

SENATE BILL NO. 2035

Introduced by

Legislative Council

(Criminal Justice Committee)

1 A BILL for an Act to create and enact sections 12.1-20-05.1 and 12.1-20-12.2 and a new
2 section to chapter 29-04 of the North Dakota Century Code, relating to sexual offenses, the
3 luring of minors by computer, and a statute of limitations for gross sexual imposition; to amend
4 and reenact sections 12.1-20-04, 12.1-20-05, and 12.1-20-12.1, subdivision e of subsection 1
5 of section 12.1-32-15, and subdivision c of subsection 5 of section 15-36-15.1 of the North
6 Dakota Century Code, relating to sexual offenses; to repeal section 12.1-22-03.1 of the North
7 Dakota Century Code, relating to surreptitious intrusion; and to provide a penalty.

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

9 **SECTION 1. AMENDMENT.** Section 12.1-20-04 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **12.1-20-04. Sexual imposition.**

12 ~~4.~~ A person who engages in a sexual act or sexual contact with another, or who
13 causes another to engage in a sexual act or sexual contact, is guilty of ~~an offense~~
14 a class B felony if the actor ~~compels~~:

15 1. Compels the other person to submit by any threat that would render a person of
16 reasonable firmness incapable of resisting; or

17 ~~2. The offense is a class C felony unless the victim is a minor, fifteen years of age or~~
18 ~~older, in which case it is a class B felony.~~ Engages in a sexual act or sexual
19 contact with another, whether consensual or not, as part of an induction, initiation,
20 ceremony, pledge, hazing, or qualification to become a member or an associate of
21 any criminal street gang as defined in section 12.1-06.2-01.

22 **SECTION 2. AMENDMENT.** Section 12.1-20-05 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **12.1-20-05. Corruption or solicitation of minors.**

1 1. An adult who engages in, or causes another to engage in a sexual act with ~~another~~
2 ~~person or who causes another person to engage in a sexual act~~ a minor, is guilty
3 of a class A misdemeanor if the ~~other person~~ victim is a minor fifteen years of age
4 or older, or is guilty of a class C felony if the adult is at least twenty-two years of
5 age and the ~~other person~~ victim is a minor fifteen years of age or older.

6 2. An adult who solicits a person under the age of fifteen years to engage in a sexual
7 act or sexual contact is guilty of a class ~~A misdemeanor~~ C felony.

8 **SECTION 3.** Section 12.1-20-05.1 of the North Dakota Century Code is created and
9 enacted as follows:

10 **12.1-20-05.1. Luring minors by computer.** An adult is guilty of luring minors by
11 computer when:

- 12 1. The adult knows the character and content of a communication that, in whole or in
13 part, implicitly or explicitly discusses or depicts actual or simulated nudity, sexual
14 acts, sexual contact, sadomasochistic abuse, or other sexual performances and
15 uses any computer communication system that allows the input, output,
16 examination, or transfer of computer data or computer programs from one
17 computer to another to initiate or engage in such communication with a minor; and
18 2. By means of that communication the adult importunes, invites, or induces a minor
19 to engage in sexual acts or to have sexual contact with the adult, or to engage in a
20 sexual performance, obscene sexual performance, or sexual conduct for the
21 adult's benefit, satisfaction, lust, passions, or sexual desires.
22 3. A violation of this section is a class A misdemeanor, but if the adult is twenty-two
23 years of age or older or the minor is under the age of fifteen, violation of this
24 section is a class C felony.

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

27 **12.1-20-12.1. Indecent exposure.**

- 28 1. A person ~~shall be guilty of a class B misdemeanor for~~, with intent to arouse, appeal
29 to, or gratify that person's lust, passions, or sexual desires, is guilty of a class A
30 misdemeanor if that person:

1 1. ~~Knowingly exposing one's penis, vulva, or anus in a public place with the intent to~~
2 ~~annoy or harass another person.~~

3 2. ~~Masturbating~~

4 a. ~~Masturbates in a public place; or~~

5 b. ~~Exposes one's penis, vulva, or anus in a public place.~~

6 2. A person is guilty of a class C felony if the person violates subsection 1 after a
7 previous conviction for violating subsection 1, after a previous conviction for
8 violating section 12.1-20-12.2, or after being required to register under section
9 12.1-32-15.

10 **SECTION 5.** Section 12.1-20-12.2 of the North Dakota Century Code is created and
11 enacted as follows:

12 **12.1-20-12.2. Surreptitious intrusion.**

13 1. An individual, with the intent to arouse, appeal to, or gratify that individual's lust,
14 passions, or sexual desires, is guilty of a class A misdemeanor if that individual
15 does any of the following:

16 a. With intent to intrude upon or interfere with the privacy of another, enters upon
17 another's property and surreptitiously gazes, stares, or peeps in the window
18 or any other aperture of a house or place of dwelling of another.

19 b. With intent to intrude upon or interfere with the privacy of another, enters upon
20 another's property and surreptitiously installs or uses any device for
21 observing, photographing, recording, amplifying, or broadcasting sounds or
22 events through the window or any other aperture of a house or place of
23 dwelling of another.

24 c. With intent to intrude upon or interfere with the privacy of the occupant,
25 surreptitiously gazes, stares, or peeps in the window or other aperture of a
26 tanning booth, a sleeping room in a hotel, or other place where a reasonable
27 individual would have an expectation of privacy and has exposed or is likely to
28 expose that individual's intimate parts or has removed the clothing covering
29 the immediate area of the intimate parts.

30 d. With intent to intrude upon or interfere with the privacy of the occupant,
31 surreptitiously installs or uses any device for observing, photographing,

1 recording, amplifying, or broadcasting sounds or events through the window
2 or other aperture of a tanning booth, a sleeping room in a hotel, or other place
3 where a reasonable individual would have an expectation of privacy and has
4 exposed or is likely to expose that individual's intimate parts or has removed
5 the clothing covering the immediate area of the intimate parts.

6 2. A person is guilty of a class C felony if the person violates subsection 1 after a
7 previous conviction for violating subsection 1, after a previous conviction for
8 violating section 12.1-20-12.1, or after being required to register under section
9 12.1-32-15.

10 **SECTION 6. AMENDMENT.** Subdivision e of subsection 1 of section 12.1-32-15 of the
11 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

12 e. "Sexual offender" means a person who has pled guilty to or been found guilty
13 of a violation of section 12.1-20-03, 12.1-20-03.1, 12.1-20-04, 12.1-20-05,
14 12.1-20-05.1, 12.1-20-06, 12.1-20-07, 12.1-20-11, 12.1-20-12.1, or
15 12.1-20-12.2, chapter 12.1-27.2, or subsection 2 of section 12.1-22-03.1, or
16 an equivalent ordinance, or an attempt to commit these offenses.

17 **SECTION 7. AMENDMENT.** Subdivision c of subsection 5 of section 15-36-15.1 of the
18 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

19 c. "Sexual offense" means a violation of section 12.1-20-03, 12.1-20-03.1,
20 12.1-20-04, 12.1-20-05, 12.1-20-06, 12.1-20-07, 12.1-20-11, or ~~12.1-22-03.1~~
21 12.1-20-12.2, or chapter 12.1-27.2, or an equivalent ordinance.

22 **SECTION 8.** A new section to chapter 29-04 of the North Dakota Century Code is
23 created and enacted as follows:

24 **Prosecution for gross sexual imposition.** Except as otherwise provided by law, a
25 prosecution for a violation of subdivision a of subsection 1 of section 12.1-20-03 must be
26 commenced in the proper court within seven years after the commission of the offense.

27 **SECTION 9. REPEAL.** Section 12.1-22-03.1 of the North Dakota Century Code is
28 repealed.