

Sixty-first
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1272

Introduced by

Representatives Griffin, Dahl, Delmore

Senators Nething, Olafson, Schneider

1 A BILL for an Act to amend and reenact sections 12.1-20-02, 12.1-20-03, and 12.1-20-04 of the
2 North Dakota Century Code, relating to a sexual act or conduct through coercion.

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

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

6 **12.1-20-02. Definitions.** In sections 12.1-20-03 through 12.1-20-12:

7 1. "Coercion" means to exploit fear or anxiety through intimidation, compulsion,
8 domination, or control with the intent to compel conduct or compliance.

9 2. "Deviate sexual act" means any form of sexual contact with an animal, bird, or
10 dead person.

11 ~~2.~~ 3. "Object" means anything used in commission of a sexual act other than the person
12 of the actor.

13 ~~3.~~ 4. "Sexual act" means sexual contact between human beings consisting of contact
14 between the penis and the vulva, the penis and the anus, the mouth and the penis,
15 the mouth and the vulva, or any other portion of the human body and the penis,
16 anus, or vulva; or the use of an object which comes in contact with the victim's
17 anus, vulva, or penis. For the purposes of this subsection, sexual contact between
18 the penis and the vulva, the penis and the anus, any other portion of the human
19 body and the anus or vulva, or an object and the anus, vulva, or penis of the
20 victim, occurs upon penetration, however slight. Emission is not required.

21 ~~4.~~ 5. "Sexual contact" means any touching, whether or not through the clothing or other
22 covering, of the sexual or other intimate parts of the person, or the penile
23 ejaculation or ejaculate or emission of urine or feces upon any part of the person,
24 for the purpose of arousing or satisfying sexual or aggressive desires.

1 **SECTION 2. AMENDMENT.** Section 12.1-20-03 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **12.1-20-03. Gross sexual imposition - Penalty.**

- 4 1. A person who engages in a sexual act with another, or who causes another to
5 engage in a sexual act, is guilty of an offense if:
- 6 a. That person compels the victim to submit by force or by threat of imminent
7 death, serious bodily injury, or kidnapping, to be inflicted on any human being;
 - 8 b. That person or someone with that person's knowledge has substantially
9 impaired the victim's power to appraise or control the victim's conduct by
10 administering or employing without the victim's knowledge intoxicants, a
11 controlled substance as defined in chapter 19-03.1, or other means with intent
12 to prevent resistance;
 - 13 c. That person knows or has reasonable cause to believe that the victim is
14 unaware that a sexual act is being committed upon him or her;
 - 15 d. The victim is less than fifteen years old; or
 - 16 e. That person knows or has reasonable cause to believe that the other person
17 suffers from a mental disease or defect which renders him or her incapable of
18 understanding the nature of his or her conduct.
- 19 2. A person who engages in sexual contact with another, or who causes another to
20 engage in sexual contact, is guilty of an offense if:
- 21 a. The victim is less than fifteen years old;
 - 22 b. That person compels the victim to submit by force or by threat of imminent
23 death, serious bodily injury, or kidnapping, to be inflicted on any human being;
24 or
 - 25 c. That person knows or has reasonable cause to believe that the victim is
26 unaware that sexual contact is being committed on the victim.
- 27 3. a. An offense under this section is a class AA felony if in the course of the
28 offense the actor inflicts serious bodily injury upon the victim, if the actor's
29 conduct violates subdivision a of subsection 1, or if the actor's conduct
30 violates subdivision d of subsection 1 and the actor was at least twenty-two
31 years of age at the time of the offense. For any conviction of a class AA

1 felony under subdivision a of subsection 1, the court shall impose a minimum
2 sentence of twenty years' imprisonment, with probation supervision to follow
3 the incarceration. The court may deviate from the mandatory sentence if the
4 court finds that the sentence would impose a manifest injustice as defined in
5 section 39-01-01 and the defendant has accepted responsibility for the crime
6 or cooperated with law enforcement. However, a defendant convicted of a
7 class AA felony under this section may not be sentenced to serve less than
8 five years of incarceration.

9 b. Otherwise the offense is a class A felony.

10 4. If, as a result of injuries sustained during the course of an offense under this
11 section, the victim dies, the offense is a class AA felony, for which the maximum
12 penalty of life imprisonment without parole must be imposed.

13 **SECTION 3. AMENDMENT.** Section 12.1-20-04 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **12.1-20-04. Sexual imposition.** A person who engages in a sexual act or sexual
16 contact with another, or who causes another to engage in a sexual act or sexual contact, is
17 guilty of a class B felony if the actor:

- 18 1. Compels the other person to submit by any threat or coercion that would render a
19 person ~~of reasonable firmness~~ reasonably incapable of resisting; or
20 2. Engages in a sexual act or sexual contact with another, whether consensual or
21 not, as part of an induction, initiation, ceremony, pledge, hazing, or qualification to
22 become a member or an associate of any criminal street gang as defined in
23 section 12.1-06.2-01.