handgun for the purposes of firearm safety training, target shooting, or hunting.

9 e. A child who has been adjudicated delinquent of a felony offense involving
10 violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an
11 equivalent felony offense of another state or the federal government is prohibited
12 from owning a firearm or having one in possession from the date of adjudication
13 and continuing for ten years after the date of adjudication.

14 f. A child who has been adjudicated of a class A misdemeanor offense involving
15 violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an
16 equivalent offense of another state or the federal government, and the offense
17 was committed while using or possessing a firearm, a dangerous weapon, a
18 destructive device, or an explosive is prohibited from owning a firearm or having
19 one in possession from the date of adjudication and continuing for five years after
20 the date of adjudication.

21 A person who violates subdivision a or b is guilty of a class C felony, and a person who
22 violates subdivision c or d is guilty of a class A misdemeanor.

23 2. For the purposes of this section, "conviction" means a determination that the person
24 committed one of the above-mentioned crimes upon a verdict of guilt, a plea of guilty,
25 or a plea of nolo contendere even though:

26 a. The court suspended execution of sentence in accordance with subsection 3 of
27 section 12.1-32-02;

28 b. The court deferred imposition of sentence in accordance with subsection 4 of
29 section 12.1-32-02;

30 c. The court placed the person on probation;

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- 1 d. The person's conviction has been reduced in accordance with subsection 9 of
2 section 12.1-32-02 or section 12.1-32-07.1;
- 3 e. Sentence dispositions, sentence reductions, or offense determinations equivalent
4 to this section were imposed or granted by a court, board, agency, or law of
5 another state or the federal government; or
- 6 f. The person committed an offense equivalent to an offense described in
7 subdivision ~~a or b~~ or f of subsection 1 when that person was subject to juvenile
8 adjudication or proceedings and a determination of a court under chapter 27-20.4
9 or of a court of another state or the federal government was made that the
10 person committed the delinquent act or offense.
- 11 3. A felon who is not sentenced under section 12.1-32-09.1 may possess a rifle that has
12 a barrel sixteen inches [40.72 centimeters] or longer or a shotgun that has a barrel
13 eighteen inches [45.72 centimeters] or longer and which is one of the following:
- 14 a. A firearm, including any firearm with a matchlock, flintlock, percussion cap, or
15 similar type of ignition system, manufactured before 1899.
- 16 b. A replica of any firearm described in subdivision a, if the replica is not designed
17 or redesigned for using rimfire or conventional centerfire fixed ammunition or
18 uses rimfire or conventional centerfire fixed ammunition that is no longer
19 manufactured in the United States and which is not readily available in the
20 ordinary channels of commercial trade.
- 21 c. A muzzleloading rifle or muzzleloading shotgun designed to use black powder or
22 a black powder substitute and which cannot use fixed ammunition.

23 **SECTION 19. REPEAL.** Sections 27-20.4-12, 27-20.4-13, and 27-20.4-19 of the North
24 Dakota Century Code are repealed.

25 **SECTION 20. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES -**
26 **CONTRACT SERVICES - GENERAL FUND - ONE-TIME FUNDING.** There is appropriated out
27 of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of
28 \$300,000, or so much of the sum as may be necessary, to the department of health and human
29 services for the purpose of contracting for juvenile fitness to proceed evaluation services, for the
30 biennium beginning July 1, 2025, and ending June 30, 2027. The funding in this section is
31 considered a one-time funding item.

**REPORT OF STANDING COMMITTEE
REENGROSSED SB 2037**

Judiciary Committee (Rep. Klemin, Chairman) recommends **AMENDMENTS** ([25.0272.04002](#)) and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (8 YEAS, 5 NAYS, 1 ABSENT OR EXCUSED AND NOT VOTING). SB 2037 was placed on the Sixth order on the calendar.

PROPOSED AMENDMENT TO REENGROSSED SENTATE BILL NO. 2037

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

Page 4, starting on line 17:

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

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

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

Page 5, starting on line 1:

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

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

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

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

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

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

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

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

Proposed Amendment to Reengrossed Senate Bill 2037

Page 9, line 3:

SECTION 8. Amendment

b. Has pled guilty or nolo contendere to, ~~or been adjudicated for or found guilty of~~, or has been 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

2025 HOUSE APPROPRIATIONS

SB 2037

2025 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee Roughrider Room, State Capitol

SB 2037
4/3/2025

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

9:33 a.m. Chairman Vigesaa opened the meeting.

Members present: Chairman Vigesaa, Vice Chairman Kempenich, Representatives Anderson, Berg, Bosch, Brandenburg, Fisher, Hanson, Louser, Martinson, Meier, Mitskog, Monson, Murphy, Nathe, Nelson, O'Brien, Pyle, Richter, Sanford, Stemen, Wagner

Member absent: Swiontek

Discussion Topics:

- Student Misconduct
- Restrictions on use of Firearms for Juveniles

9:33 a.m. Representative Klemin introduced the bill #44611.

9:42 a.m. Chairman Vigesaa closed the meeting.

Krystal Eberle, Committee Clerk

SB 2037
House Appropriations Committee
Rep. Lawrence R. Klemin
April 3, 2025

Mr. Chairman and Members of the Committee. SB 2037 relates to the beginning of a criminal code for juveniles. The criminal code that we now have in the law is used for adults and is not necessarily appropriate for juveniles without some amendment.

In the 2023 Session, HB 1195 provided for a study of the criminal code to review the application of adult crime and punishment as applied to youth charged with juvenile delinquencies. The study was assigned to the interim Juvenile Justice Committee, which formed a workgroup to analyze the criminal code and to draft a juvenile criminal code. SB 2037 is the result of those efforts.

SB 2037 is not an entire criminal code for juveniles because the interim did not provide enough time for a complete compilation of the crimes as applied to juveniles. Rather, SB 2037 includes the most relevant features of a juvenile criminal code by amending the adult criminal code where appropriate to apply to juveniles ages 10 to 17. Juveniles under the age of 10 legally lack criminal responsibility. An individual over the age of 18 is an adult, although there are some cases where a juvenile under the age of 18 can be tried as an adult. That is a separate proceeding that is already in the law.

Most of the sections in this bill are criminal code sections that have age amendments inserted relating to the ages of juveniles. These sections include Sections 1,3,4,5,6,7, and 8.

Section 2 relates to the jurisdiction of the district court in a juvenile proceeding involving a question of criminal responsibility due to the age of the offender. Section 9 relates to student misconduct and restricts the ability to participate in extracurricular activities. Section 10 contains a cross reference. Section 11 sets out the procedure for preparing, filing and serving a petition alleging delinquency. Section 12 relates to fitness to proceed with a juvenile case in court if there is a lack of criminal responsibility. Sections 13, 14 and 15 contain cross references. Section 16 relates to the collateral consequences of a child involved in a sexual offense, restrictions on use of firearms, and loss of driving privileges for the commission of crimes. Section 17 relates to penalties for a juvenile who commits crimes with the use of a firearm. Section 18 contains the repeal of several sections in the juvenile code that are no longer necessary having been included in other sections in this bill. Section 19 contains an appropriation of \$300,000 to the DHHS for the purpose of contracting for juvenile fitness to proceed evaluation services.

Rep. Lawrence R. Klemin
District 47, Bismarck.

2025 HOUSE STANDING COMMITTEE MINUTES

Appropriations - Human Resources Division Roughrider Room, State Capitol

SB 2037
4/4/2025

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

9:11 a.m. Chairman J. Nelson called the meeting to order.

Members Present: Chairman J. Nelson, Vice Chairman Stemen, Representatives B. Anderson, Berg, Mitskog, Murphy, O'Brien, Wagner.

Discussion Topics:

- Committee Action

9:13 a.m. Jonathan Alm, Chief Legal Officer, North Dakota Department of Health and Human Services, introduced a proposed amendment #44668.

9:30 a.m. Representative Stemen moved a proposed amendment on reengrossed SB 2037 LC#.05000, #44668.

9:30 a.m. Representative Murphy seconded the motion.

Roll Call Vote:

Representatives	Vote
Representative Jon O. Nelson	Y
Representative Gregory Stemen	Y
Representative Bert Anderson	Y
Representative Mike Berg	Y
Representative Alisa Mitskog	Y
Representative Eric J. Murphy	Y
Representative Emily O'Brien	Y
Representative Scott Wagner	Y

Motion passed 8-0-0.

9:33 a.m. Brady Larson, Budget Analyst and Auditor, ND Legislative Council, answered questions #44668.

9:35 a.m. Representative Stemen moved a Do Pass on reengrossed SB 2037 as amended.

9:35 a.m. Representative O'Brien seconded the motion.

Roll Call Vote:

Representatives	Vote
Representative Jon O. Nelson	Y
Representative Gregory Stemen	Y
Representative Bert Anderson	N
Representative Mike Berg	Y
Representative Alisa Mitskog	Y
Representative Eric J. Murphy	Y
Representative Emily O'Brien	Y
Representative Scott Wagner	N

Motion passed 6-2-0.

9:56 a.m. Chairman J. Nelson adjourned the meeting.

Jan Kamphuis, Committee Clerk

REENGROSSED SENATE BILL NO. 2037 (.05000)

Page 2, lines 13 through 26:

SECTION 2. AMENDMENT. Section 12.1-04.1-20 of the North Dakota Century Code is amended and reenacted as follows:

12.1-04.1-20. Jurisdiction of court.

1. Unless earlier discharged by order of the court pursuant to section 12.1-04.1-22, 12.1-04.1-24, or 12.1-04.1-25, an individual found not guilty by reason of lack of criminal responsibility is subject to the jurisdiction of the court for a period equal to the maximum term of imprisonment that could have been imposed for the most serious crime of which the individual was charged but found not guilty by reason of lack of criminal responsibility. In a juvenile proceeding, a child not adjudicated by reason of lack of criminal responsibility is subject to the jurisdiction of the court for one year.
2. Upon expiration of its jurisdiction under this chapter or earlier discharge by its order, the court may order that a proceeding for involuntary commitment be initiated pursuant to chapter 25-03.1. In a juvenile proceeding, the court may order an investigation into whether a child in need of protection proceedings should be initiated pursuant to chapter 27-20.3.

Page 22, lines 25 through 31:

SECTION 20. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES - CONTRACT SERVICES - GENERAL FUND - ONE-TIME FUNDING.

There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$300,000, or so much of the sum as may be necessary, to the department of health and human services for the purpose of contracting for juvenile ~~fitness to proceed~~lack of criminal responsibility evaluation services, for the biennium beginning July 1, 2025, and ending June 30, 2027. The funding in this section is considered a one-time funding item.

2025 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee Roughrider Room, State Capitol

SB 2037
4/8/2025

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

8:58 a.m. Chairman Vigesaa opened the meeting.

Members present: Chairman Vigesaa, Vice Chairman Kempenich, Representatives Anderson, Berg, Bosch, Brandenburg, Fisher, Hanson, Louser, Martinson, Meier, Monson, Murphy, Nelson, O'Brien, Pyle, Richter, Sanford, Stemen, Swiontek, Wagner

Members absent: Representatives: Mitskog, Nathe

Discussion Topics:

- Committee Action

8:58 a.m. Representative O'Brien explained Amendment LC #25.0272.04003, #44766.

9:05 a.m. Representative O'Brien moved Amendment LC #25.0272.04003.

9:05 a.m. Representative J. Nelson seconded the motion.

9:12 a.m. Roll Call Vote

Representatives	Vote
Representative Don Vigesaa	Y
Representative Keith Kempenich	N
Representative Bert Anderson	Y
Representative Mike Berg	Y
Representative Glenn Bosch	Y
Representative Mike Brandenburg	Y
Representative Jay Fisher	N

Representative Karla Rose Hanson	Y
Representative Scott Louser	N
Representative Bob Martinson	Y
Representative Lisa Meier	Y
Representative Alisa Mitskog	AB
Representative David Monson	Y
Representative Eric J. Murphy	Y
Representative Mike Nathe	AB
Representative Jon O. Nelson	Y
Representative Emily O'Brien	Y
Representative Brandy L. Pyle	Y
Representative David Richter	Y
Representative Mark Sanford	Y
Representative Gregory Stemen	Y
Representative Steve Swiontek	Y
Representative Scott Wagner	N

9:12 a.m. Motion passed 17-4-2.

9:13 a.m. Representative O'Brien moved Do Pass as Amended.

9:13 a.m. Representative Murphy seconded the motion.

9:16 a.m. Roll Call Vote

Representatives	Vote
Representative Don Vigasaa	Y
Representative Keith Kempenich	Y
Representative Bert Anderson	N
Representative Mike Berg	Y
Representative Glenn Bosch	Y
Representative Mike Brandenburg	Y
Representative Jay Fisher	N
Representative Karla Rose Hanson	Y
Representative Scott Louser	N
Representative Bob Martinson	Y
Representative Lisa Meier	Y
Representative Alisa Mitskog	AB
Representative David Monson	Y
Representative Eric J. Murphy	Y
Representative Mike Nathe	AB
Representative Jon O. Nelson	Y
Representative Emily O'Brien	Y
Representative Brandy L. Pyle	Y
Representative David Richter	Y
Representative Mark Sanford	Y
Representative Gregory Stemen	Y
Representative Steve Swiontek	Y
Representative Scott Wagner	N

House Appropriations Committee

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Page 3

9:16 a.m. Motion passed 17-4-2.

9:16 a.m. Representative Klemin will carry the bill.

9:18 a.m. Chairman Vigesaa closed the meeting.

Krystal Eberle, Committee Clerk

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
SECOND ENGROSSMENT**

CO
4/8/25
1 of 23

REENGROSSED SENATE BILL NO. 2037

Introduced by

Legislative Management

(Juvenile Justice Committee)

In place of amendment (25.0272.04002) adopted by the House, Reengrossed Senate Bill No. 2037 is amended by amendment (25.0272.04003) as follows:

1 A BILL for an Act to create and enact three new sections to chapter 27-20.4 of the North Dakota
2 Century Code, relating to juvenile court petitions, fitness to proceed in juvenile court
3 proceedings, and collateral consequences the juvenile court may order; to amend and reenact
4 sections 12.1-04.1-01, 12.1-04.1-20, and 12.1-17-01.2, subsection 2 of section 12.1-17-07.2,
5 section 12.1-20-01, subsections 2 and 6 of section 12.1-31-03, sections 12.1-32-15 and
6 15.1-09-33.4, subsection 6 of section 27-20.2-01, subsection 3 of section 27-20.2-09,
7 subsection 5 of section 27-20.4-11, subsection 1 of section 27-20.4-18, subsection 1 of section
8 27-20.4-20, and section 62.1-02-01 of the North Dakota Century Code, relating to lack of
9 criminal responsibility, court jurisdiction, distribution of intimate images without consent,
10 domestic violence, criminality of a child regarding sex offenses, sale and use of tobacco by an
11 individual under the age of twenty-one, child registration requirements, restitution, probation of a
12 delinquent child, extracurricular activities for students, and persons not allowed to possess a
13 firearm; to repeal sections 27-20.4-12, 27-20.4-13, and 27-20.4-19 of the North Dakota Century
14 Code, relating to delinquency; to provide an appropriation; and to provide a penalty.

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

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

18 **12.1-04.1-01. Standard for lack of criminal responsibility.**

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

- 1 a. The individual lacks substantial capacity to comprehend the harmful nature or
- 2 consequences of the conduct, or the conduct is the result of a loss or serious
- 3 distortion of the individual's capacity to recognize reality; and
- 4 b. It is an essential element of the crime charged that the individual act willfully.
- 5 2. For purposes of this chapter, repeated criminal or similar antisocial conduct, or
- 6 impairment of mental condition caused primarily by voluntary use of alcoholic
- 7 beverages or controlled substances immediately before or contemporaneously with
- 8 the alleged offense, does not constitute in itself mental illness or defect at the time of
- 9 the alleged offense. Evidence of the conduct or impairment may be probative in
- 10 conjunction with other evidence to establish mental illness or defect.
- 11 3. An individual ten years of age or older may be assessed for criminal responsibility
- 12 under this chapter.

13 **SECTION 2. AMENDMENT.** Section 12.1-04.1-20 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **12.1-04.1-20. Jurisdiction of court.**

- 16 1. Unless earlier discharged by order of the court pursuant to section 12.1-04.1-22,
- 17 12.1-04.1-24, or 12.1-04.1-25, an individual found not guilty by reason of lack of
- 18 criminal responsibility is subject to the jurisdiction of the court for a period equal to the
- 19 maximum term of imprisonment that could have been imposed for the most serious
- 20 crime of which the individual was charged but found not guilty by reason of lack of
- 21 criminal responsibility. In a juvenile proceeding, a child not adjudicated by reason of
- 22 lack of criminal responsibility is subject to the jurisdiction of the court for one year.
- 23 2. Upon expiration of its jurisdiction under this chapter or earlier discharge by its order,
- 24 the court may order that a proceeding for involuntary commitment be initiated pursuant
- 25 to chapter 25-03.1. In a juvenile proceeding, the court may order an investigation into
- 26 whether a child in need of protection proceedings should be initiated under chapter
- 27 27-20.3.

28 **SECTION 3. AMENDMENT.** Section 12.1-17-01.2 of the North Dakota Century Code is
29 amended and reenacted as follows:

12.1-17-01.2. Domestic violence.

1. For purposes of this section "family or household member" means family or household member as defined in section 14-07.1-01.
2. A person is guilty of an offense if that person willfully causes:
 - a. Bodily injury to the actor's family or household member;
 - b. Substantial bodily injury to the actor's family or household member; or
 - c. Serious bodily injury to the actor's family or household member.
3. The offense is:
 - a. A class B misdemeanor for the first offense under subdivision a of subsection 2 and a class A misdemeanor for a second or subsequent offense under this section or sections 12.1-17-01, 12.1-17-01.1, or 12.1-17-02 involving the commission of domestic violence, as defined in section 14-07.1-01. For purposes of this subdivision, a prior conviction includes a conviction of any assault offense in which a finding of domestic violence was made under a law or ordinance of another state which is equivalent to this section.
 - b. A class A misdemeanor for an offense under subdivision b of subsection 2 and a class C felony for an offense under subdivision c of subsection 2.
 - c. A class B felony for an offense under subdivision b or c of subsection 2 if the victim is under twelve years of age.
4. A person charged with an offense under this section must be prosecuted in district court.
5. This section ~~does not apply~~ applies to an individual under the age of eighteen unless if the:
 - a. Victim is or was in a dating relationship with the individual; or
 - b. Individual has a child in common with the victim.

SECTION 4. AMENDMENT. Subsection 2 of section 12.1-17-07.2 of the North Dakota Century Code is amended and reenacted as follows:

2. A person commits the offense of distribution of intimate images if the person knowingly or intentionally distributes to any third party any intimate image of an individual ~~eighteen years of age or older~~, if:

- 1 a. The person knows that the depicted individual has not given consent to the
- 2 person to distribute the intimate image;
- 3 b. The intimate image was created by or provided to the person under
- 4 circumstances in which the individual has a reasonable expectation of privacy;
- 5 and
- 6 c. Actual emotional distress or harm is caused to the individual as a result of the
- 7 distribution under this section.

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

10 **12.1-20-01. General provisions.**

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

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

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

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

1 acting with the permission of the individual's parent or guardian and while acting under
2 the supervision of any law enforcement authority. A state agency, city, county, board of
3 health, tobacco, electronic smoking devices, or alternative nicotine products retailer, or
4 association of tobacco, electronic smoking devices, or alternative nicotine products
5 retailers may also conduct compliance surveys, after coordination with the appropriate
6 local law enforcement authority.

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

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

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

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

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

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

5 **12.1-32-15. Offenders against children and sexual offenders - Sexually violent**
6 **predators - Registration requirement - Penalty.**

- 7 1. As used in this section:

- 8 a. "A crime against a child" means a violation of chapter 12.1-16, section
9 12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04,
10 subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01,
11 12.1-18-02, 12.1-18-05, chapter 12.1-29, or section 14-09-22, subsection 3 of
12 section 12.1-41-02, subsection 3 of section 12.1-41-03, or an equivalent offense
13 from another court in the United States, a tribal court, or court of another country,
14 in which the victim is a minor or is otherwise of the age required for the act to be
15 a crime or an attempt or conspiracy to commit these offenses.
- 16 b. "Department" means the department of corrections and rehabilitation.
- 17 c. "Homeless" means an individual who is physically present in this state, but is
18 living in a park, under a bridge, on the streets, in a vehicle or camper, or is
19 otherwise without a traditional dwelling, and also one who resides in this state but
20 does not maintain a permanent address. The term does not include individuals
21 who are temporarily domiciled or individuals residing in public or private shelters
22 that provide temporary living accommodations.
- 23 d. "Mental abnormality" means a congenital or acquired condition of an individual
24 that affects the emotional or volitional capacity of the individual in a manner that
25 predisposes that individual to the commission of criminal sexual acts to a degree
26 that makes the individual a menace to the health and safety of other individuals.
- 27 e. "Predatory" means an act directed at a stranger or at an individual with whom a
28 relationship has been established or promoted for the primary purpose of
29 victimization.
- 30 f. "Reside" means to live permanently or be situated for a considerable time in a
31 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 chapter 12.1-27.2, ~~subsection 2 of section 12.1-22-03.1~~, subdivision b of
8 subsection 1 of section 12.1-41-02, section 12.1-41-04, 12.1-41-05, or
9 12.1-41-06, or an equivalent offense from another court in the United States, a
10 tribal court, or court of another country, or an attempt or conspiracy to commit
11 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.d. Has pled guilty or nolo contendere, or ~~or~~ 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 e. Is a child who has been adjudicated delinquent of an offense which would classify
29 the child as a sexual offender, the prosecutor requested the court to consider
30 sexual offender registration, and the court determines the child:

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

- 1 The official in charge of the place of confinement, or the department, shall obtain the
2 address where the individual expects to reside, attend school, or work upon discharge,
3 parole, or release and shall report the address to the attorney general. The official in
4 charge of the place of confinement, or the department, shall give three copies of the
5 form to the individual and shall send three copies to the attorney general no later than
6 forty-five days before the scheduled release of that individual. The attorney general
7 shall forward one copy to the law enforcement agency having jurisdiction where the
8 individual expects to reside, attend school, or work upon discharge, parole, or release,
9 one copy to the prosecutor who prosecuted the individual, and one copy to the court in
10 which the individual was prosecuted. All forms must be transmitted and received by
11 the law enforcement agency, prosecutor, and court thirty days before the discharge,
12 parole, or release of the individual.
- 13 6. An individual who is required to register pursuant to this section who is released on
14 probation or discharged upon payment of a fine must, before the release or discharge,
15 be informed of the duty to register under this section by the court in which that
16 individual is convicted. The court shall require the individual to read and sign a form as
17 required by the attorney general, stating that the duty of the individual to register under
18 this section has been explained to that individual. The court shall obtain the address
19 where the individual expects to reside, attend school, or work upon release or
20 discharge and shall report the address to the attorney general within three days. The
21 court shall give one copy of the form to the individual and shall send two copies to the
22 attorney general. The attorney general shall forward one copy to the appropriate law
23 enforcement agency having jurisdiction where the individual expects to reside, attend
24 school, or work upon discharge, parole, or release.
- 25 7. Registration consists of a written or electronic statement signed by the individual,
26 giving the information required by the attorney general, and the biometric data and
27 photograph of the individual. An individual who is not required to provide a sample of
28 blood and other body fluids under section 31-13-03 or by the individual's state or court
29 of conviction or adjudication shall submit a sample of blood and other body fluids for
30 inclusion in a centralized database of DNA identification records under section
31 31-13-05. The collection, submission, testing and analysis of, and records produced

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

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

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- 1 subsections 2 and 3 is prima facie evidence of a violation of this section. The clerk of
2 court shall forward all warrants issued for a violation of this section to the county
3 sheriff, who shall enter all such warrants into the national crime information center
4 wanted person file. A court may not relieve an individual, other than a juvenile, who
5 violates this section from serving a term of at least ninety days in jail and completing
6 probation of one year.
- 7 10. When an individual is released on parole or probation and is required to register
8 pursuant to this section, but fails to do so within the time prescribed, the court shall
9 order the probation, or the parole board shall order the parole, of the individual
10 revoked.
- 11 11. If an individual required to register pursuant to this section is temporarily sent outside
12 the facility or institution where that individual is confined under conviction or sentence,
13 the local law enforcement agency having jurisdiction over the place where that
14 individual is being sent must be notified within a reasonable time period before that
15 individual is released from the facility or institution. This subsection does not apply to
16 any individual temporarily released under guard from the facility or institution in which
17 that individual is confined.
- 18 12. The attorney general, with the assistance of the department and the juvenile courts,
19 shall develop guidelines for the risk assessment of sexual offenders who are required
20 to register, with a low-risk, moderate-risk, or high-risk level being assigned to each
21 offender as follows:
- 22 a. The department shall conduct a risk assessment of sexual offenders who are
23 incarcerated in institutions under the control of the department and sexual
24 offenders who are on supervised probation. The department, in a timely manner,
25 shall provide the attorney general any information, including the offender's level
26 of risk and supporting documentation, concerning individuals required to be
27 registered under this section who are about to be released or placed into the
28 community.
- 29 b. The attorney general shall conduct a risk assessment of sexual offenders who
30 are not under the custody or supervision of the department. The attorney general
31 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

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

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

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

19 17. If an individual has been required to register as a sexual offender or an offender
20 against a child under section 12.1-32-15 or former section 27-20-52.1 before August 1,
21 1999, the individual may petition the court to be removed from the offender list if
22 registration is no longer mandatory for that individual. In considering the petition, the
23 court shall comply with the requirements of this section.

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

- 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.

7 **SECTION 9. AMENDMENT.** Section 15.1-09-33.4 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **15.1-09-33.4. Student misconduct - Prohibition against participation in extracurricular**
10 **activities.**

- 11 1. The board of a school district ~~shall~~may prohibit a student from participating in any
12 extracurricular activity if:
- 13 a. The student has pled guilty to or been convicted of a criminal offense and
14 sentenced under section 12.1-32-02.1 or pled guilty or been convicted of an
15 offense specified in subsection 1 of section 12.1-32-09.1;
- 16 b. The student has:
- 17 (1) An order prohibiting contact issued against the student at the request of
18 another student or employee of the school under section 12.1-31.2-02;
- 19 (2) A disorderly conduct restraining order issued against the student at the
20 request of another student or employee of the school under section
21 12.1-31.2-01, except a temporary restraining order under subsection 4 of
22 section 12.1-31.2-01; ~~or~~
- 23 (3) A protection order issued against the student at the request of another
24 student or employee of the school, except a temporary protection order
25 under section 14-07.1-03; or
- 26 (4) Any other order issued against the student prohibiting contact with a student
27 or employee of the school which is signed by a district judge or a judicial
28 referee within a delinquency or criminal case;
- 29 c. The principal of the school receives information pertaining to an offense or order
30 included under this section as provided in section 27-20.2-21; or

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1 d. The victim of the offense or the subject of the order notifies the principal of the
2 offense or order.

2. For purposes of this section, a representative of the juvenile court system may notify the principal of a school regarding the existence of files or records of the juvenile court pertaining to a student of the school which are open to inspection by the principal under section 27-20.2-21.

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

9 6. "Child in need of services" means a child who in any of the foregoing instances is in
10 need of treatment or rehabilitation:

11 a. Is habitually and without justification truant from school subject to compulsory
12 school attendance and is absent from school without an authorized excuse more
13 than three days during a school year;

b. Is habitually disobedient of the reasonable and lawful commands of the child's parent, guardian, or other custodian, including running away, and is ungovernable or who is willfully in a situation dangerous or injurious to the health, safety, or morals of the child or others;

c. Has committed an offense applicable only to a child, except for an offense committed by a minor fourteen years of age or older under subsection 2 of section 12.1-31-03 or an equivalent local ordinance or resolution; or

d. Is under the age of fourteen years and has purchased, possessed, smoked, or used tobacco, a tobacco-related product, an electronic smoking device, or an alternative nicotine product ~~in violation of subsection 2 of section 12.1-31-03~~. As used in this subdivision, "electronic smoking device" and "alternative nicotine product" have the same meaning as in section 12.1-31-03; and

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

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

3. The giving of information and advice and any conditions imposed for the conduct and control of the child may not extend beyond six months from the day commenced unless extended by the court for an additional period not to exceed six months and

1 does not authorize the detention of the child if not otherwise permitted by this chapter.
2 For a driving-related offense, the conditions may include a restriction on the child's
3 driving privileges as authorized under section ~~27-20.4-19~~1617 of this Act.

4 **SECTION 12.** A new section to chapter 27-20.4 of the North Dakota Century Code is
5 created and enacted as follows:

6 **Petition.**

- 7 1. A petition alleging delinquency under this chapter must be reviewed by the director,
8 the court, or other person designated by the director and authorized by the court to
9 determine whether the filing of the petition is in the best interest of the public and the
10 child.
- 11 2. The state's attorney shall prepare, file, and serve a petition alleging delinquent
12 conduct on the parties. The juvenile court shall conduct an inquiry into and provide the
13 last known address of the parents or legal guardian of the child in the referral to the
14 state's attorney.
- 15 3. A petition alleging delinquent conduct may not include the adult class level of the
16 offense unless the offense level is a necessary element of the delinquent conduct.

17 **SECTION 13.** A new section to chapter 27-20.4 of the North Dakota Century Code is
18 created and enacted as follows:

19 **Fitness to proceed - Lack of criminal responsibility.**

20 In a juvenile court proceeding involving the issue of fitness to proceed or criminal
21 responsibility, the court shall determine whether the child:

- 22 1. Is fit to proceed in accordance with title 27; and
23 2. Lacked criminal responsibility for the commission of an offense in accordance with
24 chapter 12.1-04.1.

25 **SECTION 14. AMENDMENT.** Subsection 5 of section 27-20.4-11 of the North Dakota
26 Century Code is amended and reenacted as follows:

- 27 5. An informal agreement may not extend beyond six months from the day the
28 agreement was agreed upon. An extension may be granted by the court for an
29 additional period not to exceed six months. An extension may not authorize the
30 detention of the child if not otherwise permitted by this chapter. For a driving-related

1 offense, the agreement may include a restriction on the child's driving privileges as
2 allowed under section ~~27-20.4-19~~1617 of this Act.

3 **SECTION 15. AMENDMENT.** Subsection 1 of section 27-20.4-18 of the North Dakota
4 Century Code is amended and reenacted as follows:

5 1. A probation order entered by the court must place the child under the supervision of
6 the director, unless the child is over eighteen years of age and the child's risk and
7 needs require supervision by the department of corrections and rehabilitation under
8 subsection ~~13~~ of section ~~27-20.4-15~~27-20.4-17.

9 **SECTION 16. AMENDMENT.** Subsection 1 of section 27-20.4-20 of the North Dakota
10 Century Code is amended and reenacted as follows:

11 1. In addition to a child being ordered to make restitution under section
12 ~~27-20.4-16~~27-20.4-17, a parent of a child adjudged delinquent may be ordered to
13 make restitution on the child's behalf in an amount not exceeding five thousand
14 dollars.

15 **SECTION 17.** A new section to chapter 27-20.4 of the North Dakota Century Code is
16 created and enacted as follows:

17 **Collateral consequences - Registration - Firearms - Driving privileges.**

18 1. A child may be ordered to register as a sexual offender under section 12.1-32-15.

19 2. A child may be prohibited from possessing a firearm in accordance with section
20 62.1-02-01.

21 3. If a child is adjudicated delinquent of an offense that would be a class A misdemeanor
22 or a felony if the offense were committed by an adult, the juvenile court may suspend
23 the child's driving privileges for a period of up to six months for the first offense, and
24 up to one year for a second or subsequent offense. The juvenile court may order the
25 successful completion of an appropriate driver's examination as a condition for
26 reinstating the child's driving privileges.

27 a. If the juvenile court suspends a child's driving privileges, the court immediately
28 shall take possession of the child's driver's license or permit and send a copy of
29 the court's order to the director of the department of transportation who shall
30 make notation of the child's suspended driving privileges.

31 b. The record of the child's suspension of driving privileges under this section:

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- 1 (1) Must be kept confidential;
- 2 (2) May not be released except to law enforcement personnel in connection
- 3 with law enforcement activities; and
- 4 (3) May not be disclosed to or shared with the licensing officials of any other
- 5 state or jurisdiction.

- 6 c. At the end of the six-month or one-year suspension period, the director shall
- 7 remove and destroy all records of the child's suspension of driving privileges
- 8 under this section.

- 9 4. A child may be prohibited from participating in extracurricular activities in accordance
- 10 with section 15.1-09-33.4.

11 **SECTION 18. AMENDMENT.** Section 62.1-02-01 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **62.1-02-01. Persons who are not to possess firearms - Penalty.**

- 14 1. a. A person who has been convicted anywhere of a felony offense involving
- 15 violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an
- 16 equivalent felony offense of another state or the federal government is prohibited
- 17 from owning a firearm or having one in possession from the date of conviction
- 18 and continuing for ten years after the date of conviction or the date of release
- 19 from incarceration, parole, or probation, whichever is latest.
- 20 b. A person who has been convicted anywhere of a felony offense of this or another
- 21 state or the federal government not provided for in subdivision a or who has been
- 22 convicted of a class A misdemeanor offense involving violence or intimidation in
- 23 violation of chapters 12.1-16 through 12.1-25 or an equivalent offense of another
- 24 state or the federal government and the offense was committed while using or
- 25 possessing a firearm, a dangerous weapon, or, as defined in section 12.1-01-04,
- 26 a destructive device or an explosive, is prohibited from owning a firearm or
- 27 having one in possession from the date of conviction and continuing for five years
- 28 after the date of conviction or the date of release from incarceration, parole, or
- 29 probation, whichever is latest.
- 30 c. A person who is or has ever been diagnosed and confined or committed to a
- 31 hospital or other institution in this state or elsewhere by a court of competent

jurisdiction, other than a person who has had the petition that provided the basis for the diagnosis, confinement, or commitment dismissed under section 25-03.1-17, 25-03.1-18, or 25-03.1-19, or equivalent statutes of another jurisdiction, as a person requiring treatment as defined in section 25-03.1-02, or as a mentally deficient individual, is prohibited from purchasing a firearm or having one in possession. This limitation does not apply to a person who has not suffered from the disability for the previous three years or who has successfully petitioned for relief under section 62.1-02-01.2.

d. A person under the age of eighteen years may not possess a handgun except that such a person, while under the direct supervision of an adult, may possess a handgun for the purposes of firearm safety training, target shooting, or hunting.

e. A child who has been adjudicated delinquent of a felony offense involving violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an equivalent felony offense of another state or the federal government is prohibited from owning a firearm or having one in possession from the date of adjudication and continuing for ten years after the date of adjudication.

f. A child who has been adjudicated of a class A misdemeanor offense involving violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an equivalent offense of another state or the federal government, and the offense was committed while using or possessing a firearm, a dangerous weapon, a destructive device, or an explosive is prohibited from owning a firearm or having one in possession from the date of adjudication and continuing for five years after the date of adjudication.

A person who violates subdivision a or b is guilty of a class C felony, and a person who violates subdivision c or d is guilty of a class A misdemeanor.

2. For the purposes of this section, "conviction" means a determination that the person committed one of the above-mentioned crimes upon a verdict of guilt, a plea of guilty, or a plea of nolo contendere even though:

a. The court suspended execution of sentence in accordance with subsection 3 of section 12.1-32-02;

- 1 b. The court deferred imposition of sentence in accordance with subsection 4 of
- 2 section 12.1-32-02;
- 3 c. The court placed the person on probation;
- 4 d. The person's conviction has been reduced in accordance with subsection 9 of
- 5 section 12.1-32-02 or section 12.1-32-07.1;
- 6 e. Sentence dispositions, sentence reductions, or offense determinations equivalent
- 7 to this section were imposed or granted by a court, board, agency, or law of
- 8 another state or the federal government; or
- 9 f. The person committed an offense equivalent to an offense described in
- 10 subdivision ~~a or b~~ or f of subsection 1 when that person was subject to juvenile
- 11 adjudication or proceedings and a determination of a court under chapter 27-20.4
- 12 or of a court of another state or the federal government was made that the
- 13 person committed the delinquent act or offense.
- 14 3. A felon who is not sentenced under section 12.1-32-09.1 may possess a rifle that has
- 15 a barrel sixteen inches [40.72 centimeters] or longer or a shotgun that has a barrel
- 16 eighteen inches [45.72 centimeters] or longer and which is one of the following:
- 17 a. A firearm, including any firearm with a matchlock, flintlock, percussion cap, or
- 18 similar type of ignition system, manufactured before 1899.
- 19 b. A replica of any firearm described in subdivision a, if the replica is not designed
- 20 or redesigned for using rimfire or conventional centerfire fixed ammunition or
- 21 uses rimfire or conventional centerfire fixed ammunition that is no longer
- 22 manufactured in the United States and which is not readily available in the
- 23 ordinary channels of commercial trade.
- 24 c. A muzzleloading rifle or muzzleloading shotgun designed to use black powder or
- 25 a black powder substitute and which cannot use fixed ammunition.

26 **SECTION 19. REPEAL.** Sections 27-20.4-12, 27-20.4-13, and 27-20.4-19 of the North
27 Dakota Century Code are repealed.

28 **SECTION 20. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES -**
29 **CONTRACT SERVICES - GENERAL FUND - ONE-TIME FUNDING.** There is appropriated out
30 of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of
31 \$300,000, or so much of the sum as may be necessary, to the department of health and human

Sixty-ninth
Legislative Assembly

- 1 services for the purpose of contracting for juvenile ~~fitness to proceed~~ lack of criminal
- 2 responsibility evaluation services, for the biennium beginning July 1, 2025, and ending June 30,
- 3 2027. The funding in this section is considered a one-time funding item.

**REPORT OF STANDING COMMITTEE
REENGROSSED AND AMENDED SB 2037**

Appropriations Committee (Rep. Vigesaa, Chairman) recommends **AMENDMENTS** ([25.0272.04003](#)) and when so amended, recommends **DO PASS** (17 YEAS, 4 NAYS, 2 ABSENT OR EXCUSED AND NOT VOTING). Reengrossed SB 2037, as amended, was placed on the Sixth order on the calendar.

25.0272.04003
Title.

Prepared for the House Appropriations -
Human Resources Division Committee
April 4, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO SECOND ENGROSSMENT

REENGROSSED SENATE BILL NO. 2037

Introduced by

Legislative Management

(Juvenile Justice Committee)

In place of the amendments (25.0272.04002) adopted by the House, Senate Bill No. 2037 is amended by amendment (25.0272.04003) as follows:

1 A BILL for an Act to create and enact three new sections to chapter 27-20.4 of the North Dakota
2 Century Code, relating to juvenile court petitions, fitness to proceed in juvenile court
3 proceedings, and collateral consequences the juvenile court may order; to amend and reenact
4 sections 12.1-04.1-01, 12.1-04.1-20, and 12.1-17-01.2, subsection 2 of section 12.1-17-07.2,
5 section 12.1-20-01, subsections 2 and 6 of section 12.1-31-03, sections 12.1-32-15 and
6 15.1-09-33.4, subsection 6 of section 27-20.2-01, subsection 3 of section 27-20.2-09,
7 subsection 5 of section 27-20.4-11, subsection 1 of section 27-20.4-18, subsection 1 of section
8 27-20.4-20, and section 62.1-02-01 of the North Dakota Century Code, relating to lack of
9 criminal responsibility, court jurisdiction, distribution of intimate images without consent,
10 domestic violence, criminality of a child regarding sex offenses, sale and use of tobacco by an
11 individual under the age of twenty-one, child registration requirements, restitution, probation of a
12 delinquent child, extracurricular activities for students, and persons not allowed to possess a
13 firearm; to repeal sections 27-20.4-12, 27-20.4-13, and 27-20.4-19 of the North Dakota Century
14 Code, relating to delinquency; to provide an appropriation; and to provide a penalty.

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

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

18 **12.1-04.1-01. Standard for lack of criminal responsibility.**

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

- 1 a. The individual lacks substantial capacity to comprehend the harmful nature or
- 2 consequences of the conduct, or the conduct is the result of a loss or serious
- 3 distortion of the individual's capacity to recognize reality; and
- 4 b. It is an essential element of the crime charged that the individual act willfully.
- 5 2. For purposes of this chapter, repeated criminal or similar antisocial conduct, or
- 6 impairment of mental condition caused primarily by voluntary use of alcoholic
- 7 beverages or controlled substances immediately before or contemporaneously with
- 8 the alleged offense, does not constitute in itself mental illness or defect at the time of
- 9 the alleged offense. Evidence of the conduct or impairment may be probative in
- 10 conjunction with other evidence to establish mental illness or defect.
- 11 3. An individual ten years of age or older may be assessed for criminal responsibility
- 12 under this chapter.

13 **SECTION 2. AMENDMENT.** Section 12.1-04.1-20 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **12.1-04.1-20. Jurisdiction of court.**

- 16 1. Unless earlier discharged by order of the court pursuant to section 12.1-04.1-22,
- 17 12.1-04.1-24, or 12.1-04.1-25, an individual found not guilty by reason of lack of
- 18 criminal responsibility is subject to the jurisdiction of the court for a period equal to the
- 19 maximum term of imprisonment that could have been imposed for the most serious
- 20 crime of which the individual was charged but found not guilty by reason of lack of
- 21 criminal responsibility. In a juvenile proceeding, a child not adjudicated by reason of
- 22 lack of criminal responsibility is subject to the jurisdiction of the court for one year.
- 23 2. Upon expiration of its jurisdiction under this chapter or earlier discharge by its order,
- 24 the court may order that a proceeding for involuntary commitment be initiated pursuant
- 25 to chapter 25-03.1. In a juvenile proceeding, the court may order an investigation into
- 26 whether a child in need of protection proceedings should be initiated pursuant to
- 27 chapter 27-20.3.

28 **SECTION 3. AMENDMENT.** Section 12.1-17-01.2 of the North Dakota Century Code is
29 amended and reenacted as follows:

12.1-17-01.2. Domestic violence.

1. For purposes of this section "family or household member" means family or household member as defined in section 14-07.1-01.
2. A person is guilty of an offense if that person willfully causes:
 - a. Bodily injury to the actor's family or household member;
 - b. Substantial bodily injury to the actor's family or household member; or
 - c. Serious bodily injury to the actor's family or household member.
3. The offense is:
 - a. A class B misdemeanor for the first offense under subdivision a of subsection 2 and a class A misdemeanor for a second or subsequent offense under this section or sections 12.1-17-01, 12.1-17-01.1, or 12.1-17-02 involving the commission of domestic violence, as defined in section 14-07.1-01. For purposes of this subdivision, a prior conviction includes a conviction of any assault offense in which a finding of domestic violence was made under a law or ordinance of another state which is equivalent to this section.
 - b. A class A misdemeanor for an offense under subdivision b of subsection 2 and a class C felony for an offense under subdivision c of subsection 2.
 - c. A class B felony for an offense under subdivision b or c of subsection 2 if the victim is under twelve years of age.
4. A person charged with an offense under this section must be prosecuted in district court.
5. This section does not apply applies to an individual under the age of eighteen unless only if the:
 - a. Victim is or was in a dating relationship with the individual; or
 - b. Individual has a child in common with the victim.

SECTION 4. AMENDMENT. Subsection 2 of section 12.1-17-07.2 of the North Dakota Century Code is amended and reenacted as follows:

2. A person commits the offense of distribution of intimate images if the person knowingly or intentionally distributes to any third party any intimate image of an individual ~~eighteen years of age or older, if:~~

- 1 a. The person knows that the depicted individual has not given consent to the
- 2 person to distribute the intimate image;
- 3 b. The intimate image was created by or provided to the person under
- 4 circumstances in which the individual has a reasonable expectation of privacy;
- 5 and
- 6 c. Actual emotional distress or harm is caused to the individual as a result of the
- 7 distribution under this section.

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

10 **12.1-20-01. General provisions.**

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

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

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

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

1 acting with the permission of the individual's parent or guardian and while acting under
2 the supervision of any law enforcement authority. A state agency, city, county, board of
3 health, tobacco, electronic smoking devices, or alternative nicotine products retailer, or
4 association of tobacco, electronic smoking devices, or alternative nicotine products
5 retailers may also conduct compliance surveys, after coordination with the appropriate
6 local law enforcement authority.

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

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

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

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

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

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

5 **12.1-32-15. Offenders against children and sexual offenders - Sexually violent**
6 **predators - Registration requirement - Penalty.**

- 7 1. As used in this section:
- 8 a. "A crime against a child" means a violation of chapter 12.1-16, section
9 12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04,
10 subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01,
11 12.1-18-02, 12.1-18-05, chapter 12.1-29, or section 14-09-22, subsection 3 of
12 section 12.1-41-02, subsection 3 of section 12.1-41-03, or an equivalent offense
13 from another court in the United States, a tribal court, or court of another country,
14 in which the victim is a minor or is otherwise of the age required for the act to be
15 a crime or an attempt or conspiracy to commit these offenses.
- 16 b. "Department" means the department of corrections and rehabilitation.
- 17 c. "Homeless" means an individual who is physically present in this state, but is
18 living in a park, under a bridge, on the streets, in a vehicle or camper, or is
19 otherwise without a traditional dwelling, and also one who resides in this state but
20 does not maintain a permanent address. The term does not include individuals
21 who are temporarily domiciled or individuals residing in public or private shelters
22 that provide temporary living accommodations.
- 23 d. "Mental abnormality" means a congenital or acquired condition of an individual
24 that affects the emotional or volitional capacity of the individual in a manner that
25 predisposes that individual to the commission of criminal sexual acts to a degree
26 that makes the individual a menace to the health and safety of other individuals.
- 27 e. "Predatory" means an act directed at a stranger or at an individual with whom a
28 relationship has been established or promoted for the primary purpose of
29 victimization.
- 30 f. "Reside" means to live permanently or be situated for a considerable time in a
31 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 chapter 12.1-27.2, ~~subsection 2 of section 12.1-22-03.1~~, subdivision b of
8 subsection 1 of section 12.1-41-02, section 12.1-41-04, 12.1-41-05, or
9 12.1-41-06, or an equivalent offense from another court in the United States, a
10 tribal court, or court of another country, or an attempt or conspiracy to commit
11 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 e.~~

- 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.d. Has pled guilty or nolo contendere, ~~or 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 e. Is a child who has been adjudicated delinquent of an offense which would classify
29 the child as a sexual offender, the prosecutor requested the court to consider
30 sexual offender registration, and the court determines the child:

1 (1) Exhibited a mental abnormality or predatory conduct in the commission of
2 the offense; or

3 (2) Previously has been adjudicated as a sexual offender.

4 3. If a court has not ordered an individual to register in this state, an individual who
5 resides, is homeless, or is temporarily domiciled in this state shall register if the
6 individual:

7 a. Is incarcerated or is on probation or parole after July 31, 1995, for a crime
8 against a child described in section 12.1-29-02, or section 12.1-18-01 or
9 12.1-18-02 if the individual was not the parent of the victim, or as a sexual
10 offender;

11 b. Has pled guilty or nolo contendere to, or has been adjudicated for or found guilty
12 of, an offense in a court of this state for which registration is mandatory under this
13 section or an offense from another court in the United States, a tribal court, or
14 court of another country equivalent to those offenses set forth in this section; or

15 c. Has pled guilty or nolo contendere to, or has been found guilty of, a crime against
16 a child or as a sexual offender for which registration is mandatory under this
17 section if the conviction occurred after July 31, 1985.

18 4. In its consideration of mental abnormality or predatory conduct, the court shall
19 consider the age of the offender, the age of the victim, the difference in ages of the
20 victim and offender, the circumstances and motive of the crime, the relationship of the
21 victim and offender, and the mental state of the offender. The court may order an
22 offender to be evaluated by a qualified counselor, psychologist, or physician before
23 sentencing. Except as provided under subdivision ed of subsection 2, the court
24 ~~shall~~may state on the record in open court its affirmative finding for not requiring an
25 offender to register.

26 5. When an individual is required to register under this section, the official in charge of a
27 facility or institution where the individual required to register is confined, or the
28 department, shall, before the discharge, parole, or release of that individual, inform the
29 individual of the duty to register pursuant to this section. The official or the department
30 shall require the individual to read and sign a form as required by the attorney general,
31 stating that the duty of the individual to register has been explained to that individual.

- 1 The official in charge of the place of confinement, or the department, shall obtain the
2 address where the individual expects to reside, attend school, or work upon discharge,
3 parole, or release and shall report the address to the attorney general. The official in
4 charge of the place of confinement, or the department, shall give three copies of the
5 form to the individual and shall send three copies to the attorney general no later than
6 forty-five days before the scheduled release of that individual. The attorney general
7 shall forward one copy to the law enforcement agency having jurisdiction where the
8 individual expects to reside, attend school, or work upon discharge, parole, or release,
9 one copy to the prosecutor who prosecuted the individual, and one copy to the court in
10 which the individual was prosecuted. All forms must be transmitted and received by
11 the law enforcement agency, prosecutor, and court thirty days before the discharge,
12 parole, or release of the individual.
- 13 6. An individual who is required to register pursuant to this section who is released on
14 probation or discharged upon payment of a fine must, before the release or discharge,
15 be informed of the duty to register under this section by the court in which that
16 individual is convicted. The court shall require the individual to read and sign a form as
17 required by the attorney general, stating that the duty of the individual to register under
18 this section has been explained to that individual. The court shall obtain the address
19 where the individual expects to reside, attend school, or work upon release or
20 discharge and shall report the address to the attorney general within three days. The
21 court shall give one copy of the form to the individual and shall send two copies to the
22 attorney general. The attorney general shall forward one copy to the appropriate law
23 enforcement agency having jurisdiction where the individual expects to reside, attend
24 school, or work upon discharge, parole, or release.
- 25 7. Registration consists of a written or electronic statement signed by the individual,
26 giving the information required by the attorney general, and the biometric data and
27 photograph of the individual. An individual who is not required to provide a sample of
28 blood and other body fluids under section 31-13-03 or by the individual's state or court
29 of conviction or adjudication shall submit a sample of blood and other body fluids for
30 inclusion in a centralized database of DNA identification records under section
31 31-13-05. The collection, submission, testing and analysis of, and records produced

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

1 or employment address. The individual registering under this section shall periodically
2 confirm the information required under this subsection in a manner and at an interval
3 determined by the attorney general. A law enforcement agency that has previously
4 registered an offender may omit the biometric data portion of the registration if that
5 agency has a set of biometric data on file for that individual and is personally familiar
6 with and can visually identify the offender. These provisions also apply in any other
7 state that requires registration.

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

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

30 9. An individual required to register under this section who violates this section is guilty of
31 a class C felony. The failure of a homeless individual to register as required in

- 1 subsections 2 and 3 is prima facie evidence of a violation of this section. The clerk of
2 court shall forward all warrants issued for a violation of this section to the county
3 sheriff, who shall enter all such warrants into the national crime information center
4 wanted person file. A court may not relieve an individual, other than a juvenile, who
5 violates this section from serving a term of at least ninety days in jail and completing
6 probation of one year.
- 7 10. When an individual is released on parole or probation and is required to register
8 pursuant to this section, but fails to do so within the time prescribed, the court shall
9 order the probation, or the parole board shall order the parole, of the individual
10 revoked.
- 11 11. If an individual required to register pursuant to this section is temporarily sent outside
12 the facility or institution where that individual is confined under conviction or sentence,
13 the local law enforcement agency having jurisdiction over the place where that
14 individual is being sent must be notified within a reasonable time period before that
15 individual is released from the facility or institution. This subsection does not apply to
16 any individual temporarily released under guard from the facility or institution in which
17 that individual is confined.
- 18 12. The attorney general, with the assistance of the department and the juvenile courts,
19 shall develop guidelines for the risk assessment of sexual offenders who are required
20 to register, with a low-risk, moderate-risk, or high-risk level being assigned to each
21 offender as follows:
- 22 a. The department shall conduct a risk assessment of sexual offenders who are
23 incarcerated in institutions under the control of the department and sexual
24 offenders who are on supervised probation. The department, in a timely manner,
25 shall provide the attorney general any information, including the offender's level
26 of risk and supporting documentation, concerning individuals required to be
27 registered under this section who are about to be released or placed into the
28 community.
- 29 b. The attorney general shall conduct a risk assessment of sexual offenders who
30 are not under the custody or supervision of the department. The attorney general
31 may adopt a law enforcement agency's previous assignment of risk level for an

- 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

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

- 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.

7 **SECTION 9. AMENDMENT.** Section 15.1-09-33.4 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **15.1-09-33.4. Student misconduct - Prohibition against participation in extracurricular**
10 **activities.**

- 11 1. The board of a school district ~~shall~~may prohibit a student from participating in any
12 extracurricular activity if:
- 13 a. The student has pled guilty to or been convicted of a criminal offense and
14 sentenced under section 12.1-32-02.1 or pled guilty or been convicted of an
15 offense specified in subsection 1 of section 12.1-32-09.1;
- 16 b. The student has:
- 17 (1) An order prohibiting contact issued against the student at the request of
18 another student or employee of the school under section 12.1-31.2-02;
- 19 (2) A disorderly conduct restraining order issued against the student at the
20 request of another student or employee of the school under section
21 12.1-31.2-01, except a temporary restraining order under subsection 4 of
22 section 12.1-31.2-01; ~~or~~
- 23 (3) A protection order issued against the student at the request of another
24 student or employee of the school, except a temporary protection order
25 under section 14-07.1-03; or
- 26 (4) Any other order issued against the student prohibiting contact with a student
27 or employee of the school which is signed by a district judge or a judicial
28 referee within a delinquency or criminal case;
- 29 c. The principal of the school receives information pertaining to an offense or order
30 included under this section as provided in section 27-20.2-21; or

- 1 d. The victim of the offense or the subject of the order notifies the principal of the
- 2 offense or order.
- 3 2. For purposes of this section, a representative of the juvenile court system may notify
- 4 the principal of a school regarding the existence of files or records of the juvenile court
- 5 pertaining to a student of the school which are open to inspection by the principal
- 6 under section 27-20.2-21.

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

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

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

- 29 3. The giving of information and advice and any conditions imposed for the conduct and
- 30 control of the child may not extend beyond six months from the day commenced
- 31 unless extended by the court for an additional period not to exceed six months and

1 does not authorize the detention of the child if not otherwise permitted by this chapter.
2 For a driving-related offense, the conditions may include a restriction on the child's
3 driving privileges as authorized under section ~~27-20.4-1916~~17 of this Act.

4 **SECTION 12.** A new section to chapter 27-20.4 of the North Dakota Century Code is
5 created and enacted as follows:

6 **Petition.**

- 7 1. A petition alleging delinquency under this chapter must be reviewed by the director,
8 the court, or other person designated by the director and authorized by the court to
9 determine whether the filing of the petition is in the best interest of the public and the
10 child.
- 11 2. The state's attorney shall prepare, file, and serve a petition alleging delinquent
12 conduct on the parties. The juvenile court shall conduct an inquiry into and provide the
13 last known address of the parents or legal guardian of the child in the referral to the
14 state's attorney.
- 15 3. A petition alleging delinquent conduct may not include the adult class level of the
16 offense unless the offense level is a necessary element of the delinquent conduct.

17 **SECTION 13.** A new section to chapter 27-20.4 of the North Dakota Century Code is
18 created and enacted as follows:

19 **Fitness to proceed - Lack of criminal responsibility.**

20 In a juvenile court proceeding involving the issue of fitness to proceed or criminal
21 responsibility, the court shall determine whether the child:

- 22 1. Is fit to proceed in accordance with title 27; and
23 2. Lacked criminal responsibility for the commission of an offense in accordance with
24 chapter 12.1-04.1.

25 **SECTION 14. AMENDMENT.** Subsection 5 of section 27-20.4-11 of the North Dakota
26 Century Code is amended and reenacted as follows:

- 27 5. An informal agreement may not extend beyond six months from the day the
28 agreement was agreed upon. An extension may be granted by the court for an
29 additional period not to exceed six months. An extension may not authorize the
30 detention of the child if not otherwise permitted by this chapter. For a driving-related

1 offense, the agreement may include a restriction on the child's driving privileges as
2 allowed under section ~~27-20.4-19~~27-20.4-17 of this Act.

3 **SECTION 15. AMENDMENT.** Subsection 1 of section 27-20.4-18 of the North Dakota
4 Century Code is amended and reenacted as follows:

5 1. A probation order entered by the court must place the child under the supervision of
6 the director, unless the child is over eighteen years of age and the child's risk and
7 needs require supervision by the department of corrections and rehabilitation under
8 subsection ~~43~~ of section ~~27-20.4-15~~27-20.4-17.

9 **SECTION 16. AMENDMENT.** Subsection 1 of section 27-20.4-20 of the North Dakota
10 Century Code is amended and reenacted as follows:

11 1. In addition to a child being ordered to make restitution under section
12 ~~27-20.4-16~~27-20.4-17, a parent of a child adjudged delinquent may be ordered to
13 make restitution on the child's behalf in an amount not exceeding five thousand
14 dollars.

15 **SECTION 17.** A new section to chapter 27-20.4 of the North Dakota Century Code is
16 created and enacted as follows:

17 **Collateral consequences - Registration - Firearms - Driving privileges.**

18 1. A child may be ordered to register as a sexual offender under section 12.1-32-15.

19 2. A child may be prohibited from possessing a firearm in accordance with section
20 62.1-02-01.

21 3. If a child is adjudicated delinquent of an offense that would be a class A misdemeanor
22 or a felony if the offense were committed by an adult, the juvenile court may suspend
23 the child's driving privileges for a period of up to six months for the first offense, and
24 up to one year for a second or subsequent offense. The juvenile court may order the
25 successful completion of an appropriate driver's examination as a condition for
26 reinstating the child's driving privileges.

27 a. If the juvenile court suspends a child's driving privileges, the court immediately
28 shall take possession of the child's driver's license or permit and send a copy of
29 the court's order to the director of the department of transportation who shall
30 make notation of the child's suspended driving privileges.

31 b. The record of the child's suspension of driving privileges under this section:

- 1 (1) Must be kept confidential;
- 2 (2) May not be released except to law enforcement personnel in connection
- 3 with law enforcement activities; and
- 4 (3) May not be disclosed to or shared with the licensing officials of any other
- 5 state or jurisdiction.
- 6 c. At the end of the six-month or one-year suspension period, the director shall
- 7 remove and destroy all records of the child's suspension of driving privileges
- 8 under this section.
- 9 4. A child may be prohibited from participating in extracurricular activities in accordance
- 10 with section 15.1-09-33.4.

11 **SECTION 18. AMENDMENT.** Section 62.1-02-01 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **62.1-02-01. Persons who are not to possess firearms - Penalty.**

- 14 1. a. A person who has been convicted anywhere of a felony offense involving
- 15 violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an
- 16 equivalent felony offense of another state or the federal government is prohibited
- 17 from owning a firearm or having one in possession from the date of conviction
- 18 and continuing for ten years after the date of conviction or the date of release
- 19 from incarceration, parole, or probation, whichever is latest.
- 20 b. A person who has been convicted anywhere of a felony offense of this or another
- 21 state or the federal government not provided for in subdivision a or who has been
- 22 convicted of a class A misdemeanor offense involving violence or intimidation in
- 23 violation of chapters 12.1-16 through 12.1-25 or an equivalent offense of another
- 24 state or the federal government and the offense was committed while using or
- 25 possessing a firearm, a dangerous weapon, or, as defined in section 12.1-01-04,
- 26 a destructive device or an explosive, is prohibited from owning a firearm or
- 27 having one in possession from the date of conviction and continuing for five years
- 28 after the date of conviction or the date of release from incarceration, parole, or
- 29 probation, whichever is latest.
- 30 c. A person who is or has ever been diagnosed and confined or committed to a
- 31 hospital or other institution in this state or elsewhere by a court of competent

1 jurisdiction, other than a person who has had the petition that provided the basis
2 for the diagnosis, confinement, or commitment dismissed under section
3 25-03.1-17, 25-03.1-18, or 25-03.1-19, or equivalent statutes of another
4 jurisdiction, as a person requiring treatment as defined in section 25-03.1-02, or
5 as a mentally deficient individual, is prohibited from purchasing a firearm or
6 having one in possession. This limitation does not apply to a person who has not
7 suffered from the disability for the previous three years or who has successfully
8 petitioned for relief under section 62.1-02-01.2.

9 d. A person under the age of eighteen years may not possess a handgun except
10 that such a person, while under the direct supervision of an adult, may possess a
11 handgun for the purposes of firearm safety training, target shooting, or hunting.

12 e. A child who has been adjudicated delinquent of a felony offense involving
13 violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an
14 equivalent felony offense of another state or the federal government is prohibited
15 from owning a firearm or having one in possession from the date of adjudication
16 and continuing for ten years after the date of adjudication.

17 f. A child who has been adjudicated of a class A misdemeanor offense involving
18 violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an
19 equivalent offense of another state or the federal government, and the offense
20 was committed while using or possessing a firearm, a dangerous weapon, a
21 destructive device, or an explosive is prohibited from owning a firearm or having
22 one in possession from the date of adjudication and continuing for five years after
23 the date of adjudication.

24 A person who violates subdivision a or b is guilty of a class C felony, and a person who
25 violates subdivision c or d is guilty of a class A misdemeanor.

26 2. For the purposes of this section, "conviction" means a determination that the person
27 committed one of the above-mentioned crimes upon a verdict of guilt, a plea of guilty,
28 or a plea of nolo contendere even though:

29 a. The court suspended execution of sentence in accordance with subsection 3 of
30 section 12.1-32-02;

- 1 b. The court deferred imposition of sentence in accordance with subsection 4 of
- 2 section 12.1-32-02;
- 3 c. The court placed the person on probation;
- 4 d. The person's conviction has been reduced in accordance with subsection 9 of
- 5 section 12.1-32-02 or section 12.1-32-07.1;
- 6 e. Sentence dispositions, sentence reductions, or offense determinations equivalent
- 7 to this section were imposed or granted by a court, board, agency, or law of
- 8 another state or the federal government; or
- 9 f. The person committed an offense equivalent to an offense described in
- 10 subdivision ~~a or b~~ or f of subsection 1 when that person was subject to juvenile
- 11 adjudication or proceedings and a determination of a court under chapter 27-20.4
- 12 or of a court of another state or the federal government was made that the
- 13 person committed the delinquent act or offense.
- 14 3. A felon who is not sentenced under section 12.1-32-09.1 may possess a rifle that has
- 15 a barrel sixteen inches [40.72 centimeters] or longer or a shotgun that has a barrel
- 16 eighteen inches [45.72 centimeters] or longer and which is one of the following:
- 17 a. A firearm, including any firearm with a matchlock, flintlock, percussion cap, or
- 18 similar type of ignition system, manufactured before 1899.
- 19 b. A replica of any firearm described in subdivision a, if the replica is not designed
- 20 or redesigned for using rimfire or conventional centerfire fixed ammunition or
- 21 uses rimfire or conventional centerfire fixed ammunition that is no longer
- 22 manufactured in the United States and which is not readily available in the
- 23 ordinary channels of commercial trade.
- 24 c. A muzzleloading rifle or muzzleloading shotgun designed to use black powder or
- 25 a black powder substitute and which cannot use fixed ammunition.

26 **SECTION 19. REPEAL.** Sections 27-20.4-12, 27-20.4-13, and 27-20.4-19 of the North
27 Dakota Century Code are repealed.

28 **SECTION 20. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES -**
29 **CONTRACT SERVICES - GENERAL FUND - ONE-TIME FUNDING.** There is appropriated out
30 of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of
31 \$300,000, or so much of the sum as may be necessary, to the department of health and human

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- 1 services for the purpose of contracting for juvenile ~~fitness to proceed~~ lack of criminal
- 2 responsibility evaluation services, for the biennium beginning July 1, 2025, and ending June 30,
- 3 2027. The funding in this section is considered a one-time funding item.