

**Fifty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 9, 2001**

SENATE BILL NO. 2035
(Legislative Council)
(Criminal Justice Committee)

AN ACT to create and enact sections 12.1-20-05.1 and 12.1-20-12.2 and a new section to chapter 29-04 of the North Dakota Century Code, relating to sexual offenses, the luring of minors by computer, and a statute of limitations for gross sexual imposition; to amend and reenact subsection 4 of section 12.1-20-02, sections 12.1-20-04, 12.1-20-05, 12.1-20-12.1, subsection 1 of section 12.1-31-01, subdivision e of subsection 1 of section 12.1-32-15, and subdivision c of subsection 5 of section 15-36-15.1 of the North Dakota Century Code, relating to sexual offenses and disorderly conduct; to repeal section 12.1-22-03.1 of the North Dakota Century Code, relating to surreptitious intrusion; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 4 of section 12.1-20-02 of the North Dakota Century Code is amended and reenacted as follows:

4. "Sexual contact" means any touching, whether or not through the clothing or other covering, of the sexual or other intimate parts of the person, or the penile ejaculation or ejaculate or emission of urine or feces upon any part of the person, for the purpose of arousing or satisfying sexual or aggressive desires.

SECTION 2. AMENDMENT. Section 12.1-20-04 of the North Dakota Century Code is amended and reenacted as follows:

12.1-20-04. Sexual imposition.

4. A person who engages in a sexual act or sexual contact with another, or who causes another to engage in a sexual act or sexual contact, is guilty of ~~an offense~~ a class B felony if the actor ~~compels~~
 1. Compels the other person to submit by any threat that would render a person of reasonable firmness incapable of resisting; or
 2. ~~The offense is a class C felony unless the victim is a minor, fifteen years of age or older, in which case it is a class B felony.~~ Engages in a sexual act or sexual contact with another, whether consensual or not, as part of an induction, initiation, ceremony, pledge, hazing, or qualification to become a member or an associate of any criminal street gang as defined in section 12.1-06.2-01.

SECTION 3. AMENDMENT. Section 12.1-20-05 of the North Dakota Century Code is amended and reenacted as follows:

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

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

the victim is a minor fifteen years of age or older, is guilty of a class A misdemeanor or C felony.

SECTION 4. Section 12.1-20-05.1 of the North Dakota Century Code is created and enacted as follows:

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

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

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

12.1-20-12.1. Indecent exposure.

1. A person ~~shall be guilty of a class B misdemeanor for,~~ with intent to arouse, appeal to, or gratify that person's lust, passions, or sexual desires, is guilty of a class A misdemeanor if that person:
 1. ~~Knowingly exposing one's penis, vulva, or anus in a public place with the intent to annoy or harass another person.~~
 2. ~~Masturbating~~
 - a. Masturbates in a public place; or
 - b. Exposes one's penis, vulva, or anus in a public place.
2. A person is guilty of a class C felony if the person violates subsection 1 after a previous conviction for violating subsection 1, after a previous conviction for violating section 12.1-20-12.2, or after being required to register under section 12.1-32-15.

SECTION 6. Section 12.1-20-12.2 of the North Dakota Century Code is created and enacted as follows:

12.1-20-12.2. Surreptitious intrusion.

1. An individual, with the intent to arouse, appeal to, or gratify that individual's lust, passions, or sexual desires, is guilty of a class A misdemeanor if that individual does any of the following:
 - a. With intent to intrude upon or interfere with the privacy of another, enters upon another's property and surreptitiously gazes, stares, or peeps in the window or any other aperture of a house or place of dwelling of another.
 - b. With intent to intrude upon or interfere with the privacy of another, enters upon another's property and surreptitiously installs or uses any device for observing,

photographing, recording, amplifying, or broadcasting sounds or events through the window or any other aperture of a house or place of dwelling of another.

- c. With intent to intrude upon or interfere with the privacy of the occupant, surreptitiously gazes, stares, or peeps in the window or other aperture of a tanning booth, a sleeping room in a hotel, or other place where a reasonable individual would have an expectation of privacy and has exposed or is likely to expose that individual's intimate parts or has removed the clothing covering the immediate area of the intimate parts.
 - d. With intent to intrude upon or interfere with the privacy of the occupant, surreptitiously installs or uses any device for observing, photographing, recording, amplifying, or broadcasting sounds or events through the window or other aperture of a tanning booth, a sleeping room in a hotel, or other place where a reasonable individual would have an expectation of privacy and has exposed or is likely to expose that individual's intimate parts or has removed the clothing covering the immediate area of the intimate parts.
2. A person is guilty of a class C felony if the person violates subsection 1 after a previous conviction for violating subsection 1, after a previous conviction for violating section 12.1-20-12.1, or after being required to register under section 12.1-32-15.

SECTION 7. AMENDMENT. Subsection 1 of section 12.1-31-01 of the North Dakota Century Code is amended and reenacted as follows:

1. An individual is guilty of a class B misdemeanor if, with intent to harass, annoy, or alarm another person or in reckless disregard of the fact that another person is harassed, annoyed, or alarmed by the individual's behavior, the individual:
 - a. Engages in fighting, or in violent, tumultuous, or threatening behavior;
 - b. Makes unreasonable noise;
 - c. In a public place, uses abusive or obscene language, knowingly exposes that individual's penis, vulva, or anus, or makes an obscene gesture;
 - d. Obstructs vehicular or pedestrian traffic, or the use of a public facility;
 - e. Persistently follows a person in or about a public place or places;
 - f. While loitering in a public place for the purpose of soliciting sexual contact, the individual solicits the contact;
 - g. Creates a hazardous, physically offensive, or seriously alarming condition by any act that serves no legitimate purpose; or
 - h. Engages in harassing conduct by means of intrusive or unwanted acts, words, or gestures that are intended to adversely affect the safety, security, or privacy of another person.

SECTION 8. AMENDMENT. Subdivision e of subsection 1 of section 12.1-32-15 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- e. "Sexual offender" means a person who has pled guilty to or been found guilty 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, 12.1-20-07, 12.1-20-11, 12.1-20-12.1, or 12.1-20-12.2, chapter 12.1-27.2, or subsection 2 of section 12.1-22-03.1, or an equivalent ordinance, or an attempt to commit these offenses.

SECTION 9. AMENDMENT. Subdivision c of subsection 5 of section 15-36-15.1 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- c. "Sexual offense" means a violation of section 12.1-20-03, 12.1-20-03.1, 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~~ 12.1-20-12.2, or chapter 12.1-27.2, or an equivalent ordinance.

SECTION 10. A new section to chapter 29-04 of the North Dakota Century Code is created and enacted as follows:

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

SECTION 11. REPEAL. Section 12.1-22-03.1 of the North Dakota Century Code is repealed.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-seventh Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2035.

Senate Vote: Yeas 49 Nays 0 Absent 0

House Vote: Yeas 94 Nays 0 Absent 4

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2001.

Approved at _____ M. on _____, 2001.

Governor

Filed in this office this _____ day of _____, 2001,
at _____ o'clock _____ M.

Secretary of State