

SENATE BILL NO. 2261

Introduced by

Senators Nething, Espegard, Krebsbach

Representatives Galvin, N. Johnson, Weiler

1 A BILL for an Act to create and enact a new section to chapter 23-12 of the North Dakota
2 Century Code, relating to breastfeeding; and to amend and reenact subsection 4 of section
3 12.1-20-02 and sections 12.1-20-12.1, 12.1-27.1-11, and 42-01-01 of the North Dakota Century
4 Code, relating to exempting the act of breastfeeding from certain offenses.

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

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

8 4. "Sexual contact" means any touching, whether or not through the clothing or other
9 covering, of the sexual or other intimate parts of the person, or the penile
10 ejaculation or ejaculate or emission of urine or feces upon any part of the person,
11 for the purpose of arousing or satisfying sexual or aggressive desires. The term
12 does not include the act of a woman breastfeeding her child.

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

15 **12.1-20-12.1. Indecent exposure.**

- 16 1. A person, with intent to arouse, appeal to, or gratify that person's lust, passions, or
17 sexual desires, is guilty of a class A misdemeanor if that person:
- 18 a. Masturbates in a public place or in the presence of a minor; or
 - 19 b. Exposes one's penis, vulva, or anus in a public place or to a minor in a public
20 or private place.
- 21 2. A person is guilty of a class C felony if the person violates subsection 1 after a
22 previous conviction for violating subsection 1, after a previous conviction for
23 violating section 12.1-20-12.2, or after being required to register under section
24 12.1-32-15.

1 3. The act of a woman breastfeeding her child is not a violation of this section.

2 **SECTION 3. AMENDMENT.** Section 12.1-27.1-11 of the North Dakota Century Code
3 is amended and reenacted as follows:

4 **12.1-27.1-11. Exceptions to criminal liability.** Sections 12.1-27.1-01 and
5 12.1-27.1-03 ~~shall do~~ not apply to the:

6 1. The possession or distribution of material in the course of law enforcement,
7 judicial, or legislative activities; or to the possession of material by a bona fide
8 school, college, university, museum, or public library for limited access for
9 educational research purposes carried on at such an institution by adults only;
10 ~~Sections 12.1-27.1-01 and 12.1-27.1-03 shall also not apply to a;~~

11 2. A person who is returning material, found to be obscene, to the distributor or
12 publisher initially delivering it to the person returning it; or

13 3. The act of a woman breastfeeding her child.

14 **SECTION 4.** A new section to chapter 23-12 of the North Dakota Century Code is
15 created and enacted as follows:

16 **Breastfeeding.** A woman may breastfeed her child in any location, public or private,
17 where the woman and child are otherwise authorized to be, irrespective of whether the nipple of
18 the woman's breast is uncovered during or incidental to the breastfeeding.

19 **SECTION 5. AMENDMENT.** Section 42-01-01 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **42-01-01. Nuisance - Definition.**

22 1. A nuisance consists in unlawfully doing an act or omitting to perform a duty, which
23 act or omission:

24 4. a. Annoys, injures, or endangers the comfort, repose, health, or safety of others;

25 2. b. Offends decency;

26 3. c. Unlawfully interferes with, obstructs or tends to obstruct, or renders
27 dangerous for passage, any lake, navigable river, bay, stream, canal, basin,
28 public park, square, street, or highway; or

29 4. d. In any way renders other persons insecure in life or in the use of property.

30 2. Nuisance does not include the act of a woman breastfeeding her child.