

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; 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:
- 21 a. The individual lacks substantial capacity to comprehend the harmful nature or  
22 consequences of the conduct, or the conduct is the result of a loss or serious  
23 distortion of the individual's capacity to recognize reality; and  
24 b. It is an essential element of the crime charged that the individual act willfully.

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

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

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

11          **12.1-04.1-20. Jurisdiction of court.**

- 12          1. Unless earlier discharged by order of the court pursuant to section 12.1-04.1-22,  
13          12.1-04.1-24, or 12.1-04.1-25, an individual found not guilty by reason of lack of  
14          criminal responsibility is subject to the jurisdiction of the court for a period equal to the  
15          maximum term of imprisonment that could have been imposed for the most serious  
16          crime of which the individual was charged but found not guilty by reason of lack of  
17          criminal responsibility. In a juvenile proceeding, a child not adjudicated by reason of  
18          lack of criminal responsibility is subject to the jurisdiction of the court for one year.  
19          2. Upon expiration of its jurisdiction under this chapter or earlier discharge by its order,  
20          the court may order that a proceeding for involuntary commitment be initiated pursuant  
21          to chapter 25-03.1. In a juvenile proceeding, the court may order an investigation into  
22          whether a child in need of protection proceedings should be initiated.

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

25          **12.1-17-01.2. Domestic violence.**

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

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

18           **SECTION 4. AMENDMENT.** Subsection 2 of section 12.1-17-07.2 of the North Dakota

19 Century Code is amended and reenacted as follows:

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

30           **SECTION 5. AMENDMENT.** Section 12.1-20-01 of the North Dakota Century Code is

31 amended and reenacted as follows:

1       **12.1-20-01. General provisions.**

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

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

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

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

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

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

1 infraction and must be sent to juvenile court. An individual eighteen years of age or  
2 older found to have violated subsection 2 or 4 must pay a fee of twenty-five dollars.

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

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

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

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

25 **12.1-32-15. Offenders against children and sexual offenders - Sexually violent**  
26 **predators - Registration requirement - Penalty.**

27 1. As used in this section:

28 a. "A crime against a child" means a violation of chapter 12.1-16, section  
29 12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04,  
30 subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01,  
31 12.1-18-02, 12.1-18-05, chapter 12.1-29, or section 14-09-22, subsection 3 of

1 section 12.1-41-02, subsection 3 of section 12.1-41-03, or an equivalent offense  
2 from another court in the United States, a tribal court, or court of another country,  
3 in which the victim is a minor or is otherwise of the age required for the act to be  
4 a crime or an attempt or conspiracy to commit these offenses.

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

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

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

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

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

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

- 1           h. "Sexually dangerous individual" means an individual who meets the definition  
2           specified in section 25-03.3-01.
- 3           i. "Temporarily domiciled" means staying or being physically present in this state for  
4           more than thirty days in a calendar year or at a location for longer than ten  
5           consecutive days, attending school for longer than ten days, or maintaining  
6           employment in the jurisdiction for longer than ten days, regardless of the state of  
7           the residence.
- 8           2. The court shall impose, in addition to any penalty provided by law, a requirement that  
9           the individual register, within three days of coming into a county in which the individual  
10          resides, is homeless, or within the period identified in this section that the individual  
11          becomes temporarily domiciled. The individual must register with the chief of police of  
12          the city of the individual's place of residence, or the sheriff of the county if the  
13          individual resides in an area other than a city. A homeless individual shall register  
14          every three days with the sheriff or chief of police of the jurisdiction in which the  
15          individual is physically present. The court shall require an individual to register by  
16          stating this requirement on the court records, if that individual:
- 17          a. Has pled guilty or nolo contendere to, or been found guilty as a felonious sexual  
18          offender or an attempted felonious sexual offender, ~~including juvenile delinquent~~  
19          ~~adjudications of equivalent offenses unless the offense is listed in subdivision c.~~
- 20          b. Has pled guilty or nolo contendere to, or been found guilty as a sexual offender  
21          for, a misdemeanor or attempted misdemeanor. The court may deviate from  
22          requiring an individual to register if the court first finds the individual is no more  
23          than three years older than the victim if the victim is a minor, the individual has  
24          not previously been convicted as a sexual offender or of a crime against a child,  
25          and the individual did not exhibit mental abnormality or predatory conduct in the  
26          commission of the offense.
- 27          c. ~~Is a juvenile found delinquent under subdivision d of subsection 1 of section~~  
28          ~~12.1-20-03, subdivision a of subsection 2 of section 12.1-20-03, or as a sexual~~  
29          ~~offender for a misdemeanor. The court may deviate from requiring the juvenile to~~  
30          ~~register if the court first finds the juvenile has not previously been convicted as a~~

1                   sexual offender or for a crime against a child, and the juvenile did not exhibit  
2                   mental abnormality or predatory conduct in the commission of the offense.

3           d. Has pled guilty or nolo contendere to, or been found guilty of, a crime against a  
4           child or an attempted crime against a child, including juvenile delinquent  
5           adjudications of equivalent offenses. Except if the offense is described in section  
6           12.1-29-02, or section 12.1-18-01 or 12.1-18-02 and the person is not the parent  
7           of the victim, the court may deviate from requiring an individual to register if the  
8           court first finds the individual has not previously been convicted as a sexual  
9           offender or for a crime against a child, and the individual did not exhibit mental  
10          abnormality or predatory conduct in the commission of the offense.

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

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

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

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

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

26          a. Is incarcerated or is on probation or parole after July 31, 1995, for a crime  
27          against a child described in section 12.1-29-02, or section 12.1-18-01 or  
28          12.1-18-02 if the individual was not the parent of the victim, or as a sexual  
29          offender;

30          b. Has pled guilty or nolo contendere to, ~~or been adjudicated for or found guilty of,~~  
31          an offense in a court of this state for which registration is mandatory under this

1 section or an offense from another court in the United States, a tribal court, or  
2 court of another country equivalent to those offenses set forth in this section; or

3 c. Has pled guilty or nolo contendere to, or has been found guilty of, a crime against  
4 a child or as a sexual offender for which registration is mandatory under this  
5 section if the conviction occurred after July 31, 1985.

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

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

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

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

- 27          8. An individual required to register under this section shall comply with the registration  
28          requirement for the longer of the following periods:
- 29              a. A period of fifteen years after the date of sentence or order deferring or  
30              suspending sentence upon a plea or finding of guilt or after release from  
31              incarceration, whichever is later;

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

1 the local law enforcement agency having jurisdiction over the place where that  
2 individual is being sent must be notified within a reasonable time period before that  
3 individual is released from the facility or institution. This subsection does not apply to  
4 any individual temporarily released under guard from the facility or institution in which  
5 that individual is confined.

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

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

- 1       13. An individual assessed as a high-risk sexual offender in accordance with  
2           subsection 12, may not reside within five hundred feet [152.4 meters] of a public or  
3           nonpublic preschool or elementary, middle, or high school.
- 4       14. Relevant and necessary conviction and registration information must be disclosed to  
5           the public by a law enforcement agency if the individual is a moderate or high risk and  
6           the agency determines that disclosure of the conviction and registration information is  
7           necessary for public protection. The attorney general shall develop guidelines for  
8           public disclosure of offender registration information. Public disclosure may include  
9           internet access if the offender:
- 10       a. Is required to register for a lifetime under subsection 8;
- 11       b. Has been determined to be a high risk to the public by the department, the  
12           attorney general, or the courts, according to guidelines developed by those  
13           agencies; or
- 14       c. Has been determined to be a high risk to the public by an agency of another state  
15           or the federal government.
- 16       If the offender has been determined to be a moderate risk, public disclosure must  
17       include, at a minimum, notification of the offense to the victim registered under chapter  
18       12.1-34 and to any agency, civic organization, or group of persons who have  
19       characteristics similar to those of a victim of the offender. Upon request, law  
20       enforcement agencies may release conviction and registration information regarding  
21       low-risk, moderate-risk, or high-risk offenders.
- 22       15. A state officer, law enforcement agency, or public school district or governing body of a  
23       nonpublic school or any appointee, officer, or employee of those entities is not subject  
24       to civil or criminal liability for making risk determinations, allowing a sexual offender to  
25       attend a school function under section 12.1-20-25, or for disclosing or for failing to  
26       disclose information as permitted by this section.
- 27       16. If a juvenile is adjudicated delinquent and required or ordered to register as a sexual  
28       offender or as an offender against a child under this section, the juvenile shall comply  
29       with the registration requirements in this section. Notwithstanding any other provision  
30       of law, a law enforcement agency shall register a juvenile offender in the same manner  
31       as adult offenders and may release any relevant and necessary information on file to

1 other law enforcement agencies, the department of health and human services, or the  
2 public if disclosure is necessary to protect public health or safety. The law enforcement  
3 agency shall release any relevant and necessary information on file to the  
4 superintendent or principal of the school the juvenile attends. The school  
5 administration shall notify others in similar positions if the juvenile transfers to another  
6 learning institution in or outside the state.

7 17. If an individual has been required to register as a sexual offender or an offender  
8 against a child under section 12.1-32-15 or former section 27-20-52.1 before August 1,  
9 1999, the individual may petition the court to be removed from the offender list if  
10 registration is no longer mandatory for that individual. In considering the petition, the  
11 court shall comply with the requirements of this section.

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

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

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

27 **15.1-09-33.4. Student misconduct - Prohibition against participation in extracurricular**  
28 **activities.**

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

- 1           a. The student has pled guilty to or been convicted of a criminal offense and  
2           sentenced under section 12.1-32-02.1 or pled guilty or been convicted of an  
3           offense specified in subsection 1 of section 12.1-32-09.1;
- 4           b. The student has:
- 5           (1) An order prohibiting contact issued against the student at the request of  
6           another student or employee of the school under section 12.1-31.2-02;
- 7           (2) A disorderly conduct restraining order issued against the student at the  
8           request of another student or employee of the school under section  
9           12.1-31.2-01, except a temporary restraining order under subsection 4 of  
10          section 12.1-31.2-01; ~~or~~
- 11          (3) A protection order issued against the student at the request of another  
12          student or employee of the school, except a temporary protection order  
13          under section 14-07.1-03; or
- 14          (4) Any other order issued against the student prohibiting contact with a student  
15          or employee of the school which is signed by a district judge or a judicial  
16          referee within a delinquency or criminal case;
- 17          c. The principal of the school receives information pertaining to an offense or order  
18          included under this section as provided in section 27-20.2-21; or
- 19          d. The victim of the offense or the subject of the order notifies the principal of the  
20          offense or order.
- 21          2. For purposes of this section, a representative of the juvenile court system may notify  
22          the principal of a school regarding the existence of files or records of the juvenile court  
23          pertaining to a student of the school which are open to inspection by the principal  
24          under section 27-20.2-21.

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

- 27          3. The giving of information and advice and any conditions imposed for the conduct and  
28          control of the child may not extend beyond six months from the day commenced  
29          unless extended by the court for an additional period not to exceed six months and  
30          does not authorize the detention of the child if not otherwise permitted by this chapter.

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

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

5 **Petition.**

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

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

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

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

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

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

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

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

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

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

- 9       1. In addition to a child being ordered to make restitution under section  
10 ~~27-20.4-16~~27-20.4-17, a parent of a child adjudged delinquent may be ordered to  
11 make restitution on the child's behalf in an amount not exceeding five thousand  
12 dollars.

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

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

- 16       1. A child may be ordered to register as a sexual offender under section 12.1-32-15.  
17       2. A child may be prohibited from possessing a firearm in accordance with section  
18       62.1-02-01.  
19       3. If a child is adjudicated delinquent of an offense that would be a class A misdemeanor  
20       or a felony if the offense were committed by an adult, the juvenile court may suspend  
21       the child's driving privileges for a period of up to six months for the first offense, and  
22       up to one year for a second or subsequent offense. The juvenile court may order the  
23       successful completion of an appropriate driver's examination as a condition for  
24       reinstating the child's driving privileges.  
25       a. If the juvenile court suspends a child's driving privileges, the court immediately  
26       shall take possession of the child's driver's license or permit and send a copy of  
27       the court's order to the director of the department of transportation who shall  
28       make notation of the child's suspended driving privileges.  
29       b. The record of the child's suspension of driving privileges under this section:  
30       (1) Must be kept confidential;

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

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

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

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

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

12                   **62.1-02-01. Persons who are not to possess firearms - Penalty.**

- 13                   1.    a.    A person who has been convicted anywhere of a felony offense involving  
14                                   violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an  
15                                   equivalent felony offense of another state or the federal government is prohibited  
16                                   from owning a firearm or having one in possession from the date of conviction  
17                                   and continuing for ten years after the date of conviction or the date of release  
18                                   from incarceration, parole, or probation, whichever is latest.
- 19                   b.    A person who has been convicted anywhere of a felony offense of this or another  
20                                   state or the federal government not provided for in subdivision a or who has been  
21                                   convicted of a class A misdemeanor offense involving violence or intimidation in  
22                                   violation of chapters 12.1-16 through 12.1-25 or an equivalent offense of another  
23                                   state or the federal government and the offense was committed while using or  
24                                   possessing a firearm, a dangerous weapon, or, as defined in section 12.1-01-04,  
25                                   a destructive device or an explosive, is prohibited from owning a firearm or  
26                                   having one in possession from the date of conviction and continuing for five years  
27                                   after the date of conviction or the date of release from incarceration, parole, or  
28                                   probation, whichever is latest.
- 29                   c.    A person who is or has ever been diagnosed and confined or committed to a  
30                                   hospital or other institution in this state or elsewhere by a court of competent  
31                                   jurisdiction, other than a person who has had the petition that provided the basis

1 for the diagnosis, confinement, or commitment dismissed under section  
2 25-03.1-17, 25-03.1-18, or 25-03.1-19, or equivalent statutes of another  
3 jurisdiction, as a person requiring treatment as defined in section 25-03.1-02, or  
4 as a mentally deficient individual, is prohibited from purchasing a firearm or  
5 having one in possession. This limitation does not apply to a person who has not  
6 suffered from the disability for the previous three years or who has successfully  
7 petitioned for relief under section 62.1-02-01.2.

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

11 e. A child who has been adjudicated delinquent 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 adjudication  
15 and continuing for ten years after the date of adjudication.

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

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

25 2. For the purposes of this section, "conviction" means a determination that the person  
26 committed one of the above-mentioned crimes upon a verdict of guilt, a plea of guilty,  
27 or a plea of nolo contendere even though:

28 a. The court suspended execution of sentence in accordance with subsection 3 of  
29 section 12.1-32-02;

30 b. The court deferred imposition of sentence in accordance with subsection 4 of  
31 section 12.1-32-02;

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

24          **SECTION 18. REPEAL.** Sections 27-20.4-12, 27-20.4-13, and 27-20.4-19 of the North

25          Dakota Century Code are repealed.